

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
LAROY BUENAFLOR Y TUAZON ALIAS “LARRY,”  
DEFENDANT-APPELLANT.**

*G.R. No. 93752. July 15, 1992*

Ponente: FELICIANO, J.

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**FELICIANO, J.:**

Laroy Buenaflor, who was charged with and convicted of rape and sentenced to suffer the penalty of reclusion perpetua and to indemnify the offended party in the sum of P30,000.00 and the costs of suit, is before the Court on appeal.

The complaint filed by the offended party, Isabella Federis, against appellant Buenaflor reads as follows:

“That on or about August 19, 1989, in the City of Naga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did, then and there, wilfully, unlawfully and feloniously, by means of force, threats and intimidation, commit sexual intercourse against one Isabella Federis y Cedron, against her will and consent.

Contrary to law.”[1]

The appellant having entered a plea of not guilty on arraignment, the case proceeded to trial. On 10 May 1990, judgment was rendered by the trial court with the following dispositive portion:

“WHEREFORE, finding the accused Laroy Buenaflor y Tuazon, alias ‘Larry’, guilty beyond reasonable doubt of the crime of rape under Article 335, paragraph 1 of the Revised Penal Code, as amended, he is hereby sentenced to suffer the penalty of reclusion perpetua. The accused is further ordered to indemnify the offended party, Isabella Federis, the sum of P30,000.00 and to pay the costs of suit.

SO ORDERED.”[2]

The facts constituting the offense were summarized by the trial court in its decision in the following manner:

“As the evidence of the prosecution stands, we find from the clear and positive testimony of the complainant that she is 21 years old, single, a student at the University of Nueva Caceres in Naga City, with residence at Lourdes Young, Nabua, Camarines Sur; that at about 11:00 o’clock in the evening of August 19, 1989, she was on her way home to her boarding house in Peñafrancia Avenue, Naga City, together with her boardmate Imelda Barcebal, coming from the Bichara Theater, and they had to walk in returning to their boarding house; that when they reached the Naga City Post Office along Peñafrancia Avenue, the accused coming from behind them and armed with a knife put his left arm on her shoulder and with his right hand poked a knife on the right side of her body and told her not to move because she might be killed; that she called for Imelda Barcebal but the latter kept on running away and left her alone. The accused then transferred the position of the knife from the right side of her body to the right side of her neck. She tried to shout but the accused pressed harder the knife on her neck and dragged her to a darker portion of the Mabini Interior and she noticed that the accused had no more pants and brief and then pushed her down and laid on top of her and tried to remove her t-shirt

(Exhibit D), and [told] her not to shout because he was going to kill her. The accused was also able to remove her pants (Exhibit E) and panty (Exhibit F) and, thereafter, inserted his penis on her vagina for which she felt pain and the accused started kissing her on her lips and other parts of her body. That she kept on crying and the accused threatened to kill her.

From the testimony of the complainant it has been further sufficiently established that, when she was able to regain her strength she told the accused that wherever he will go she will go with him, but requested the accused that she first be allowed to go home to get her clothes and money, to which the accused agreed. The accused then accompanied the complainant on the way to her boarding house, but when they reached the Mary Anne Snackhouse which was just in front of the boarding house, the complainant told the accused to wait for her in that place. She then proceeded to her boarding house and upon reaching the same she was met by Aurora Ozaeta, Imelda Barcebal and the rest of her co-boarders. She then related to them the incident that happened to her and further told them that the man who raped her was waiting for her in front of the Mary Anne Snackhouse and described to them the person of the accused and the clothes he was wearing. Her boardmate, Aurora Ozaeta, called up the police station giving said information given by the complainant identifying the person of the accused and where he could be found. That after a while policemen arrived informing them that they were able to apprehend the person reported to have raped the complainant. The policemen showed to her a knife (Exhibit B) which the complainant identified as the one used by the accused in poking at her. The policemen went back to their police headquarters. After a while her parents arrived and they all went to the police headquarters. Aurora Ozaeta and Imelda Barcebal followed to the police headquarters. That at the police headquarters the policemen showed to the complainant the person apprehended and the complainant readily identified him as the person who raped her.”[3]

Before this Court, the sole error assigned by the appellant is that:

“[t]he trial court erred in not considering the mitigating circumstances of imbecility and drunkenness in convicting the accused/appellant of the crime charged.”[4]

Appellant did not seriously try to deny that he had sexual intercourse with Isabella Federis on the night of 19 August 1989. He, however, denied having sexually assaulted Isabella; he claimed that Isabella did not physically resist the act of penile penetration and had in effect given her consent to it.

Appellant Buenaflor testified in substance that he was in Naga City Subdivision on 19 August 1989, in the house of one Badong for whom he worked. He later declared that he was staying in his sister’s house in Canaman, Camarines Sur. On the night of 19 August 1989, he saw a movie at the Robertson Cinema; he left the cinema at 12:00 midnight and proceeded to the public plaza where he allegedly had been staying for fifteen (15) days. On cross-examination, he declared that while at the plaza, he saw two (2) women walking. He approached them, poked a knife at one of them (Isabella Federis) and led her away to a dark alley. There they performed the sexual act, appellant stated, without Isabella offering any resistance and even embracing appellant in the course of copulation. Appellant also testified that he was a “little bit drunk” during that time.[5]

The trial court found that appellant Buenaflor had indeed forced himself on Isabella, that he had explicitly admitted “poking a knife” at Isabella and that the testimony of Isabella that she had been forced down upon or near a garbage heap in the dark alley of Mabini Interior and there ravished against her will, was forthright and candid and worthy of belief. Appellant having presented no basis for rejecting and overturning the above finding of coercion and intimidation, that finding must stand.

The principal submission of appellant was in fact that his criminal liability, if any, should at least have been mitigated in view of his impaired mental faculties. Appellant apparently does not seek completely to avoid criminal liability on the ground of imbecility as an exempting circumstance. The pleadings filed by appellant merely tended to show erratic behavior and lack of coherence on his part in the course of trial, said to be

symptomatic of a diseased mind, which behavior, although not indicating complete deprivation of intelligence and freedom of will, we are urged to take as basis for mitigation of liability.

During the pretrial conference, counsel for appellant stated that his client was suffering from mental disease. The pretrial conference was thereupon reset to a later date and the trial court ordered appellant examined by a physician to ascertain appellant's mental condition. Appellant Buenaflor was examined by Dr. Imelda Escuadra, a medical specialist at the Don Susano Rodriguez Regional Mental Hospital. The report prepared by Dr. Escuadra set forth the following information:

**“Brief Background History:**

The patient is the fifth among eight siblings. He was born on February 14, 1968 by normal spontaneous delivery, assisted by hilot at home. At age three months, he started to have convulsions, up to age three years old. As a consequence, he had poor scholastic standing, repeating Grade I several times and stopped at Grade II. He was observed to be childish with poor speech development and behaved as ‘uto-uto.’

Patient was accused of raping a girl last August 20, 1989. He was ordered to submit himself for neuropsychiatric evaluation.

**Mental Status Examination:**

An adult male, with handcuffs, wearing clean printed polo shirt and faded maong pants. He had pockmarks on his face due to pimple scars. He looked serious, with faraway gaze and at times downcast eyes.

He claimed he was Larry Buenaflor, a resident of San Jose, Camarines Sur. He recognized his companions: his mother and police escort. He claimed he finished Grade III. Initially, he denied knowing the number of children in their family, later, he said there are four boys and five girls. He also claimed he did not know his age.

He admitted he had a case in court -- rape; mentioned a girl named Annabel Frias as the victim, a resident of Peñafrancia Street, Naga City. He narrated that he brought her home from Naga City. With him that time was Ruel Villegas. He said he loved the girl and has been courting her giving several dates when his love [was] accepted. He also said he raped the girl once but it was Ruel who did it first. He cannot give the details of the incident of the crime.

He spoke coherently and relevantly but not spontaneous in character. He denied not [sic] knowing some facts as his age, the number of children of the family and he was not sure of the dates he gave. As he spoke, he sighed deeply.

He complained of impaired sleep and impaired appetite. He had impaired memory as evidenced by his inability to recall important facts like number of children in the family.

During the second interview he was more relaxed, responded spontaneously and claimed he had good sleep and appetite. No hallucinations were elicited.

In his third interview, he looked depressed, complaining of insomnia.

During the last interview, he was also depressed and complained of poor sleep.

**Physical Examinations:**

Essentially normal findings.

**Psychological Testing:**

Subject weighted a score of 37 with an IQ equivalent to 63 indicating mild mental deficiency level of

intellectual functioning. His judgment and comprehension are poor. Projectivewise, depressive reaction is prominently established. Poor reality testing function is elicited. Diagnosis:

1. Mental retardation
2. Reactive depression
3. No psychosis.

#### Remarks and Recommendations:

In view of the foregoing examinations and observations, the patient is suffering from Mental Retardation and Reactive Depression. However, he is not psychotic.

A person with mental retardation has below normal intelligence as evidenced by the intelligence quotient tests. He has poor memory, poor judgment and poor grasp of general information. He is trainable up to the primary grades only. According to the 'Synopsis of Psychiatry' by Kaplan a patient with mental retardation 'has concurrent deficits or impairment in adaptive functioning, i.e., a person's effectiveness in meeting the standards expected for his or her age by his or her cultural group in area such as social skills and responsibility, communicates daily living skills, personal indulgence and self-sufficiency.' (sic) Therefore, he is capable of undergoing judicial trial with much difficulty." [6]

Article 12 (1) of the Revised Penal Code provides as follows:

"Article 12. Circumstances which Exempt from Criminal Liability. -- The following are exempt from criminal liability:

1. An imbecile or insane person, unless the latter has acted during a lucid interval.

x x x x x x x x"

Imbecility, like insanity, is a defense which pertains to the mental condition of a person. Our caselaw projects the same standards in respect of both insanity and imbecility, that is, that the insanity or imbecility must constitute complete deprivation of intelligence in committing the criminal act, or total deprivation of freedom of the will. [7] The above quoted medical evidence that was admitted into the record in the case at bar does not show complete deprivation (nor even substantial deprivation) of intelligence on the part of appellant Buenaflor and he, accordingly, cannot be deemed exempted from criminal liability for the rape of Isabella Federis. His behavior on the night he raped Isabella showed that he was quite conscious of his acts and aware of the moral quality thereof.

At the same time, we believe, however, that the medical evidence of record does show that appellant Buenaflor's mental faculties were to some extent retarded or impaired in their development, which impairment or retardation reflects a diminished level of responsibility for his criminal acts. Article 13 (9) of the Revised Penal Code provides as follows:

"Article 13. Mitigating Circumstances. -- The following are mitigating circumstances:

x x x x x x x x

- (9) Such illness of the offender as would diminish the exercise of the will power of the offender without, however, depriving him of the consciousness of his acts.

x x x x x x x x"

We think that the mitigating circumstance contemplated in Article 13 (9) of the Revised Penal Code was present in the case at bar.

Appellant, in addition, claimed intoxication as a mitigating circumstance. As earlier noted, he had declared on cross-examination that he was a “little bit drunk” at the time he committed the act complained of. On that basis alone, appellant asserts he should be credited with a mitigating circumstance.

The ordinary rule is that intoxication may be considered either as aggravating or as mitigating, depending upon the circumstances attending the commission of the crime. Intoxication has the effect of decreasing the penalty, if the intoxication is not habitual or subsequent to the plan to commit the contemplated crime; upon the other hand, when intoxication is habitual or intentional, it is considered as an aggravating circumstance.[8] The person pleading intoxication must present proof that he had taken a quantity of alcoholic beverage, prior to the commission of the crime, sufficient to produce the effect of blurring his reason;[9] and at the same time, he must prove that not only was intoxication not habitual[10] but also that his imbibing the alcoholic drink was not intended to fortify his resolve to commit the crime.[11]

The record here does not show that appellant had taken an alcoholic beverage prior to raping Isabella Federis. The testimony of appellant himself on direct examination did not establish such drinking as a fact. The sole basis of appellant’s claim to the alternative circumstance of intoxication is his own remark during cross-examination that he was a “little bit drunk” when he inflicted himself sexually upon Isabella Federis. We do not believe that appellant’s own remark sufficiently established his asserted state of intoxication.

At any rate, the appreciation of a mitigating circumstance in favor of appellant Buenaflor would not have the effect of reducing the penalty of reclusion perpetua imposed upon him by the trial court. Article 63 of the Revised Penal Code prescribes that “in all cases in which the law prescribes a single indivisible penalty, [such penalty] shall be applied by the courts regardless of any mitigating circumstances that may have attended the commission of the deed.” Reclusion perpetua is a single indivisible penalty.[12]

WHEREFORE, the decision of the trial court dated 10 May 1990 is hereby AFFIRMED in toto. Costs against appellant.

**SO ORDERED.**

Gutierrez, Jr., (Chairman), Bidin, Davide, Jr., and Romero, JJ., concur.

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[1] Rollo, p. 8.

[2] Id., pp. 31-32.

[3] Trial Court Decision, pp. 10-11.

[4] Appellant’s Brief, p. 1.

[5] TSN, 1 March 1990, pp. 4-17.

[6] Record, pp. 83-84.

[7] *People v. Formigones*, 87 Phil. 658 (1950).

[8] Article 15 (3rd paragraph) of the Revised Penal Code.

[9] *People v. Boduso*, 60 SCRA 60 (1974).

[10] *People v. Serenio*, 179 SCRA 379 (1989); *People v. Boduso*, *supra*.

[11] *People v. Hernandez*, 91 Phil. 334 (1952).

[12] Article 76, Revised Penal Code. *People v. Banzales*, 148 SCRA 649 (1987).

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