

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DAMASO DE GUZMAN, ACCUSED-APPELLANT.

G.R. Nos. 51385-86. January 22, 1993

Ponente: CRUZ, J.

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CRUZ, J.:

The accused-appellant was charged with twice raping the complainant at a time when he was already 70 years old and she was only 16. He was convicted on both counts and sentenced to reclusion perpetua or life imprisonment for each of the rapes, to recognize the offspring of the victim, and to pay her moral damages in the amount of P12,000.00.[1]

Damaso de Guzman is a retired teacher and was living with his wife and children in Calasiao, Pangasinan, when the crimes were allegedly committed. The complainant is Virginia Viar, who was then working as a housemaid in his house.

According to Virginia, the accused-appellant first raped her on December 15, 1974. The two of them were alone in the house, De Guzman's wife having left with her children for Baguio City to fetch her grandchildren. At about midnight, the accused-appellant entered the girl's room and forced himself upon her. She resisted his advances but he boxed her thighs and succeeded in removing her panties. Then he deflowered her. Afterwards, he said he would kill her if she told anyone about the attack.[2]

The second time he raped her was on December 29, 1974, under practically the same circumstances. The rest of the family had also left then, this time to return the grandchildren to Baguio City. Again De Guzman and Virginia were all alone in the house. At about midnight, De Guzman again entered her room and took her against her will. His lust spent, the accused-appellant then again warned the girl against disclosure of the incident. He brandished a knife this time to stress his threat.[3]

Virginia did not tell Mrs. De Guzman of either the two rapes, but on January 1, 1975, after collecting her salary, she quit her employment and returned home to Dinalaoan, also in Calasiao. It was there later that she started vomiting, causing her brother Severino to inquire about her condition. No longer able to conceal her secret, she finally told him of the two rapes.[4]

Severino lost no time in having her medically examined, resulting in the finding of two healed lacerations in her hymen and of her pregnancy. This was on March 10, 1975. On October 3, 1975, she delivered a baby boy, and in his birth certificate she indicated Damaso de Guzman as the father.[5]

In his defense, De Guzman pleaded impotence, claiming that at his age he was no longer able to copulate or ejaculate. He argued that on the dates of the alleged offenses, his house was not empty as alleged, as his whole family was there, including his wife, children and grandchildren. He questioned Virginia's failure to complain about the supposed rapes, stressing that she had full freedom to do so, and even to leave the house if she wanted to. She remained there and said nothing. The accused-appellant also suggested that Virginia's pregnancy was

caused by her half-brother and that her family was putting the blame on him instead because he had refused to extend them another loan.[6]

The Court agrees with the trial court in giving credence to the complainant's testimony as against the accused-appellant's implausible defense. This simple barrio lass who was still in her teens when she was violated testified in a straightforward manner that left no doubt of the truth of her narration. The sordid details of her ravishment could not have been merely concocted out of a fertile imagination. They described the outrage she felt when the lecherous old man who was more than four times her age defiled her innocence.

De Guzman's protestations that he could not have raped the complainant because he was already old at that time are belied by his physical condition. He testified on the stand that before he turned 70 (on December 11, 1974) he could still have sex with his wife at least once in a while. The trial court noted that he was strong and husky, compared to Virginia, who was small and frail. As of this writing, he is still alive at 88 years.

His contention that there were other persons in his house when the rapes were committed is not supported by the evidence before us. The school attendance record of his grandchildren that he presented does not show that they were in the house on December 15, 1974, and December 29, 1974. Strangely, the accused-appellant's own wife, who might have corroborated him on this point, never testified on his behalf.

De Guzman also contends that, assuming there was really coitus between him and the complainant, it was clearly consensual. Virginia did not resist him nor did she later complain to his wife or anyone else about the rapes. The argument is baseless. In the first place, Virginia testified that she resisted the accused-appellant but he was too strong for her, let alone the knife he was holding. Her room had indeed a lock, but he had the key to that lock. In the second place, she could not complain about the rapes because of his threat to kill her if she talked.

Let it be remembered that the complainant was only 16 years old when she was raped and only a housemaid of her violator. Even without the fear of death hanging over her head, he exercised a moral (or immoral) ascendancy over her that deterred her from denouncing him. In the end, unable to further stand his lasciviousness, she took leave of her employment and returned to her own house where she would be free of his molestations. And it was only there, removed from his threat, that she finally had the courage to accuse him.

The complainant in this case is not much different from the victim in *People vs. Baao*,[7] where this Court declared:

One might also ask why, having been burned the first time, the girl did not thereafter stay away from the accused-appellant but in fact gave him other opportunities to inflict his lust on her. The explanation is that we are dealing here not with a worldly-wise woman but with a simple thirteen-year old girl whose acts were dominated more by fear than by reason, a fear made more harrowing by the fact that it was a lonely fear she dared not share, until later, even with her own mother.

Finally, we shall also reject the defense submission that the complaints were filed against the accused-appellant because of his refusal to extend a loan to Virginia's family. This claim does not merit serious consideration. And we shall say the same thing about the insinuation that it was her half-brother who made Virginia pregnant as there is absolutely no evidence to support this charge. If at all, it only indicates the desperation of the defense.

In imposing reclusion perpetua or life imprisonment on the accused-appellant, the trial court erroneously supposed that reclusion perpetua and life imprisonment are synonymous or interchangeable. They are not; life imprisonment does not carry the accessory penalties attached to reclusion perpetua.[8] And the judge was also mistaken in requiring De Guzman to recognize Virginia's child, for the rule is that if the rapist is a married man, he cannot be compelled to recognize the offspring of the crime as his child, whether legitimate or illegitimate.[9]

He may, however, be required to give it support.[10]

WHEREFORE, the appealed judgment is AFFIRMED, but with the modifications that: a) the accused-appellant is sentenced to reclusion perpetua (not life imprisonment) for each of the rapes; b) the order directing the accused-appellant to recognize the child of the complainant is SET ASIDE but he is required to give it support; and c) the award of moral damages is increased to P30,000.00, conformably to the current policy of the Court. Costs are also adjudged against him.

SO ORDERED.

Padilla, Griño-Aquino, and Bellosillo, JJ., concur.

[1] Decided by Judge Felicidad Carandang-Villalon, Court of First Instance of Dagupan City, Branch 3; Rollo, p. 20.

[2] TSN, June 3, 1976, pp. 4-7; July 13, 1976, pp. 33-36; September 18, 1976, pp. 5-11.

[3] Ibid., June 3, 1976, pp. 8-10.

[4] Id., pp. 10-12; March 8, 1977, pp. 5-7.

[5] id., June 3, 1976, p. 12; March 8, 1977, p. 7; Exhibits "A" and "B."

[6] id., October 16, 1978, pp. 14-15; August 22, 1978, pp. 16-17; Appellant's Brief, pp. 16-19, 27-29.

[7] 142 SCRA 476.

[8] People vs. Del Pilar, 188 SCRA 37.

[9] People vs. Rizo, 189 SCRA 265, citing People vs. Luchico, 49 Phil. 689 and People vs. Belandres and Mañacop, 85 Phil. 874.

[10] Art. 345(3), Revised Penal Code; People vs. Barranco, 177 SCRA 104.

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