

## FIRST DIVISION

[ G.R. No. 144429, July 30, 2002 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
NORBERTO ORANI Y DULOG, ACCUSED-APPELLANT.**

### D E C I S I O N

**VITUG, J.:**

Norberto Orani was charged with raping an eight-year old girl, Jenelyn Nuyad, in an information that read:

“That on or about 12:00 o’clock noon of November 27, 1996, at Sitio Lapu-lapu, Barangay Ineangan, Municipality of Dupax del Norte, Province of Nueva Vizcaya, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of violence and intimidation and taking advantage of superior strength, did then and there willfully, unlawfully and feloniously have carnal knowledge of Jenelyn Nuyad, eight (8) years old, against her will and consent, to her damage and prejudice.”<sup>[1]</sup>

At his arraignment, the accused entered a plea of “not guilty;” trial ensued.

Jenelyn Nuyad, the complaining witness was the first to be presented by the prosecution. Jenelyn testified that, about lunchtime on 27 November 1996, her mother, Lilia Salvador, left her alone in the house. Not much later, she went to the place of their neighbor, Joven Orani, to play but soon returned after she was scolded by Joven for having supposedly damaged his plants. Just as she got back home, the accused, Norberto Orani, barged in and hastily brought Jenelyn to her room. Caught by surprise, she called out for help but the accused was quick to cover her mouth. He pushed her down and undressed her. The accused inserted his penis into her private part and made a “pumping motion.” After he was done with her, a white fluid (“kisit”) came out of his penis. The accused threatened Jenelyn not to report the incident to anyone or she would get killed. Despite this warning, Jenelyn narrated what had happened to her mother, Lilia, when the latter arrived home. Lilia promptly brought Jenelyn to the police authorities and then to Dr. Rowena Rosario for examination.

According to Dr. Rosario, the breasts of the young girl yielded no remarkable signs of manipulation, her vagina showed no abrasion but only reddening; the clitoral region also showed no sign of ruse handling. What was apparent, Dr. Rosario said, was the presence of three old lacerations. She did not discard the presence of “trauma” in the girl’s private part; thus, despite the absence of abrasion, her vagina could have been slightly penetrated.

The defense put to the witness stand accused Norberto Orani who denied the accusation hurled against him. He claimed that on 27 November 1996 he was at the public market with his wife and Lilia, the mother of the complainant herself; until

about noon to sell vegetables. He arrived home at one o'clock in the afternoon. He asseverated that Lilia had an axe to grind against him because her pleas to have her house built on their land was refused by his family. The accused added that he was among the barangay tanods who had reported a rape incident involving Jenelyn and Lilia's common-law-husband, Pio Reyes, sometime before.

Carmen Acosta, a co-vendor of the Oranis, corroborated, in part, the testimony made by the accused, saying that she rode home with appellant and his wife, together with Lilia, at about lunchtime on 27 November 1996. Once the news about the reported rape had reached her, she voluntarily presented herself to testify in court. At one time, when she and Lilia had a chance to talk about the case, the latter said that she would withdraw her accusation only if Orani were to give her P20,000.00.

The trial over, the court a quo convicted the accused but only for simple rape on account of the failure of the prosecution to prove the real age of Jenelyn. The trial court held:

"WHEREFORE, in view of the foregoing, the Court finds the accused, NORBERTO ORANI y DULOG, guilty beyond reasonable doubt of the crime of Rape penalized under Sec. 1 of Article 335 as Amended by R.A. 7659 and hereby sentences him to suffer the penalty of RECLUSION PERPETUA. Accused is further ordered to pay the victim, JENELYN NUYAD, the amount of FIFTY THOUSAND PESOS (P50, 000.00) as indemnity ex delicto."<sup>[2]</sup>

In his appeal to this Court, the convicted accused gave the following assignment of errors:

"I

"THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE DESPITE THE INSUFFICIENCY OF THE PROSECUTION EVIDENCE.

"II

THE TRIAL COURT LIKewise ERRED IN DISREGARDING THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT."<sup>[3]</sup>

In most rape cases, like here, the Court is confronted with the issue of credibility, a task that is not always easy to discharge because it is left, almost invariably, with only the testimony of the accused and the complainant to rely on, virtually admitting of no other direct evidence. Thus, the Court is often constrained to take the word of the trial court, and it is only when matters of significance and substance have apparently been overlooked<sup>[4]</sup> that the findings of the trial court are re-examined and even at times discarded. The case at bar poses no problem in the application of this long established general rule of giving respect to the trial court in its evaluation.

Despite her young age, Jenelyn was clearly straightforward in narrating her ordeal before the court below. She testified:

"Q Madam witness on November 27, 1996 at noon where were you?

"A I was inside our house, sir.

"Q Again, where is your house located?

"A Lapu-lapu, Ineangan, Dupax del Norte, sir.

"Q On November 27, 1996 at noon time did you see or ever met this Norberto Orani?

"A Yes, sir.

"Q Where have you seen this Norberto Orani?

"A Inside the house, sir.

"Q Whose house was that?

"A At our house, sir.

"Q In what particular part of your house did you see Norberto Orani?

"A In the room, sir.

"Q And you were also in the room at that time?

"A Yes, sir.

"Q Were you the only two persons inside the room?

"A Yes, sir.

"Q While the two of you were in the room that day of November 27, 1996, what happened next?

"A He [laid] me down, sir.

"Q And what did you do when he [laid] you down?

"A I shouted, sir.

"Q What did Orani do when you shouted?

"x x x x x x x x

"A He covered [my mouth] with his hand, sir.

"Q After covering your mouth with his hand, what else did he do to you?

"A He undressed me, sir.

"Q You said he undressed you, what did he remove from you?

"A My shorts, sir.

"Q And after removing your shorts, were you still wearing anything?

"A No more, sir.

"Q You have no more panty?

"A No more, sir.