

FIRST DIVISION

[G.R. No. 191390, April 02, 2014]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JOEL DIOQUINO Y GARBIN, ACCUSED-APPELLANT.**

D E C I S I O N

VILLARAMA, JR., J.:

On appeal is the October 15, 2009 Decision^[1] of the Court of Appeals (CA) which affirmed the June 18, 2007 Decision^[2] of the Regional Trial Court (RTC), Branch 55 of Irosin, Sorsogon, convicting appellant of seven counts of simple rape of 17- year-old minor ABC.^[3]

Appellant was charged with eight counts of rape allegedly committed as follows:

Criminal Case No. 1390

That on or about the 31st day of July, 1999, at barangay Gadgaron, municipality of Matnog, province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there, wilfully, unlawfully and feloniously, have carnal knowledge with one [ABC], a minor, against her will and without her consent.

CONTRARY TO LAW.^[4]

Criminal Case No. 1391

That during the period from August 1, 1999, up to August 16, of the same year, at barangay Gadgaron, municipality of Matnog, province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there, wilfully, unlawfully and feloniously, have carnal knowledge with one [ABC], a minor, for seven (7) consecutive times, against her will and without her consent.

CONTRARY TO LAW.^[5]

Upon arraignment, appellant entered a plea of not guilty to all the charges as stated in the informations. Trial ensued.

The trial court summarized the prosecution evidence as follows:

On July 31, 1999, at around 9:00 o'clock in the evening, [ABC] went to Caloocan, Matnog, Sorsogon to attend the Induction Ceremony of the officers of the Student Council of Matnog National High School. After the induction, there was a dance which she also attended. Accused Joel Dioquino also attended the dance. She finally decided to go home at 2:00 o'clock in the morning of August 1, 1999. (TSN, p. 4, May 4, 2000 & TSN, p. 2, Aug. 16, 2000). She left the dance alone while the rest of the students coming from their place remained. (TSN, p. 3, Aug. 16, 2000) She was on her way home when she noticed the accused standing along the road. x x x Thereafter, near a coconut tree not far from the house of Adelina Garofil, the accused surprised her. (TSN, p. 4, August 16, 2000). The accused was not wearing [a] shirt at that time. Upon seeing him half-naked, she felt afraid and she decided to move back. However, she was not able to run away because as she was turning back, he held her by her shoulders. She was not able to cry for help. (TSN, pp. 6-8, *ibid*). The accused boxed her on the stomach and she fell on the ground. He gave her another blow on her stomach and she lost her consciousness. When she came back to her senses, she found herself lying on the same place where the accused boxed her. (TSN, p. 5, May 4, 2000). Her pants and underwear were pulled down to her knees while her blouse was pulled up to her breasts. She found the accused on top of her. (TSN, p. 9, August 16, 2000) He was naked. His penis was still inside her vagina. She boxed him and pinched him then she pushed him away from her. She put on her clothes immediately and she started to run away. But the accused was faster than her. He was able to catch up with her and as soon as he got hold of her, he embraced and kissed her. She tried to prevent another sexual assault by biting the accused on his right neck. She has successfully detached herself from him. Then, she ran towards home. (TSN, p. 6, *ibid*). Upon reaching home, she cried and rested inside her room. At that time, only her little brothers and sisters were in their house. (TSN, p. 7, *ibid*).

The second incident happened on August 2, 1999. At around 6:00 o'clock in the evening, she delivered some goods to her mother's store at the Matnog pier. (TSN, p. 7, *ibid*). She stayed there for about two (2) hours. On her way home, the accused waylaid her again near the house of Adelina Garofil. He boxed her twice on her stomach. She fell down and lost her consciousness. (TSN, p. 11, August 16, 2000) When she came back to her senses, she found the accused naked on top of her with his penis still inserted inside her vagina. (TSN, p. 9, May 4, 2000). Her shirt was pulled up to her shoulders and her pants and underwear were pulled down to her knees. (TSN, p. 12, August 16, 2000). He was moving his body on top of her and remained on that position for about 5 to 7 minutes after she has regained consciousness. He was able to consummate his sexual desire with her. She said she knew he was able to consummate because he stopped moving. (TSN, p. 14, *ibid*). She felt the same pains the way she has experienced during the first. (TSN, p. 15, *ibid*). She pinched him and pushed him away from her. She tried to put on her pants but the accused embraced her. Then she pushed him

again and ran towards home. (TSN, p. 9, May 4, 2000). Upon reaching home, she found her brothers and sisters already asleep. Her parents were not around – her mother was at the Matnog pier selling goods while her father was in Manila. And like what she did during the first time, she entered her room and slept. (TSN, p. 10, *ibid*).

On August 3, 1999, at about 7:00 o'clock in the evening, she came back to her mother's store at the Matnog pier and just stayed there for a while. (TSN, p. 10, *ibid*). On her way home, she noticed the accused on the same place as before – near the house of Adelina Garofil. Upon seeing him, she took another path but the accused pursued her and was able to catch-up with her. He boxed her on her back. She fell down on the ground and then he pulled her up and slapped her. (TSN, p. 11, *ibid*). Thereafter, he removed her clothes. He embraced her and removed her pants. She tried to resist but she was overpowered by his strength. Then he boxed her again. She fell down and lost her consciousness. When she regained her senses, she found him on top of her. The place was a nipa plantation in Gadgaron, Matnog, Sorsogon. She boxed him and asked him why he always does the same thing to her over and over again but he just smiled. (TSN, p. 12, *ibid*). Then he spanked her and warned her not to tell the incident to her mother, otherwise, he would kill them. She noticed that his eyes were red. She got scared. When she got home, she did not tell her harrowing experience to anybody because of fear. (TSN, p. 13-14, *ibid*).

On August 4, 1999, she was visited at their house by his cousin [CCC]. At around 7:00 o'clock in the evening, [CCC] asked her to accompany him to the street going to his house because he was afraid to go alone. [ABC] just accompanied [CCC] up to the road. After [CCC] left, Joel Dioquino called her. (TSN, p. 14, *ibid*). She walked away but he pursued her, grabbed her by her collar and told her that she ought to go with him. She protested but he insisted. Joel brought her to a deserted police detachment. (TSN, p. 15, *ibid*). At the back of the detachment was the house of Oya Ading (Adelina Garofil) and x x x which was just about 15 to 20 meters away. The accused pulled her inside the dilapidated detachment, boxed her and pushed her against the wall. (TSN, p. 16, *ibid*). Then he kissed her and removed her pants. He held her by her shoulders and laid her down. Then he mounted on top of her. When she cried, he slapped her and boxed her on her stomach and she did not know what happened next. (TSN, p. 17, *ibid*). When she regained her consciousness, she found Joel Dioquino on top of her, his penis was still inside her vagina. She pinched and pushed him. He retaliated – he slapped her and pushed her outside the detachment. Then she left running towards home. (TSN, p. 18, *ibid*).

On August 5, 1999 at around 6:00 o'clock in the evening, as she was getting the laundry from the house of her Kuya [DDD] which was about 4 to 5 meters away from her house, the accused arrived. Upon seeing the accused, she entered the house and closed the door. At that time, nobody was inside the house of her Kuya [DDD]. (TSN, p. 19 & 23, *ibid*.) The accused pushed the door and went inside. Then he held her by his left hand and suddenly pushed her against the wall. He raised her

clothes and kissed her breasts. (TSN, p. 20, *ibid*). He opened her shorts and laid her down. Then he mounted on top of her and kept on kissing her breasts going downward. Thereafter, he inserted his penis inside her vagina. She tried to push him away but he held her by her throat. She bit him and she was released. Then she boxed him on his chest and tried to leave. (TSN, p. 21, *ibid*). He was able to grab her by her arms but she kicked him. As soon as she was extricated, she gathered the clothes which were scattered on the ground. The accused left the house. She just stayed sitting there for a while reflecting on whether she would make a revelation of what the accused was doing to her. But she was overcome by her fears. She was afraid that Joel Dioquino might kill them. So she decided to keep the matter in secret. (TSN, p. 22, *ibid*).

x x x x

On August 7, 1999, at around 8:00 o'clock in the evening, Joel Dioquino waylaid her again on the same place – x x x Gadgaron, Matnog, Sorsogon. He boxed her once and she fell down. (TSN, p. 2, *ibid*). He gave her another blow and she fainted. When she regained consciousness, he was already naked and on top of her. She felt his penis inside her vagina. She pushed and bit him. He requited by slapping her. She went home running. (TSN, p. 3, *ibid*).

At around 9:00 o'clock in the evening of August 8, 1999, the accused waylaid her on the same place. (TSN, p. 4, *ibid*). He brought her to a welding shop. Nobody was around. He pushed her inside and boxed her twice on her stomach and consequently, she fainted. When she regained her consciousness, the accused was still on top of her. (TSN, p. 5, *ibid*). He was naked and his penis was still inside her vagina. She pushed him and she ran away while pulling up her pants. The accused ran after her and captured her. Then he held her hands and kept on kissing her. She pushed and bit him and he fell on the fishpond. Subsequently, she ran towards her house and hid inside her room. (TSN, p. 6-7, *ibid*).

x x x x

In the noon of August 16, 1999, while she was watching TV at the house of Oya Lazara, the accused hastily appeared. As soon as he arrived, he placed his hands inside the neckline of her T-shirt extending to her breasts. Then he told her, "*Come with me.*" She refused and asked for help from Oya Lazara who was then sewing around. Oya admonished Joel not to persist on his plan but Joel answered back, "*You have no business to interfere.*" Then Joel pulled and dragged her going to his house which was about 50 to 60 meters away. As soon as they arrived, he pushed her inside the house. (TSN, p. 9, *ibid*). She begged for help from Joel's brothers but they did not heed. Then Joel brought her by tricycle to Naburakan. He introduced her to his relatives in Naburakan to be his wife. She protested to the introduction and even showed to his relatives the marks on her body showing that she was just forced by Joel (TSN, p. 10, *ibid*) but they just ignored her. (TSN, p. 11, *ibid*). In Naburakan, Joel Dioquino and the Barangay Captain of the place made her sign, against her will, a handwritten sworn statement that she