

SECOND DIVISION

[G.R. No. 125537, March 08, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE
MAGLANTAY Y DEO, ACCUSED-APPELLANT.**

D E C I S I O N

QUISUMBING, J.:

Before us is the appeal from the decision of the trial court¹ Regional Trial Court, Branch 80, Quezon City; Judge Agustin S. Dizon, presiding.^[1] convicting accused-appellant Jose Maglantay of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua*.

The facts found by the trial court are as follows:

Culled from the testimonies of witnesses, namely: Alfonso Javier, Lea Ubaldo, Feliza Fernandez Flores, SPO2 Gil del Rosario and Mary Ann Rebutio^[2] and documentary exhibits "A" to "H" including submarkings, the prosecution evidence in a nutshell depicts that on May 8, 1994, the employees at Lowell Building, located at Quirino Highway, Quezon City, had an excursion to Lingayen, Pangasinan where they had a grand time swimming at a beach.

Upon arrival from their excursion, the complainant Lea Ubaldo proceeded to Lowell Building. She asked a certain Liza Fernandez Flores to accompany her as the latter did accompany her to the comfort room located at the second floor.

After having gone to the comfort room and when complainant Lea Ubaldo and Liza Fernandez had parted ways already and when the former was about to go out of the gate (downstair), she was blocked by the accused Jose Maglantay. The latter held the complainant's both hands and against her will started kissing her. Despite her struggle to be freed from the hands of the accused, the latter forcefully dragged her to the stairs leading to the second floor where they met a certain Mary Ann Robencio from whom she (Lea) asked for help. In reaction, Mary Ann reprimanded the accused who merely said to her: "Huwag kang makialam kung ano man ang nangyayari dahil diskarte ko ito."

On the second floor of Lowell Building and despite her resistance which proved futile, the accused laid her down and started kissing her again. Once down on the floor and while in a lying position, the accused raised her T-shirt and held her nipples for a while. Accordingly, he pulled her short pant and panty up to her knee. Without further ado, he inserted his penis into her vagina. After a while, he stood up together with the

complainant whom he forcefully pulled to the comfort room. While in the comfort room, he again removed her panty despite her struggle to be freed and for the second time inserted his penis into her vagina and much to her dislike and against her will, he succeeded in having sexual intercourse with her.

Not long after the rape incident and while the accused and complainant were still in the comfort room, a policeman accompanied by a security guard by the name of Alfonso Javier knocked at the door which complainant readily opened. Spontaneously or instinctively, complainant while crying ran towards security guard Alfonso Javier and with tears embraced him. Accordingly, the accused and the complainant were brought to the police station at Lagro, Quezon City, where they were investigated.^[3]

Several contusions and abrasions were found on private complainant Lea Ubaldo's body after she was subjected to physical examination on the same day the alleged rape occurred.^[4]

Among the witnesses presented by the prosecution were Mary Ann Robencio, Ubaldo's co-worker, and Alfonso Javier, security guard of Lowell^[5] Building where the alleged rape took place.

Robencio testified that she saw accused-appellant pulling Ubaldo and he warned her to stop what he was doing. Accused-appellant told her not to interfere. Robencio then left, fearful because Maglantay was drunk.^[6] She let the security guard try to stop Maglantay.

Javier gave a narration similar to Robencio's. He testified that he saw Ubaldo struggling while being dragged by accused-appellant. The latter was holding and pulling Ubaldo's jaw^[7]. Javier heard Ubaldo's cries and what seemed to be her pleas for mercy. However, he did not follow the two upstairs because it was dark. Also, he was afraid that Maglantay might harm Lea with a knife, as there had been a previous incident wherein Maglantay chased Lowell Building's other security guard with a knife.

Javier decided to call a policeman. He and the policeman went up the building's second floor where they saw Lea's things scattered around. There were also drops of blood on the corridor, leading to the comfort room. After they had knocked, the door to the comfort room was opened. Ubaldo, still pulling up her shorts, wet from head to waist and with blood trickling down her thighs and legs, came rushing outside towards Javier. She asked Javier and the policeman to help her.^[8]

Lea Ubaldo also testified during the trial of this case.

Accused-appellant admits having had sexual intercourse with complainant on May 8, 1994 but denies that he forced her. He claims that it was done consensually, as he and private complainant were lovers. He explains that private complainant sustained the injuries on her body when the two of them fell to the floor as they stumbled upon a toilet bowl plunger while he was searching for the light switch inside a comfort room.

Accused-appellant's version of the incident is as follows:

On 8 May 1994, accused-appellant and Lea, together with their co-workers at the Lowell Building, went to Lingayen, Pangasinan for an excursion. Along the way, the two sat beside each other. At Lingayen, the two swam, ate, and drank together.

Upon their return at the Lowell Building at around 7:45 in the evening and with their companions no longer around, accused-appellant and Lea took the chance to talk about their relationship near the guard house. Since love was overflowing between them, Lea then allowed accused-appellant to kiss her on the lips and neck. Noting that nobody was at the second floor of the building where the comfort room was located, the two later agreed to proceed there to take a bath and to continue their romance.

As they entered the comfort room, accused-appellant searched for the switch of the light but unfortunately, he stumbled upon a "pangbomba ng bowl" and so he slipped together with Lea. As a result thereof, Lea suffered injuries. When accused-appellant lifted her up, she informed him that blood was coming out from her private part. He retorted that it might be her menstruation. Afterwards, he instructed her to just take a bath so he can drive her home.

While the two were taking a bath, a person who introduced himself as a policeman knocked at the door. Accused-appellant explained that they were not yet through and that Lea was still dressing up. When he finally opened the door, accused-appellant was surprised when he was suddenly handcuffed by the policeman and brought to the police station. Thereat, he learned that the policeman was called and informed by Alfonso Javier that he (accused-appellant) was raping Lea inside the comfort room.

At the time of his arrest, accused-appellant never had a chance to talk to Lea because he was prevented by the police authorities. One Saturday afternoon, he was finally allowed to talk to Lea through the telephone and it was only then that he realized that she was constrained to file a complaint against him for fear of her sister.^[9]

The trial court gave credence to the testimonies of the prosecution witnesses. Accordingly, on June 15, 1995, the trial court rendered its decision, the dispositive portion of which read:

WHEREFORE, in the light of the foregoing, the Court finds the accused Jose Maglantay guilty beyond reasonable doubt of the crime of rape as charged. Accordingly, he is hereby sentenced to suffer the penalty of reclusion perpetua together with its accessory penalties and to indemnify the victim in the sum of P30,000.00 as moral damages.^[10]

Hence, this appeal, in which accused-appellant makes the following assignment of errors: