

## **EN BANC**

**[ G.R. No. 133146, March 28, 2000 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
MANUEL CULA Y BANDILLA, AND JOSELITO LOPEZ Y ROCO,  
ACCUSED-APPELLANTS.**

### **D E C I S I O N**

**MELO, J.:**

Before the Court on automatic review is the decision dated March 16, 1998 of the Regional Trial Court of the National Capital Judicial Region (Branch 219, in Quezon City), convicting accused~appellants of rape, as follows:

WHEREFORE, finding both accused guilty beyond reasonable doubt of the crime of rape as charged in the Information and defined and penalized under Article 335 of the Revised Penal Code, as amended by R.A. 7659, the Court hereby sentences accused MANUEL CULA (1) to suffer the penalty of death; (2) to pay the complainant P50,000.00 as moral damages and P30,000.00 as exemplary damages; and (3) to pay the costs; and accused JOSELITO LOPEZ (1) to suffer the penalty of Reclusion Perpetua; (2) to pay the complainant the amount of P50,000.00 as damages; and (3) to pay the costs.

The Branch Clerk of Court is hereby directed to immediately transmit the entire records of the case to the Supreme Court for automatic review.

SO ORDERED.

(p. 24, Rollo.)

Accused~appellants were charged with the crime of Rape in a complaint dated August 27, 1996, which alleged:

That on or about the 24th day of August, 1996, in Quezon City, Philippines, the above~named accused, one Manuel Cula y Bandilla, being then the father of the undersigned, conspiring together, confederating with and mutually helping with his co-accused JOSELITO LOPEZ Y ROCO, by means of force, violence and intimidation, to wit: by then and there, wilfully, unlawfully and feloniously gave her fistic blows on the stomach and at the point of a bladed weapon, carried her to a double deck type room, stripped off her clothes and underwear and thereafter took turns in having carnal knowledge of the undersigned, a minor, 16 years of age, against her will and without the undersigned's

consent.

CONTRARY TO LAW.

(p. 5, Rollo.)

Accused~appellants, with the assistance of counsel *de oficio*, pleaded not guilty upon arraignment.

At the ensuing trial, the prosecution presented the victim Maricel Cula; Dra. Olga Bausa, a medico~legal officer; Philip Villanueva, Maricel's friend; SPO3 Benjamin Elenzano, the officer who took down Maricel's statement; and Er linda Cula, Maricel's mother.

Private complainant Maricel bravely recounted her harrowing experience at the hands of her father and his companion. Her testimony was faithfully summarized by the Solicitor General in this wise:

In the evening of August 23, 1996, complainant Maricel Cula, then 16 years old, was in their house located at No. 23, Zambales Street, Barangay San Martin de Porres, Cubao, Quezon City together with her live~in partner, Daniel Sto. Tomas, and his friend, Philip Villanueva. The two men were engaged in a drinking spree with Maricel's father, appellant Manuel Cula and his friend and neighbor, co~appellant Joselito Lopez. After the drinking session ended at about midnight, all went to sleep. Maricel Cula slept in a wooden bed in her room at the lower deck of their house beside Daniel while Philip Villanueva slept beside Daniel. Appellants Manuel Cula and Joselito Lopez slept at the upper deck of the house (TSN, pp. 4~9, October 4, 1996).

At about 1 o'clock in the early morning of August 24, 1996, Maricel was awakened when she felt someone mashing her breast. When she opened her eyes she was aghast to see her father on top of her. Maricel kicked appellant Manuel hard, who retaliated by punching her on the stomach three times. Appellant Manuel then lifted her bodily and passed her on to co~appellant Joselito Lopez who was standing near the door. Appellant Joselito carried Maricel to the upper deck of the house. Appellant Manuel then undressed Maricel. Maricel resisted but appellant Manuel instead poked a knife at her and threatened her with harm. Petrified with fear, Maricel gave up all resistance. Appellant Manuel went on top of Maricel and handed the knife he was holding to appellant Joselito. He then raped Maricel. After satisfying his lust on his own flesh, he yielded Maricel to appellant Joselito Lopez. Appellant Joselito poked the knife at Maricel and then took his turn in raping her. Maricel likewise was unable to resist as appellant Joselito gagged her mouth and threatened her with harm. Appellant Joselito warned her that he would kill her if she would report the matter to anyone. Maricel tried to struggle free but given her weakened condition as a result of the blows to her stomach delivered by her father all resistance was futile (tsn, October 14, 1996, pp. 4~15).

x	x	x
x	x	x
x	x	x

Undaunted, Maricel reported the incident to her grandmother, Irene Antonio, the following morning. Philip Villanueva told Daniel Sto. Tomas what he saw. They went to Lagro and reported the matter to Maricel's mother. Accompanied by her mother, Daniel and Philip, Maricel went to the police station to report the incident. At the police station, Maricel executed a sworn statement before the police investigator accusing her father and Joselito Lopez of rape (ibid, pp. 15~20).

(pp. 4~5, Appellee's Brief; pp. 88~89, Rollo.)

Maricel's friend, Philip Villanueva, corroborated Maricel's testimony and narrated that while he was sleeping together with Maricel and Daniel at Maricel's house, he heard a noise. When he opened his eyes, he saw accused~appellant Manuel mashing Maricel's breast. He saw Maricel kick her father who retaliated by punching her stomach three times. Manuel then pointed a knife at Maricel, lifted her and passed her on to accused~appellant Joselito who brought her to the upper deck of the room. Then he heard Maricel crying. He tried to awaken Daniel but the latter was too drunk to get up. He was unable to help Maricel because he was afraid of Manuel as the latter was holding a knife. The following morning, Maricel confirmed to him what he saw (tsn, June 16, 1997, pp. 2~8.)

Dra. Olga M. Bausa, a medico~legal officer of the Philippine National Police (PNP), examined the victim and found that she sustained "a congested vestibule with shallow healed laceration at 7 o'clock position and deep healed laceration at 6 o'clock position" which might have been caused by the insertion of a hard blunt object which includes an erected penis (tsn, June 9, 1997, p. 8).

Accused~appellants advanced alibi and denial. Manuel Cula claimed that the charge against him was a fabrication by Maricel upon the instigation of her mother, Erlinda Cula, because the latter was mad at him and they usually quarrelled with each other while they were still living together (tsn, February 2, 1998, p. 11). He testified that on the night of August 24, 1996, following a drinking spree with Joselito Lopez, Daniel Sto. Tomas, and Philip Villanueva, he scolded Maricel and told her to get out of the house together with Daniel and Philip. At this juncture, Erlinda's mother arrived and supported Maricel. Thereafter, they had an argument (ibid, p. 7).

For his part, Joselito Lopez, maintained that he left the house of Manuel Cula one hour after joining Manuel, Daniel, and Philip in a drinking spree, and that he never returned. He said he did not know of any reason why Maricel would charge him with rape (tsn, January 19, 1998, pp. 4 & 8).

In their Brief, accused~appellants essentially assail the credibility of Maricel Cula. They argue that it was impossible for them to have committed rape in a room where there were several other occupants, and where the victim was sleeping beside her live~in partner and the latter's friend. To them, the fact that it was only Philip

Villanueva who was awakened by the commotion caused by Maricel's resistance is highly incredulous. Misjuris

Accused~appellants fail to persuade us. We have repeatedly declared that "lust is no respecter of time and place" (*People vs. San Juan*, 270 SCRA 693 [1997]; *People vs. Cabillan*, 267 SCRA 258 [1997]; *People vs. Burce*, 269 SCRA 293 [1997]). Rape can be committed in a house where there are many other occupants (*People vs. Escobar*; 281 SCRA 498 [1997]), and even in the same room where there are other members of the family who are sleeping (*People vs. Gabayron*, 278 SCRA 78 [1997]). *It* is also not impossible nor incredible for the family members to be in deep slumber and not be awakened while the sexual assault is being committed (*People vs. Sangil, Sr.*, 278 SCRA 532 [1997]). Obviously, complainant's live~in partner, Daniel Sto. Tomas, was too drunk to notice what was happening at that time, while her siblings were still young and because of their tender ages, one may suppose that children sleep more soundly than grown~ups and are not easily disturbed by the gyrations and exertions of adults in the night (*People vs. Faigano*, 254 SCRA 10 [1996]). Rape may take only a short time to consummate, given the anxiety of its discovery, especially when committed near sleeping persons (*People vs. Manuel*, 236 SCRA 577 [1994]).

Likewise, accused~appellants fault the trial court for giving too much credence to the testimony of complainant despite it being fraught with inconsistencies and contradictions as to how she was sexually abused. Accused~appellants lay stress on complainant's testimony during the direct examination that she slept beside Daniel Sto. Tomas while the latter was beside Philip Villanueva (tsn, October 14, 1996, pp. 8 & 28); whereas during the ocular inspection, she declared that she slept between Daniel and Philip (tsn, April 1, 1997, p. 3). Also, at one point, Maricel claimed that when she woke up, she saw her father naked and already on top of her (tsn, October 14, 1996, p. 10). Later, she testified that when Manuel undressed her, Manuel was still wearing a T~shirt (tsn, April 30, 1997, p. 4).

We have punctiliously scrutinized the testimony of complainant and we can only agree with the trial court's observation that she was candid, spontaneous, and straightforward in her testimony both during the direct and cross~examination. It is a basic rule, founded on reason and experience, that when the victim testifies that she has been raped, she says in effect all that is necessary to show that rape was committed. Thus, if her testimony meets the test of credibility, the accused may be convicted on the basis thereof (*People vs. Antido*, 278 SCRA 425 [1997]; *People vs. Butron*, 272 SCRA 352 [1997]). The alleged inconsistencies cited by accused~appellants are not sufficient to render complainant's testimony doubtful nor do they negate the commission of rape. Said inconsistencies are inconsequential considering that they refer to trivial details which have nothing to do with the essential fact of the commission of the crime of rape, that is, carnal knowledge through force or intimidation. The testimony of a witness must be considered and calibrated in its entirety and not in truncated portions or isolated passages (*People vs. Natan*, 193 SCRA 355 [1991]).

Rape is a painful experience which is oftentimes not remembered in detail. For such an offense is not analogous to a person's achievement or accomplishment as to be worth recalling or reliving; rather, it is something which causes deep psychological wounds and casts a stigma upon the victim, scarring her psyche for life and which her conscious or subconscious mind would opt to forget. Thus, a rape victim cannot