

## SECOND DIVISION

[ G.R. No. 132071, October 16, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEL DE GUZMAN Y SAN JUAN, ACCUSED-APPELLANT.**

### DECISION

**QUISUMBING, J.:**

On appeal is the decision rendered on December 18, 1997 by the Regional Trial Court of Naga City, Branch 24, in Criminal Case No. 95-6022, finding accused-appellant Joel De Guzman y San Juan guilty of rape and sentencing him to *reclusion perpetua*.

In an information dated October 16, 1995, Assistant Provincial Prosecutor Jose Dy charged appellant with the crime of rape, allegedly committed as follows:

The undersigned 4th Assistant Provincial Prosecutor of Camarines Sur, upon a sworn complaint originally filed by Corazon Deliso y Reyes accuses JOEL DE GUZMAN y SAN JUAN of Sitio San Vicente, Barangay Caranan, Pasacao, Camarines Sur, of the crime of RAPE, defined and penalized under Article 335 of the Revised Penal Code, as amended, committed as follows:

That on or about the 2nd day of August, 1995 at about 11:00 o'clock in the evening at Sitio San Vicente, Barangay Caranan, Municipality of Pasacao, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused while armed with a small bolo with lewd and unchaste designs and by means of force and intimidation, unlawfully and feloniously did lie and succeed in having carnal knowledge of Corazon Deliso y Reyes against her will and to her damage and prejudice.

ACTS CONTRARY TO LAW.<sup>[1]</sup>

Upon arraignment, appellant, assisted by counsel, entered a plea of not guilty.<sup>[2]</sup> Thereafter, trial on the merits ensued. The trial court rendered judgment, disposing thus:

WHEREFORE, it having been established by the prosecution beyond reasonable doubt that the crime of rape was committed by the accused, Joel de Guzman is hereby found guilty of Rape. The rape having been committed on August 2, 1995, the penalty therefor is that provided under Republic Act No. 765<sup>[9]</sup> which is reclusion perpetua to death. There being no aggravating circumstance attendant to the crime, Joel de Guzman is hereby sentenced to reclusion perpetua, to indemnify the

private complainant Corazon Deliso in the amount of Fifty Thousand (P50,000.00) Pesos and to pay the costs.<sup>[3]</sup>

Private complainant narrated that on August 2, 1995, at around eleven o'clock in the evening, she was sleeping beside her three-year old son in her house in San Vicente, Caranan, Pasacao, Camarines Sur. At that time, her husband, Roberto Deliso, was away working as lumberman in Macad, Pasacao, Camarines Sur. He goes home only after his work is finished, usually after several days.

Private complainant was awakened when she felt that there was someone on her left side. She arose and sat up in bed. The person covered her mouth. When she turned to her right, she recognized him to be appellant Joel De Guzman, a cousin of her husband. She removed his hands from her mouth and attempted to shout but he warned her *"Do not shout, Manay Cora."* Then he poked a knife on her neck. She pleaded for mercy and told appellant *"It's wrong. I respect you so you respect me too as I respect your mother."* Yet, appellant told her to accede to his wish because he had long been looking for an outlet of his sexual urge. She noticed that he was drunk and naked from his waist down. He pushed her down on the bed, laid on top of her and removed her pajama pants including her panty. Then he inserted his organ into her vagina and made push and pull movements. Afterwards, appellant removed his organ from hers and stood up. He then warned private complainant not to report the matter to anyone. As she promised not to report the incident to anyone, appellant went away. Private complainant wrapped her son in a blanket and ran towards the house of Herminia Pellejera, the grandmother of her husband.<sup>[4]</sup>

In her testimony, Herminia declared that private complainant was crying when the latter arrived at her house. Then, private complainant told her what happened. At first she got angry with private complainant for not shouting. Private complainant explained that she could not because appellant had a knife poked on her neck and threatened to kill her and her child. Herminia immediately went to the house of appellant's mother. She asked for the whereabouts of appellant. Appellant's mother told her that appellant was around. However, when Herminia looked for appellant, he was not there. So Herminia told appellant's mother, *"Do not bear any grudge against me for whatever may happen to Joel because he raped Corazon."* <sup>[5]</sup>

The following morning, private complainant, accompanied by her mother-in-law, reported the incident to the *barangay tanod* and then to the local police. Appellant was apprehended by the barangay tanod at Macad, Pasacao, Camarines Sur and then brought to the police station where he was detained. Thereafter, appellant was transferred to the custody of the Provincial Warden, Tinangis Penal Farm, Pili, Camarines Sur.<sup>[6]</sup> Meanwhile, private complainant submitted herself for physical and internal examination. Dr. Melchor Baesa, Municipal Health Officer of Pasacao, attested to the presence of spermatozoa on the victim's vaginal canal.<sup>[7]</sup> Afterwards, private complainant filed a complaint for rape against appellant.<sup>[8]</sup>

In his defense, appellant admitted his presence at the residence of the victim on the date and time of the incident. He said that he went there at around 10:30 P.M. and stayed there for an hour. However, appellant stated that he was there because he and private complainant talked about the fate of their illicit relationship. He declared that he and private complainant were lovers and they have engaged in sexual intercourse many times during their six-month affair. According to appellant, this

fact is known only to his *Manoy Pantoy* (Pancho Latuza). The night of the alleged rape, private complainant told appellant that she was ready to leave her husband to go with him. But, appellant rebuffed her as he informed private complainant of his plan to go to Manila. At this juncture, private complainant allegedly told him that if he left she would charge him with rape. After that, appellant left private complainant's house and went home.<sup>[9]</sup>

To bolster his defense, appellant presented Bong Barro, then a detainee at Tinangis Penal Farm. Barro testified that he knew of the illicit relationship, and witnessed a year earlier the two holding hands at the corner of appellant's store, partly hidden from view. Again on August 2, 1995, at about 8:00 P.M. while watching television at appellant's place, appellant told him he was going to the house of private complainant.<sup>[10]</sup>

Finding the trial court's evidence strong and convincing, appellant, as earlier stated was found guilty as charged. Insisting on his innocence, appellant filed his notice of appeal.<sup>[11]</sup>

Appellant now avers in his lone assignment of error that:

THE COURT A *QUO* GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.<sup>[12]</sup>

The issue now for resolution is whether or not the trial court erred in giving credence to the testimony of the victim.

In casting doubt on the testimony of private complainant, appellant contends that his carnal knowledge of private complainant was with the latter's consent. He claims private complainant did not resist the alleged sexual assault. She made no outcry, nor sustain injuries nor was any part of her apparel torn. Appellant also points to some irreconcilable and unexplained contradictions in the testimony of private complainant.<sup>[13]</sup>

To begin with, appellant's claim that their sexual intercourse was consensual is concoction born out of desperation. It is true that this Court has sustained the defense of consensual sex in a number of rape cases.<sup>[14]</sup> It is to be noted, however, that in these cases, evidence like love notes, mementos and witnesses attesting to a consensual relationship were presented. Here, other than appellant's story he only had a fellow detainee to corroborate his tale. Ironically, his fellow detainee, Barro, contradicted him on major details. While appellant stated that his affair with private complainant lasted for half a year, Barro testified that he came to know about it a year before the incident occurred. Appellant said that he went to private complainant's house at 10:30 P.M.. Yet, Barro testified that appellant went to private complainant's place, which is ten meters away, at 8:00 P.M..

Appellant did mention a certain Pancho Latuza who knew of the alleged illicit affair. But, Pancho did not testify in court.

Appellant would like us to believe that the charge was merely fabricated because he did not accede to private complainant's desire to be with him. Private complainant's