

THIRD DIVISION

[G.R. No. 139753, May 07, 2002]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
HERNANDO QUINSON GARCIA, ACCUSED-APPELLANT.**

DECISION

VITUG, J.:

Hernando Quinson Garcia was charged with the offense of rape in Criminal Case No. 98-234 before the Regional Trial Court ("RTC") of Cagayan de Oro City, Branch 19, under the following recitals of the complaint, to wit:

"That on December 13, 1997, at more or less 8:30 o'clock in the morning, at Lim Ket Kai Drive, Barangay 35, Cagayan de Oro City, Philippines, and within the Jurisdiction of this Honorable Court, the above-named accused, 65-year old, uncle of complainant's mother, with violence and intimidation, armed with a knife, did then and there willfully, unlawfully and feloniously have carnal knowledge of one Roan T. Garcia, a 13-year old minor, against her will by then and there pointing a knife towards the latter's stomach, repeatedly demanding from her to undress, to which complainant refused, and threatening to kill her if she will shout, pulling her, and despite complainant's struggle from the holds of accused, complainant could not resist, then accused pointed the knife towards complainant's stomach and breast, managing to lower her short pants together with her panty, and when complainant was already downward, she was forcibly laid down on the bench by the accused, forcibly touching her breast, then inserted his right finger inside her vagina, while holding the knife in his left hand, her pleas of mercy being of no avail, until accused fully penetrated his penis inside complainant's vagina, performing the act of sexual intercourse on her, all done against her will."

[1]

At his arraignment on 04 May 1998, the accused pleaded "not guilty" to the charge; thereupon, the trial ensued.

The Version of the Prosecution -

On the early morning of 13 December 1997, complainant Roan Garcia, then 13 years old, was preparing to leave their house located at Brgy. 35, Justo Ramonal Extension, Cagayan de Oro City. Just as she went down the stairs, she was surprised to see her granduncle, Hernando Quinson Garcia, wielding a 12-inch stainless knife with his right hand. To her utter consternation, she was told to undress and when she refused, Garcia grabbed and dragged her towards the sofa. Roan was outraged when he began fondling her breasts. She protested but she was silenced when the accused finally threatened to kill her. He poked his knife at her chest and inserted his left middle finger into her vagina. He pushed and pulled his

finger, then unzipped his pants and removed the young girl's shorts and panty. He parted her thighs open with his legs and inserted his penis half-way into her vagina. She felt intense pain and cried. When the accused concluded his beastly act, he threatened Roan not to tell anyone about the incident.

Fearful of the threat, Roan kept her silence, at least, not until a month later when she related her unfortunate experience to her twin sister May Ann, who, in turn, reported the matter to their mother Maria Theresa Garcia. Maria Theresa lost no time in bringing her daughter Roan to the police station where SPO1 Salome Catulong took her sworn statement. Roan also had herself physically examined at the NBI Regional Office in Cagayan de Oro City. Dr. Tammy Uy, who attended to her, made the following findings, viz:

"GENERAL PHYSICAL EXAMINATION'

"Height: 157 cms.

Weight: 45 kgs.

Fairly nourished, fairly developed. Conscious, coherent, cooperative. Ambulatory. Breasts, fully developed, conical, firm. Areolae, brown, Symmetrical, 2.8 cms. wide. Nipples, brown, protruding, symmetrical, 0.8 cm. wide. No extragenital physical injuries noted.

"GENITAL EXAMINATION:

"Pubic hairs, fully grown, scanty. Labiae majora and minora, both coaptated. Fourchette, tight. Vestibule, pinkish, smooth. Hymen, tall, thick, fleshy, with healed, complete laceration at 5:00 o'clock position, edges of which are sharp and coactable. Hymenal orifice, originally annular, admits a glass tube of 2.5 cms. diameter with moderate resistance. Vaginal walls, tight; rugosities, prominent.

"CONCLUSION:

"Genital findings, compatible with sexual intercourse with man on or about the alleged date of commission of rape and subsequently thereafter."^[2]

A complaint for rape was filed against Hernando Quinson Garcia. It was during the trial, shortly following the arraignment, when Roan further revealed that since August 1997 the accused had been molesting ("fingering") her. The incidents spawned several cases for acts of lasciviousness.

The Version of the Defense -

The accused interposed the defense of *alibi*. He contended that he was the driver of Atty. Antonio Dugenio and working for him at the time of the incident. He argued that rape could not have been committed due to the proximity of their house to several other houses in the neighborhood. The accused and Roan lived under one roof and, in their crowded abode, rape could not have been possible. He claimed that Roan was a teenage coquette and, at one time, he caught her with her brother under one blanket, "pumping." A compelling reason, he said, for the filing of the rape charge against him by Roan and her family because his several acts of lasciviousness could not carry the death penalty and they would rather have him

executed.

The trial court found to be flimsy the defense interposed by the accused. Giving credence to the evidence presented by the prosecution, the trial court adjudged the accused guilty beyond reasonable doubt of the crime for which he was indicted. The trial court held:

"WHEREFORE, judgment is hereby rendered finding accused guilty beyond reasonable doubt of the crime of rape and he is hereby sentenced to suffer the penalty of reclusion perpetua, and to indemnify the complainant the sum of P75,000, to pay her moral damages in the sum of P50,000 and to pay the costs of this case.

"Accused's custodian is ordered to ship him to the higher authorities without delay in accordance with law."^[3]

The convicted accused, in his Appellant's Brief, ascribed error to the trial court, thusly:

"I

"THE COURT A QUO COMMITTED A REVERSIBLE ERROR IN CONVICTING ACCUSED-APPELLANT ON THE BASIS OF THE INCREDIBLE AND INCONSISTENT STATEMENTS OF THE PROSECUTION WITNESSES.

"II

"THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME OF RAPE HAS BEEN PROVEN BEYOND REASONABLE DOUBT."^[4]

In the prosecution for rape, the credibility of the complainant becomes the single most important factor to consider, and it always behooves the Court to minutely examine her testimony. The Court now quotes liberally, hereunder immediately following, the testimony given by Roan Garcia at the witness stand.

"Q On December 13, 1997 at about 8:30 in the morning can you recall where were you?

"A Yes, Sir.

"Q Where were you?

"A I was in our house.

"Q Were you alone?

"A We were two.

"Q Who was your companion?

"A Hernando Garcia.

"x x x

x x

x

x x x

"Q While you were left [alone] in the house with your paternal granduncle, Hernando Garcia, can you recall if there was any unusual incident that happened?

"A Yes, Sir.

"Q Will you please tell the court?

"A During that time I was upstairs I took a bath and then changed my clothes. At that time Hernando Garcia was downstairs and I was preparing to go to the house of my Auntie.

"Q Who is this Auntie?

"A Her husband is the brother of my mother.

"Q What is the name of this Auntie?

"A Belen.

"Q You said you were about to go down because you wanted to go to the house of Auntie Belen, what happened thereafter?

"A When I went down I was surprised because I saw Hernando Garcia holding a knife.

"Q Where particularly in the house when you saw Hernando Garcia holding a knife?

"A Downstairs at the sala.

"Q Where particularly at the sala?

"A He was sitting on the bench.

"Q And you said he was holding a knife. Can you demonstrate the position of Hernando Garcia?

"A He was holding a knife with the use of his right hand. (Witness demonstrating by raising her right hand as if