

## THIRD DIVISION

[ G.R. NO. 168628, December 06, 2006 ]

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. EMETERIO  
RICAMORA Y SUELLO, RESPONDENT.**

### D E C I S I O N

**CARPIO MORALES, J.:**

On review is the May 13, 2005 Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. CR No. 00652 affirming *in toto* that<sup>[2]</sup> of the Regional Trial Court (RTC) of Sta. Cruz, Laguna, Branch 28 in Criminal Case No. SC-6841 which found appellant Emeterio Ricamora guilty of rape.

The information against appellant reads:

That on or about January 21, 1998, in the municipality of Luisianan, province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused with lewd design and by means of force and intimidation, did, then and there wilfully, unlawfully and feloniously have sexual intercourse with MARY ROSE N. ROCREO, against her will and consent, to her damage and prejudice.<sup>[3]</sup>

From the evidence for the prosecution consisting of the testimonies of the private complainant Mary Rose Rocreo, her sister Myra Rocreo, the Municipal Health Officer Dr. Martinita Leobrera, and SPO2 Bart Jamito, the following version is gathered:

The private complainant is the eldest of four children who were all living with their mother, Patria Nano (Patria), in Bala St., Luisiana, Laguna.

Sometime in 1993, appellant started cohabiting with the private complainant's mother Patria until February 1995, when she left for Singapore to work as a domestic helper. Before she left, Patria entrusted the care of her children to appellant whom they considered as their stepfather.<sup>[4]</sup>

One night in October 1996, when the private complainant's siblings were out of the house, appellant called her to the kitchen, ordering her to do some chores. As the private complainant entered the kitchen, appellant seized her, turned off the light, and forced her to lie down on the floor.<sup>[5]</sup> Appellant started undressing her, telling her not to shout or else he would kill her and her siblings.<sup>[6]</sup> Out of fear, the private complainant endured the sexual advances of appellant who succeeded in having sexual intercourse with her.<sup>[7]</sup>

Appellant thereafter repeatedly abused the private complainant at nighttime while her younger siblings were sleeping in the same room.<sup>[8]</sup> Fearing that appellant

would make good his threat to kill her and her siblings,<sup>[9]</sup> the private complainant suffered in silence.

In the evening of January 21, 1998, as the private complainant and her younger sister Myra alighted from a passenger jeep on reaching their residence, appellant slapped them both and cursed them no end. As the sisters entered their house, appellant took hold of a bolo and swung it hard at Myra who was able to avoid the blow as she ran away and did not return home that night. On that same night, appellant again had sexual intercourse<sup>[10]</sup> with the private complainant.

The following day, January 22, 1998, the private complainant, together with her godmother Isabel Merginio and a barangay kagawad, repaired to the police station to file a complaint against appellant, initially for the slapping incident, and buoyed by the encouragement of those to whom she related her ordeal, eventually for rape.<sup>[11]</sup> As she could no longer remember the exact dates of the previous incidents of rape, only the last, that which occurred on January 21, 1998, was made the basis of her complaint.<sup>[12]</sup>

Dr. Martinita Leobrera, who conducted on January 22, 1998 a physical examination of the then 20 year old private complainant, noted the presence of old healed hymenal lacerations at 3 o'clock, 6 o'clock, and 9 o'clock positions, indicating positive signs of penetration. She also observed that the private complainant's vaginal canal admitted two examining fingers freely with no resistance, indicating multiple instances of sexual penetration.<sup>[13]</sup>

The evidence for the defense, consisting of the testimonies of appellant and the parties' neighbors-spouses Norlita and Alfredo Villa, proffers that appellant, a coco-lumber dealer and barangay captain of Barangay San Pedro, Luisiana, Laguna,<sup>[14]</sup> and the private complainant were live-in partners who were often seen sleeping together in the nude in the wee hours of the morning.<sup>[15]</sup>

He could not have raped the private complainant on January 21, 1998, appellant contended, as he was engaged in a drinking spree with Alfredo Villa (Villa) from 10:00 p.m. to 4:30 a.m. the following morning, following which he and Villa proceeded to look for coconut trees which they were going to cut in connection with their business; and that thereafter, he repaired home, took a bath, and immediately departed to attend a session in Santa Cruz.<sup>[16]</sup>

Appellant's tale regarding the drinking spree was corroborated by Villa and his wife Norlita Villa, the latter adding that she was awake the entire night serving "*pulutan*" to her husband and appellant.<sup>[17]</sup>

As indicated early on, the trial court convicted appellant<sup>[18]</sup> of rape. The dispositive portion of the trial court's decision reads:

WHEREFORE, IN THE LIGHT OF ALL THE FOREGOING CONSIDERATIONS, the Court finds the accused EMETERIO RICAMORA y SUELLO guilty beyond reasonable doubt of CONSUMMATED RAPE, defined and penalized under Article 335 of the Revised Penal Code, as amended by R.A. 7659 and hereby sentences him to suffer the penalty of RECLUSION PERPETUA

and to pay the offended party MARY ROSE ROCREO the sum of FIFTY THOUSAND PESOS (P50,000.00) as compensatory damages and the amount of FIFTY THOUSAND PESOS (P50,000.00) as moral damages and to pay the costs of the instant suit.

The records of the case were originally transmitted to this Court for automatic review. Conformably, however, with *People of the Philippines v. Efren Mateo y Garcia*<sup>[19]</sup> which modified Sections 3 and 10 of Rule 122, Section 13 of Rule 124, Section 3 of Rule 125 of the Revised Rules on Criminal Procedure and any other rule insofar as they provide for direct appeals from the RTCs to the Supreme Court in cases where the penalty imposed is death, *reclusion perpetua*, or life imprisonment, the case *cum* records was, by Resolution of September 13, 2004, referred to the Court of Appeals for appropriate action and disposition.

The Court of Appeals, by the assailed Decision, affirmed *in toto* the trial court's decision.

Hence, the present review, appellant assigning a single error:

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.

Appellant's basic contention is that the court *a quo* erred in upholding the trial court's giving full faith and credence to the testimony of the private complainant.

This Court has adopted an unrelenting position that when the question arises as to which of the conflicting versions of the prosecution and defense is worthy of belief, the assessment of the trial court is generally viewed as correct and entitled to great weight, it explaining as follows:

In the resolution of the factual issues, the Court relies heavily on the trial court for its evaluation of the witnesses and their credibility. Having the opportunity to observe them on the stand, the trial judge is able to detect that sometimes thin line between fact and prevarication that will determine the guilt or innocence of the accused. That line may not be discernible from a mere reading of the impersonal record by the reviewing court. The record will not reveal those tell-tale signs that will affirm the truth or expose the contrivance, like the angry flush of an insisted assertion or the sudden pallor of a discovered lie or the tremulous mutter of a reluctant answer or the forthright tone of a ready reply. The record will not show if the eyes have darted in evasion or looked down in confession or gazed steadily with a serenity that has nothing to distort or conceal. The record will not show if tears were shed in anger, or in shame, or in remembered pain, or in feigned innocence. *Only the judge trying the case can see all these and on the basis of his observations arrive at an informed and reasoned verdict.*<sup>[20]</sup>

Particularly in a rape case, conviction or acquittal more often than not depends entirely on the credibility of the private complainant's testimony, given that it is usually only she who can testify as to its occurrence.

When a woman then testifies that she had been raped, she says in effect all that is

necessary to show that rape had been committed, for as long as her testimony meets the test of credibility.<sup>[21]</sup>

Consider the following testimony on direct examination of the private complainant:

Q: In the year 1996 in the month of October, do you recall of any incident involving you and the herein accused Ricamora?

A: Yes, sir.

Q: What was that incident all about?

A: That was the night when he first abused me, sir. (Yoon po ang unang gabi ng ako ay kaniyang ginalaw)

X X X X

Q: Can you tell us how you were first raped by the accused Ricamora?

A: Yes, sir.

Q: Tell us.

A: First, he called me, I was then in our living room. He told all the while that he will order me to do something. The he suddenly held me. He put off the light and he caused me to lay down. The incident happened so fast (Bigla ang pangyayari, inihiga niya ako)

X X X X

Q: What happened next?

A: He removed my short pants and T-shirt including my underwear, sir.

Q: After removing your underwear, what did he do?

A: He kissed me on my face, neck and breast, sir.

Q: After doing those things what else did he do?

A: He slowly inserted his penis into my vagina, sir.

Q: Was he able to insert his penis in your vagina?

A: Yes, sir, in fact it was painful.

Q: Did he say anything to you?

A: Yes, sir.

Q: Please tell us.

A: He told me not to tell to anybody because he will kill all of us.

COURT

Q: And you believed the accused at that time?

A: Yes, Your Honor, because I was afraid of him.

TRIAL PROSECUTOR

Q: That first incident on October 1996, was it repeated?

A: Yes, sir.

Q: When was that?

A: I don't remember anymore, sir but since that first time which happened he repeatedly did it to me.

COURT

Q: How often in a week or month?

A: The least number is three (3) times a week, Your Honor.

Q: And everytime the penis of the accused was being inserted in your vagina?

A: Yes, Your Honor.

x x x x

Q Can you tell us usually in what place in your house he used to insert his penis in your vagina?

A In the place where we sleep in our living room (higaan), sir.

Q How was he able to insert his penis when you were sleeping together in the Sala?

A My brothers and sister were already asleep, sir.

x x x x

Q When was the last time that you have sexual intercourse with the herein accused?

A On January 21, 1998, sir.

x x x x

Q What happened that evening?

A He forced me to do what he wanted, sir.

COURT

Q What is that he wanted?

A To have sex, Your Honor.

Q Then what happened?

A I was crying then because he hurt me, Your Honor.

TRIAL PROSECUTOR

Q While you were crying what did he do to you?

A He was inserting his penis in my vagina, sir.

Q Where were you at the time he is inserting his penis?

A I was lying down (nakahiga), sir.

Q How about your two younger brothers?