

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDUARDO LIMOS Y DE VERA, APPELLANT.

G.R. Nos. 122114-17. January 20, 2004

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For automatic review is the Joint Decision[1] dated July 25, 1995 of the Regional Trial Court, Branch 45, Urdaneta, Pangasinan, convicting Eduardo Limos y de Vera, appellant, of four (4) counts of rape and sentencing him to suffer the penalty of reclusion perpetua in Criminal Cases Nos. U-8266 and U-8341, and the supreme penalty of death in Criminal Cases Nos. U-8342 and U-8343.

The four (4) Informations charging appellant with rape are quoted as follows:

Criminal Case No. U-8266

“That on or about the 9[th] day of August 1993, in the afternoon, in barangay Bobonan, municipality of Pozorrubio, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a kitchen knife, by the use of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with Janice C. Ligot against her will, to her damage and prejudice.

“CONTRARY to Art. 335 of the Revised Penal Code.

Criminal Case No. U-8341

“That on or about the 13[th] day of August, 1993, in the afternoon, in barangay Bobonan, municipality of Pozorrubio, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a kitchen knife, by the use of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with Janice C. Ligot against her will, to her damage and prejudice.

“CONTRARY to Art. 335 of the Revised Penal Code.

Criminal Case No. U-8342

“That on or about the 15[th] day of August, 1994, in the morning, in barangay Bobonan, municipality of Pozorrubio, province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a kitchen knife, by the use of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with Janice C. Ligot, against her will, to her damage and prejudice.

“CONTRARY to Art. 335 of the Revised Penal Code.

Criminal Case No. U-8343

“That on or about the 17[th] day of August, 1994, in the afternoon in barangay Bobonan, municipality of

Pozorrubio, province of Pangasinan, Philippine, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a kitchen knife, by the use of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with Janice C. Ligot, against her will, to her damage and prejudice.

“CONTRARY to Art. 335 of the Revised Penal Code.”

Upon arraignment, appellant, assisted by counsel, pleaded not guilty to each charge. Thereafter, a joint trial ensued.

The evidence for the prosecution shows that complainant Janice C. Ligot was born on August 29, 1980 as shown by her Certificate of Baptism.[2] She is the only daughter of spouses Delfin and Julita Ligot who are separated. Since her childhood until April 3, 1994, Janice was living with her aunt, Marie Ligot, who acted as her mother, in Bobonan, Pozorrubio, Pangasinan. Janice’s brothers, Ronald (19) and Rodel (17), have been living with their grandparents Cecilio and Clara Ligot, also in Bobonan. Among those staying with them are appellant Eduardo Limos, Janice’s uncle by affinity, he being the husband of her aunt Myrna Ligot, who has been in the United States for the last five years. She left their young sons, Tyrone and Terrence, under appellant’s care.[3]

On August 9, 1993, at about 1:00 o’clock in the afternoon, Janice was alone in her aunt Marie’s house watching television.[4] Suddenly, appellant entered the house through the kitchen door. She asked him what he needed, but he did not answer. She repeated her question, however, he remained silent. Suddenly, he grabbed her hands and pulled her inside a room. She fought back and shouted three times, “Tulungan n’yo ako!,” but he pointed a knife at her neck, threatening to kill her. While inside the room, appellant boxed her on the thighs and pushed her to the bed. Then he took off his pants and brief. She again fought back when he was removing her shorts and panty. But again he pointed the knife at her. Then he placed himself on top of her and inserted his penis into her vagina, making a push-and-pull movement which lasted for three minutes. She attempted to shout but he covered her mouth with his hand. When he withdrew his penis, she saw a yellowish sticky substance coming out from his organ. She felt pain and observed that her vagina was bleeding. Moments later, he directed her to put on her panty and warned her not to tell anybody what transpired, or else he would kill her.[5] She kept mum about the incident because she was scared.[6]

Four days after, or on August 13, 1993, at around 1:30 in the afternoon, while Janice was on her way to Bobonan High School, her grandmother called her to give her allowance. She was about to leave her grandmother’s house when she met appellant in front of his room. He suddenly pulled her inside. She resisted and shouted but he covered her mouth with his hand. Then he hit her stomach causing her to fall. He carried her to the bed, poking his knife at her. She inquired why he was molesting her when they are relatives, but he did not answer. Instead, he removed her panty and forcibly inserted his penis into her vagina and made a push-and- pull movement. It was painful. He again warned her not to reveal what happened to anybody, or else he would kill her. Thereafter, she wore her panty and went to school.[7] She did not disclose the incident to anyone out of fear.[8]

On April 3, 1994, upon her aunt Marie’s request, Janice transferred to her grandparents’ house, where appellant lives, to assist her old grandfather who was sickly and could not walk.[9]

On August 15, 1994, Janice’s grandmother and aunt Filomena went to Urdaneta, Pangasinan, leaving her and appellant in the house. Janice had no classes that day. At about 10:00 o’clock in the morning, while she was preparing lunch, appellant suddenly pulled her to his room. Thereupon, she shouted, “Grandfather, help me!” but he pressed her jaw. Then he boxed her. He then removed his shorts and brief and inserted his penis into her vagina, making a push-and-pull movement. She was hurt. Once more he threatened to kill her if she reveals the incident to anybody. At around 2:00 o’clock in the afternoon, her aunt Filomena and her grandmother arrived, but

she just kept silent because of his threat.[10]

Two days after, or on August 17, 1994, at about 1:00 o'clock in the afternoon, Janice changed her clothes after washing the dishes, as she intended to go back to school. Her grandparents and her aunt Filomena were inside their rooms, while her aunt Remedios went to the house of her aunt Linda. Again, appellant forced Janice to go to his room. Once inside, he pushed her to the bed. She resisted vigorously but he boxed her thighs. He then removed his shorts and brief. She tightly held her panty but appellant was able to remove it. Immediately, he placed himself on top of her, spread her legs and once more, he had carnal knowledge of her. She suffered pain and cried. Somehow she managed to go to school.

On August 19, 1994, Janice mustered enough courage and revealed her traumatic experiences to her aunt Filomena. They then reported the incidents to the police. Thereafter, Janice was physically examined by Dr. Isidora Quirimot of the Community Hospital of Pozorrubio, Pangasinan. In her Medico-Legal Report dated August 27, 1994, Dr. Quirimot stated that Janice has old lacerations in the hymen at 4, 6 and 9 o'clock positions.[11]

Appellant vehemently denied the charges against him claiming that everytime Janice went to the house where he stays, she would embrace and caress him. Their affair started in September 1993 when, at about 7:00 o'clock in the evening, she entered his room and seduced him. Being a man whose wife was then in the US, he easily succumbed to her advances. They had sexual intercourse. He was surprised to find that she was no longer a virgin. From then on, everytime the other occupants of the house were not around, she would enter his room to have sex with him. They were sweethearts until August 17, 1994. He was arrested on August 27, 1994, and he does not know any reason why Janice filed these cases against him.[12]

Emilia de Vera, appellant's mother, testified that she stayed in the house of Janice's grandparents from May 1993 to December 1993 to help him in the household chores.[13] She noticed that Janice was very close to appellant because he gave her money. One time, she asked Janice, "Why are you in that room?" And she replied, "I am asking money from Eduardo Limos."

On rebuttal, Janice vehemently denied the testimonies of appellant and Emilia that she (Janice) had been entering his room to ask money from him. She also claimed as totally false appellant's statements that they were sweethearts and that she actually consented to have sex with him in those four (4) incidents in question.[14]

On July 25, 1995, the trial court rendered a Joint Decision, the dispositive portion of which reads:

"WHEREFORE, this Court finds the accused EDUARDO LIMOS y DE VERA:

"With respect to Criminal Case No. U-8266:

"GUILTY beyond reasonable doubt of the crime of RAPE committed with the use of a deadly weapon, but due to the prohibition under Section 19(1), Art. III of the Constitution, the offense having been committed in 1993 which is prior to the effectivity of Republic Act No. 7659, hereby sentences him only to suffer the penalty of RECLUSION PERPETUA, with all the accessory penalties provided for by law; to pay the complainant JANICE C. LIGOT the amount of P50,000.00 by way of moral damages; and to pay the costs.

"In connection with Criminal Case No. U-8341:

"GUILTY beyond reasonable doubt of the offense of RAPE committed with the use of a deadly weapon, however, due to the prohibition under Section 19(1), Art. III of the Philippine Constitution, the crime having been committed in 1993 which is prior to the effectivity of Republic Act No. 7659, hereby sentences him only to suffer the penalty of RECLUSION PERPETUA, with all the accessory penalties provided for by law; to pay the offended party JANICE C. LIGOT the sum of P50,000.00 as moral damages; and to pay the costs.

“With regard to Criminal Case No. U- 8342:

“GUILTY beyond reasonable doubt of the crime of RAPE defined and penalized under Republic Act No. 7659, the offense having been committed with the attendant circumstance of ‘with the use of a deadly weapon,’ and that the offended party is under eighteen (18) years of age and the offender is a relative by affinity within the third civil degree, hereby sentences him to the supreme penalty of DEATH; to pay complainant JANICE C. LIGOT in the amount of P50,000.00 as moral damages; and to pay the costs.

“As to Criminal Case No. U-8343:

“GUILTY beyond reasonable doubt of the crime of RAPE defined and penalized under Republic Act No. 7659, the offense having been committed with the attendant circumstance of ‘with the use of a deadly weapon,’ and that the victim is under eighteen (18) years of age and the offender is a relative by affinity within the third civil degree, hereby sentences him to the supreme penalty of DEATH; to pay the complainant JANICE C. LIGOT the sum of P50,000.00, as moral damages; and to pay the costs.

“Penultimately, it is said ‘Dura lex, sed lex,’ interpreted as ‘The law is harsh, but that is the law.’

“SO ORDERED.”[15]

Appellant, in his brief, ascribes to the trial court the following errors:

“I

THE TRIAL COURT GRAVELY ERRED IN GIVING CREDENCE TO THE INCREDIBLE TESTIMONIES OF THE RAPE VICTIM AND IN DISREGARDING THE DEFENSE OF THE ACCUSED.

“II

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.

“III

ASSUMING ARGUENDO THAT A CRIME HAS BEEN COMMITTED, THE ACCUSED SHOULD ONLY BE FOUND GUILTY OF QUALIFIED SEDUCTION.”

The law applicable to the cases at bar is Article 335 of the Revised Penal Code, as amended by R.A. 7659, the pertinent portions of which provide:

“Art. 335. When and how rape is committed. – Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

- By using force or intimidation;
- When the woman is deprived of reason or otherwise unconscious; and
- When the woman is under twelve years of age or is demented.

“The crime of rape shall be punished by reclusion perpetua.

“Wherever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

x x x

“The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

- When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

x x x.” (Underscoring ours)

The elements of rape under the above provisions are: (1) the offender had carnal knowledge of the victim; and (2) such act was accomplished through force or intimidation; or when the victim is deprived of reason or otherwise unconscious; or when the victim is under 12 years of age.

Appellant contends that Janice’s narrations on how the rape incidents were committed are “basically similar” and “have no major variations.” He claims “there was no evidence whatsoever that she sustained injuries on account of the rape.” Also, the fact that she did not stay away from him despite the first two incidents belie her claim of sexual abuse. Thus, “her versions only generate the suspicion that such are fabricated stories.”[16]

We are not convinced.

In determining the guilt or innocence of the accused in cases of rape, the courts have been traditionally guided by three settled principles, namely: (a) an accusation for rape is easy to make, difficult to prove and even more difficult to disprove; (b) in view of the intrinsic nature of the crime, the testimony of the complainant must be scrutinized with utmost caution; and (c) the evidence of the prosecution must stand on its own merits and cannot draw strength from the weakness of the evidence for the defense.[17]

Janice narrated on the witness stand how appellant sexually abused her in a manner reflective of honest and unrehearsed testimony, thus:

“FISCAL MATRO

Q

On August 9, 1993, at about 1:00 o’clock in the afternoon, can you still remember where you were?

A

Yes, sir.

Q

Where were you then?

A

I was in the house of my aunt, sir.

x x x

Q

So at that time and date, can you still recall if there was any unusual incident that happened?

A

Yes, sir.

Q

What was the incident that transpired?

A

I was raped by Eduardo Limos, sir.

x x x

Q

You said that you were raped by the accused Eduardo Limos, but you said a while ago that you were watching T.V. program, how come that Eduardo Limos was able to rape you?

A

While I was watching T.V. program, my uncle Eduardo Limos entered the house through the kitchen door and went to the living room, sir.

Q

Where were you watching T.V. program?

A

In the living room, sir.

COURT:

Continue

A

Then I asked him what he needed, but he did not answer me. I asked again for the second time what he wanted, but still he did not answer me, sir. Afterwards, my uncle grabbed my hand and pulled me towards the room, sir.

FISCAL MATRO

Q

What did you do when Eduardo Limos grabbed your hand and pulled you towards the room?

A

I fought back, sir.

Q

How did you fight back?

A

I tried to loosen his hold on me so that I can ask help from our neighbors, sir.

Q

Will you please demonstrate how the accused Eduardo Limos pulled your hand?

A

Yes, sir. (Witness demonstrating by using her two hands in pulling the right hand of the Court Interpreter, who is acting as the victim, in an abrupt manner).

Q

Considering that the house of your grandmother Clara Ligot is only 12 meters away, did you not shout for help?

A

I shouted for help, sir.

x x x

FISCAL MATRO

Q

And what words exactly did you shout?

A

I said: 'Tulungan n'yo ako.' x x x

Q

How many times did you shout that?

A

Three times, sir .

Q

What did the accused do if he did anything when you fought back and shouted for help?

A

He brought out his knife and pointed it at my neck, sir.

Q

And where did the accused Eduardo Limos get that knife which he pointed at your neck?

A

He got it from his back pocket, sir.

Q

Will you describe that knife, how long is it?

A

Like this, sir. (Witness indicating a length of one foot long).

COURT

Proceed.

FISCAL MATRO

x x x

Q

Did he utter anything when he pointed that knife at your neck?

A

Yes, sir.

Q

What did he say?

A

He told me not to shout because if I will shout he will kill me, sir.

x x x

Q

What happened next after the accused threatened you with that knife?

A

He boxed both my thighs, sir.

Q

Was the accused able to bring you inside the room?

A

Yes, sir.

x x x

FISCAL MATRO

Q

By the way, Madam witness, how many rooms does the house of your aunt have?

A

Two, sir.

Q

And in whose room did the accused able to bring you in?

A

In the room of the children of my aunt Marie Ligot, sir.

Q

And once he was able to bring you inside the room, what happened next?

A

He pushed me towards the bed and afterwards he removed his pants and brief, sir.

Q

After removing his pants and brief what did the accused do next, if any?

A

He removed my shorts, sir.

x x x

Q

Where was the knife then?

A

It was beside him, sir.

Q

After removing his pants and brief what did he do next?

A

He removed my shorts and panty, sir.

Q

What did you do when he was trying to remove your shorts and panty?

A

I fought back, sir.

Q

How did you fight back?

A

I fought back by removing his hands that was trying to remove my shorts and panty, sir.

Q

What did the accused do when you put up a fight?

A

He pointed the knife at my neck, sir.

Q

After threatening you, what transpired next?

A

After removing my shorts and panty he went on top of me, sir.

Q

What did he do when he was on top of you?

A

He tried to insert his penis, sir.

Q

And how did he insert his penis?

A

He held his penis and inserted it inside my vagina, sir.

x x x

Q

After inserting his penis inside your vagina, what did he do next?

A

He made a push and pull movement, sir.

Q

And what did you feel when the accused was doing the push and pull movement to you?

A

I felt pain, sir.

Q

Where?

A

In my vagina, sir.

Q

Can you still recall what the two hands of the accused then doing while he was doing the push and pull movement?

A

He was holding my two hands, sir.

x x x

Q

How long did the accused do the pull and push movement?

A

Three minutes, sir.

Q

And all the while that the accused was doing that to you, what did you do?

A

I was fighting back, sir.

x x x

Q

So after the period of three minutes was the accused able to ejaculate?

A

Yes, sir.

Q

How did you know that?

A

Because after doing the push and pull movement he withdrew his penis and there was something that came out and fell on the cement floor, sir.

x x x

Q

And after that something came out from the penis of the accused, what happened next?

A

He put back his brief and his pants and then he told me not to report the matter, or else he will kill me, sir.”[18]

Anent the second rape incident, Janice testified as follows:

“PROS. MATRO

x x x

Q

On August 13, 1993, at around 1:30 o’clock in the afternoon, do you recall where were you?

A

I was in the house of my aunt Marie Ligot, sir.

Q

And what were you doing then?

A

I was about to go to school, sir.

Q

Where?

A

Bobonan High School, Pozzorubio, Pangasinan, sir.

Q

And you remember if there was unusual incident that happened on that date and time?

A

Yes, sir.

Q

What was that unusual incident?

A

Eduardo Limos raped me, sir.

Q

Where did Eduardo Limos rape you?

A

In the house of my grandmother, sir.

Q

Where was that house of your grandmother located?

A

Bobonan, Pozzorubio, Pangasinan, sir.

PROS. MATRO

Q

And how far is that house of your grandmother to the house of your aunt Marie Ligot where you were residing?

A

From here up to the office of the Prosecutor, sir.

INTERPRETER

Witness indicating a distance of 14 meters, more or less.

PROS. MATRO

Q

How come that you were raped in the house of your grandmother when you said a while ago that you were staying in the house of your aunt?

A

Because my grandmother called for me because she will give me my allowance (baon), sir.

x x x

PROS. MATRO

Q

So after your grandmother has closed the door of her room, what happened next, if there was any?

A

I was about to go to school but Eduardo Limos was already waiting for me in front of his room, sir.

Q

Why? Where is the room of Eduardo Limos located?

A

There is another room in between the rooms of my grandmother and the room of Eduardo Limos, sir.

Q

So you want to convey to this Honorable Court that Eduardo Limos is also residing in the house of your grandmother?

A

Yes, sir.

Q

By the way, how many rooms are there in the house of your grandmother?

A

Five (5) rooms, sir.

x x x

PROS. MATRO

Q

Who else were residing in that house?

A

Eduardo Limos, sir.

x x x

Q

So, what happened when you saw Eduardo Limos in front of his room?

A

He pulled me inside his room, sir.

x x x

Q

Who were the persons then inside that house when Eduardo Limos pulled you inside his room?

A

My grandparents, sir.

Q

Where was your grandfather then at that time?

A

He was inside their room, sir.

x x x

Q

How about your two (2) brothers, Ronald and Rodel, where were they?

A

They were in the school.

Q

How about the two (2) children of the accused Eduardo Limos, where were they?

A

They were also in the school, sir.

Q

So, what did you do when Eduardo Limos pulled you?

A

I fought back and I was trying to go out but he held my hands tightly, sir.

Q

Was he able to bring you inside his room?

A

Yes, sir.

Q

What happened once you were inside the room?

A

He raped me, sir.

Q

What did you do when he was raping you?

A

I was fighting back but he was holding my hand, tightly, sir.

Q

Did you not shout for help?

A

I shouted, sir.

Q

And what were the exact words that you shouted?

A

Grandmother, help me! (Bai tulungan mo ako).

x x x

Q

And what did Eduardo Limos do, if he did anything when you shouted for help?

A

He covered my mouth, sir.

Q

What did he use to cover your mouth?

A

His left palm, sir.

x x x

Q

How about his right hand, what was it doing then?

A

He was holding my left hand, sir.

x x x

Q

While he was holding your mouth with his left hand and his right hand with your left hand, what happened?

A

He boxed my stomach, sir.

x x x

Q

And what happened to you when the accused boxed your stomach?

A

I fell down on the floor, sir.

Q

And when you fell down on the floor, what happened next?

A

He carried me to the bed, sir.

x x x

Q

And after having done that, what else happened?

A

He removed his shorts and his brief, sir.

x x x

Q

And after the accused removed his shorts and his brief, what did he do next?

A

He brought out his knife and pointed it at my neck, sir.

x x x

Q

And what happened when he pointed that knife into your neck?

A

Then he raped me, sir.

COURT

Q

When?

A

After he removed his shorts and brief.

PROS. MATRO

Q

And where was the knife when he was removing your panty?

A

It was near him, sir.

COURT

Q

What kind of uniform were you wearing at that time?

A

Falda and blouse, sir.

Q

What did he do with your falda?

A

He did not remove my falda, sir.

Q

What did he do?

A

He just raised it up, sir.

PROS. MATRO

x x x

Q

So, what happened next?

A

He inserted his penis into my vagina, sir.

Q

After inserting his penis inside your vagina, what else did he do?

A

He did the push and pull movement, sir.

Q

And how did you feel when he was doing that?

A

I felt pain, sir.

Q

And how long did he do that push and pull movement?

A

Around two (2) minutes, sir.

Q

Was he able to ejaculate?

A

Yes, sir.

Q

Where?

A

He withdrew his penis and ejaculated on the floor, sir.

Q

And what made you say that he ejaculated on the floor?

A

Because when he stood up, I saw a substance on the floor, sir.

Q

Will you describe that?

A

It was yellowish and sticky, sir.”[19]

The third rape incident which occurred on August 15, 1994 was narrated by Janice in the following manner:

“FISCAL MATRO

Q

And on August 15, 1994, at around 10:00 o’clock in the morning, can you still recall where you were?

A

Yes, sir. I was in the house of my grandparents, sir.

Q

And on that date and time, who were your companions in the house of your grandparents?

A

My grandfather and Eduardo Limos, sir.

COURT

Q

About your grandmother?

A

She went to Urdaneta to get our allowance, sir.

x x x

FISCAL MATRO

Q

So on that date, August 15, 1994, and at that time at 10:00 o’clock in the morning, what exactly were you doing then?

A

I was preparing the vegetables and the rice to be cooked, sir.

Q

And while you were doing that, can you recall if there was any unusual incident that happened?

A

Yes, sir.

Q

What was that unusual incident that happened?

A

I was raped by Eduardo Limos, sir.

x x x

COURT

Q

While you were preparing the vegetables and rice to be cooked you said you were raped by Eduardo Limos, why?

A

He pulled me towards his room, sir.

Q

Where was your grandfather then?

A

He was inside his room, sir.

Q

What exactly were you doing when Eduardo Limos pulled you?

A

I was preparing the vegetables to be cooked, sir.

x x x

Q

He did not kiss you?

A

No, sir.

FISCAL MATRO

x x x

Q

What did you do when he pulled you towards his room?

A

I shouted: 'Grandfather, help me' but Eduardo Limos pressed my jaw, sir.

x x x

Q

What happened next after that?

A

He brought me inside his room and he closed the door, sir.

Q

And after he closed the door, what did he do next?

A

He boxed my stomach, sir.

x x x

Q

x x x when you fell down on the bed after Eduardo Limos boxed you, what happened next?

A

He removed his shorts and brief, sir.

Q

After removing his shorts, what did he do if he did anything?

A

He pushed me towards the bed and removed my shorts and panty, sir.

x x x

Q

After he removed your shorts and panty what happened next?

A

He went on top of me, sir.

Q

And when he went on top of you what did you do?

A

I pushed him aside, but I could not move his body because he was also pushing his body towards me, sir.

x x x

Q

Did you not again shout for help while he was doing that?

A

When I tried to shout he again held both of my cheeks and poised to strike my face with his right fist, sir.

x x x

Q

What happened after that?

A

He inserted his penis inside my vagina, sir.

Q

How did he insert his penis in your vagina?

A

He held his penis in inserting inside my vagina, sir.

Q

And was he able to insert it?

A

Yes, sir.

Q

How was he able to do that?

A

He opened both of my legs and inserted his penis, sir.

Q

And after inserting his penis what did he do?

A

He did the push and pull movement, sir.

Q

More or less how long did he do that?

A

Around two minutes, sir.

Q

After two minutes what happened next?

A

He withdrew his penis, sir.

Q

By the way, while he was doing that push and pull movement, what did you feel?

A

I felt some pain, sir.

x x x

Q

So after he withdrew his penis what happened next?

A

There was something that came out from his penis and he wiped it, sir.

x x x"[20]

As to the fourth rape which transpired on August 17, 1994, Janice recounted, thus:

“Q

On August 17, 1994, at around 1 p.m., do you still recall where you were?

A

Yes.

Q

Where were you then?

A

At the house of my grandmother.

Q

What were you doing there?

A

I was washing the dishes.

x x x

Q

After changing your clothes with your uniform and taking your bag, what did you do?

A

I went outside of my room and passed by the room of Eduardo Limos.

x x x

Q

As you passed by the room of Eduardo Limos, what happened?

A

He pulled me inside his room.

x x x

Q

What did he do after pulling you inside his room?

A

He pushed me into his bed.

Q

After pushing you into his bed, what did he do?

A

He removed his shorts and brief.

x x x

COURT

What happened when the accused pushed you into his bed?

A

He forced me to lie down on his bed.

PROS. MATRO

Q

When the accused pushed you down, what did you do?

A

I tried to get up but he held my hands and pushed me again.

Q

What happened to you when he pushed you the second time?

A

He forced me to lie down.

Q

What happened?

A

He placed himself on top of me.

Q

When he went on top of you, what did you do?

A

I tried to push him away by kicking him.

x x x

Q

While you were fighting back by pushing and kicking him, what did the accused do if anything?

A

He stood up and boxed my thighs.

x x x

Q

What happened to you when the accused boxed you?

A

I weakened.

Q

What did the accused do after boxing your thighs?

A

He removed his shorts and brief and removed my panty.

Q

What did you do when he was removing your panty, if you did anything?

A

He was holding my panty, so I held on to my panty, but he kept on removing it. He held my hand away from my panty.

Q

Was the accused able to remove your panty?

A

Yes.

Q

After removing your panty, what did he do if anything?

A

He went on top of me.

Q

When he went on top of you, what did he do?

A

He spread my legs.

Q

How did he spread your two legs?

A

He used his two arms.

Q

After spreading your legs using his two hands, what did he do next?

A

He put his penis inside my vagina.

Q

Did you not fight back when he was doing that?

A

I was fighting back but he held both my hands.

Q

Did you shout for help?

x x x

A

He pressed both of my cheeks so I could not shout.

PROS. MATRO

Q

After inserting his penis on your vagina, what did he do next?

A

He did the push and pull movement.

x x x

PROS. MATRO

Q

What did you feel?

A

I felt pain in my vagina.

x x x

Q

What was the expression of the accused while he was doing the push and pull movement?

A

His eyes were blinking and he was breathing heavily.”[21]

Complainant’s testimony reveals every relevant detail of the rape incidents. She remained steadfast in her assertion that it was appellant who raped her through force and intimidation and with the use of a knife. In fact, he himself testified that he does not know of any ill-motive why she filed these cases against him. We have consistently ruled that where, as here, the rape victims are young and of tender age, their testimonies deserve full credence and should not be so easily dismissed as a mere fabrication, especially where they have absolutely no ill-motive to testify against the accused.[22] Clearly, far from appellant’s contention that the charges are fabricated, Janice’s story of defloration is undoubtedly credible and convincing. The trial court correctly accorded full weight and credence to her testimony, thus:

“Contrapuntal to the issue of credibility, this Court observes the demeanor of the complainant when she hurled her emotional anguish and intense rage because of the savage acts done upon her person by the accused, that her testimony in open Court is candid, straightforward and bears the earmarks of truth though there was a sign of shyness and demure on her part during the ten (10) times that she was at the witness’ stand, four (4) times for the direct examination and six (6) instances during the grueling cross-examination conducted by the accused’s counsel. On the other hand, the accused equivocal answers are preposterous, fallacious and farcical.”[23]

It is doctrinally settled that the factual findings of the trial court which are supported by evidence, especially on the credibility of the rape victim, are accorded great weight and respect and will not be disturbed on appeal. This is because the trial court has the advantage of observing the victim’s demeanor, such as the angry flush of an insisted assertion, the sudden pallor of a discovered lie, the tremulous mutter of a reluctant answer, the forthright tone of a ready reply, the furtive glance, the blush of conscious shame, the hesitation, the yawn, the sigh, the candor or lack of it, or the scant or full realization of the solemnity of an oath.[24]

Appellant also casts doubt on Janice’s claim that he inflicted injuries on her during the rape incidents. He noted that the examining physician failed to report any trace of injuries in any part of her body.

The argument is misplaced.

It is settled that proof of external injuries inflicted on the rape victim is not indispensable in a prosecution of rape committed with force or violence.[25] There is truth in Janice’s testimony that appellant was able to rape her by threatening to kill her with a knife. This constitutes the force and intimidation which makes the act of sexual intercourse rape.[26]

Appellant further asserts that the natural tendency of a rape victim is to distance herself from her rapist. But here, Janice even moved to her grandmother’s house where he is staying.

Again, we are not persuaded. It must be stressed that it was Janice’s aunt Marie Ligot who instructed her to transfer to her grandparents’ house so she could help her grandmother in taking care of her sickly husband who

could not walk without any assistance. Being only 13 and under her aunt's parental authority, Janice had to obey her aunt. Besides, in many instances, rape can be committed even in places where people congregate: in parks, along the roadside, within the school premises and even inside a house where there are occupants. Indeed, lust is no respecter of place or time.[27]

Neither are we convinced by appellant's claim that he and Janice were then sweethearts and that when no one was around in their house, she would oftentimes enter his room and have sex with him.

A "sweetheart defense," to be credible, should be substantiated by some documentary or other evidence of the relationship – live mementos, love letters, notes, pictures and the like.[28] Here, no such evidence was presented by appellant. Clearly, his alleged romantic relation with Janice was just a figment of his imagination.

Granting that Janice and appellant were sweethearts and that she voluntarily consented to have sex with him, her most natural reaction would be to conceal this fact as it would bring disgrace to her honor and reputation as well as to her family.[29]

Assuming further that they were lovers, it does not mean that appellant could not rape Janice. Such a relationship is not a guaranty that he will not assault and tarnish that which she holds so dearly and trample upon her body and dignity. Indeed, a sweetheart can be forced to engage in sexual intercourse against her will.[30]

Appellant also faults the trial court in not finding that he is guilty only of qualified seduction considering that Janice was only 13 years old and had "consented to their sexual tryst" at their common house.[31]

We disagree. Suffice it to say that, as clearly shown above, the elements of rape have been duly established by the prosecution evidence.

Considering that appellant committed the crimes with the use of a deadly weapon, a qualifying circumstance,[32] the prescribed penalty is reclusion perpetua to death, pursuant to Article 335 of the Revised Penal Code, as amended, quoted earlier. Corollarily, Article 63 of the same Code provides:

"Art. 63. Rules for the application of indivisible penalties. – In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

"In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

"1. When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.

"2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

"3. When the commission of the act is attended by some mitigating circumstance and there is no aggravating circumstance, the lesser penalty shall be applied.

"4. When both mitigating and aggravating circumstances attended the commission of the act, the courts shall reasonably allow them to offset one another in consideration of their number and importance, for the purpose of applying the penalty in accordance with the preceding rules, according to the result of such compensation."
(Underscoring ours)

In *People vs. Joel Ayuda*,[33] we held: "Where no aggravating circumstance is alleged in the information and proven during the trial, the crime of rape through the use of a deadly weapon may be penalized only with

reclusion perpetua, not death.” Here, the prosecution failed to allege in the Informations and prove during the trial any aggravating or mitigating circumstance. The use of a deadly weapon was alleged in the Informations merely as a qualifying circumstance. Hence, pursuant to Article 63 (2) of the Revised Penal Code, the lesser penalty of reclusion perpetua should be imposed upon appellant for each of the four (4) counts of rape.[34]

We observe that the trial court imposed the death penalty on appellant in Criminal Cases Nos. U-8342 and U-8343 reasoning that the crimes committed by appellant are qualified rapes, the victim being below 18 years of age and the niece of the offender.

The trial court is in error. In *People vs. Ocumen*,[35] we ruled that for rape to be considered qualified by the presence of the qualifying circumstance of minority of the victim and her relationship with the offender, the same must be specifically alleged in the Information and duly proven with equal certainty as the crime itself. Here, the four Informations do not allege the minority of Janice and her relationship with the appellant. Thus, the death penalty cannot be imposed upon him.

With respect to the appellant’s civil liability, we note that the trial court awarded only moral damages of P50,000.00 in each case. While such award is correct, the victim is also entitled to P50,000.00 as indemnity ex delicto. Such award is mandatory upon the finding of the fact of rape.[36]

In addition, she is also entitled to exemplary damages because the rape was committed with the use of a deadly weapon.[37] In *People vs. Silverio Montemayor*,[38] we declared: “x x x exemplary damages are justified under Article 2230 of the Civil Code if there is an aggravating circumstance, whether ordinary or qualifying. Since the qualifying circumstance of the use of a deadly weapon was present in the commission of the rapes subject of these cases, exemplary damages in the amount of P25,000.00 may be awarded to the offended party in each case.”

WHEREFORE, the appealed Joint Decision of the Regional Trial Court, Branch 45, Urdaneta, Pangasinan, in Criminal Cases Nos. U-8266, U-8341, U-8342 and U-8343 is hereby AFFIRMED with MODIFICATION in the sense that appellant EDUARDO LIMOS Y DE VERA is found guilty beyond reasonable doubt of four (4) counts of rape with the use of a deadly weapon and is sentenced to suffer the penalty of reclusion perpetua for each count. He is ordered to pay the victim Janice C. Ligot P50,000.00 as moral damages, P50,000.00 as indemnity ex delicto, and P25,000.00 as exemplary damages in each case.

Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

[1] Penned by Judge Joven F. Costales, Rollo at 122-179.

[2] RTC Records at 273.

[3] Transcript of Stenographic Notes (TSN), April 25, 1995 at 7.

[4] TSN, April 19, 1995 at 4-5.

[5] Id. at 8-19.

[6] TSN, June 14, 1995 at 13.

[7] TSN, April 25, 1995 at 3-19.

[8] TSN, June 20, 1995 at 25.

[9] TSN, May 3, 1995 at 4.

[10] TSN, May 3, 1995 at 5-12.

[11] Exhibit “C”, RTC Records at 3.

[12] TSN, June 28, 1995 at 15.

[13] Id. at 10.

[14] TSN, June 29, 1995 at 14-15.

[15] Decision at 56-58.

[16] Appellant’s Brief, Rollo at 114-115.

[17] People vs. Orquina, G.R. No. 143383, October 8, 2002, 390 SCRA 510; People vs. Carlito Marahay, G.R. Nos. 120625-29, January 28, 2003, citing People vs. Amante, G.R. Nos. 149414-15, November 18, 2002; People vs. Echegaray, 257 SCRA 561, 570 (1996).

[18] TSN, August 19, 1995 at 8-17.

[19] TSN, April 25, 1995 at 3-14.

[20] TSN, May 3, 1995 at 5-11.

[21] TSN, May 16, 1995 at 3-9.

[22] People vs. Layoso, G.R. Nos. 141773-76, January 22, 2003; People vs. Velasco, G.R. Nos. 135231-33, February 28, 2001, 353 SCRA 138; People vs. Saladino, G.R. Nos. 137481-83 & G.R. No. 138455, March 7, 2001, 353 SCRA 819.

[23] Joint Decision, Rollo at 172.

[24] People vs. Ayuda, G.R. No. 128882, October 2, 2003.

[25] People vs. Freta, G.R. Nos. 134451-52, March 14, 2001, 385 SCRA 386.

[26] Id. at 386.

[27] People vs. Optana, G.R. No. 133922, February 12, 2001, 351 SCRA 485.

[28] People vs. Ayuda, supra, citing People vs. Flores, 372 SCRA 421 (2001); People vs. Sale, 345 SCRA 490 (2000).

[29] People vs. Armando Padilla, G.R. Nos. 111956 and 111958-61, March 23, 1995, 242 SCRA 629,641, citing People vs. Tismo, 204 SCRA 535, 554 (1991).

[30] People vs Joel Ayuda, supra, People vs. Flores, supra.; People vs. Sale, supra.

[31] Appellant’s Brief, Rollo at 120.

[32] People vs. Alfredo Baroy and Felicisimo Nacional, G.R. Nos. 137520-22, May 9, 2002; People vs. Silverio Montemayor, G.R. Nos. 124474 & 139972-78, January 28, 2003.

[33] Supra, citing People vs. Alfredo Baroy, id.

[34] *People vs. Silverio Montemayor*, G.R. Nos. 124474 & 139972-78, January 28, 2003.

[35] G.R. No. 135559, September 17, 2003, citing *People vs. Padilla*, 355 SCRA 741 (2001).

[36] *People vs. Ayuda*, *supra*, citing *People vs. Beroy*, *supra*; *People vs. Salalima*, G.R. Nos. 137969-71, 363 SCRA 192 (2001).

[37] *Id.*; *People vs. Francisco Sorongon*, G.R. No. 142416, February 11, 2003; *People vs. Edem*, G.R. No. 130970, 378 SCRA 38 (2002).

[38] *Supra*.

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