

FIRST DIVISION

[G.R. No. 130947, September 14, 1999]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMON ROMAN Y BERNALDEZ, ACCUSED-APPELLANT.

D E C I S I O N

YNARES-SANTIAGO, J.:

Accused-appellant Ramon Roman y Bernaldez assails the decision dated March 18, 1997 of the Regional Trial Court of Iriga City, Branch 37, finding him guilty beyond reasonable doubt of the crime of rape committed against complainant Milan G. Salcedo and sentencing him to suffer the penalty of *reclusion perpetua* with all the accessory penalties provided by law and to indemnify the complainant the sum of P50,000.00 by way of moral damages as well as costs.

The facts of the case are as follows:

On June 26, 1991, at around 3:00 o'clock in the afternoon, 18 year-old Milan Salcedo asked permission from her mother to take a bath at the public pumpwell located 150 to 200 meters away from their house in Barangay Cabungan, Balatan, Camarines Sur, since there was no water in their house. While Milan was filling the basin with water, accused-appellant, Ramon Roman y Bernaldez, arrived, placed his hand on her shoulder and started kissing her while at the same time professing his love for her. Milan resisted accused-appellant's advances but he dragged her 50 meters away from the pumpwell to a grassy area. Milan started to cry and shout, and accused-appellant poked a short handgun at her which frightened her and deterred her from further making any noise.^[1]

Accused-appellant kissed Milan again and removed her blouse, bra, shorts and underwear. He spread her towel on the ground and lay Milan on top of it as he continued to caress her. Then, he inserted his penis into her private organ causing her excruciating pain. After accused-appellant ejaculated, Milan lay crying and trembling with fear. He had his gun poked at her the whole time while his other arm held her. After about 25 minutes, accused-appellant again started kissing her and had sexual intercourse with her for the second time. His bestial lust still not having been satisfied, accused-appellant, after another interval of 25 minutes, had sexual congress with Milan for the third time. He then instructed her to dress up and warned her not to tell anyone about the incident otherwise he will kill her and her family.^[2]

It was past 5:00 o'clock in the afternoon when Milan, accompanied by accused-appellant, returned home. Accused-appellant is known to the family of Milan because he is the brother of the wife of Milan's maternal uncle. Upon their arrival, Milan hastily proceeded to her room and cried. Her mother, Virginia, who noticed Milan's reddish face followed her and saw her crying. When she asked Milan what

happened, Milan did not say anything. Milan told her mother about the grim incident only at around 9:00 o'clock in the evening when she thought that accused-appellant had left. Unknown to Milan, however, accused-appellant stayed on and even slept in her house that night. Milan's family decided not to confront accused-appellant out of fear since he carried a gun with him. Milan's brother, Carlito, who slept beside accused-appellant noticed that the latter had a short handgun with him. Accused-appellant was reportedly restless throughout the night and kept on looking at the wall clock.^[3]

Meanwhile, Milan, who was engaged to be married to her fiance Amado Nillo, could not sleep as she felt deeply humiliated by the incident. She was worried that her fiance might cancel their scheduled wedding if he found out that she was sexually abused by accused-appellant. Nevertheless, Milan and her mother reported the incident to the police the following day. Thereafter, Milan submitted herself to a medical examination, which was conducted by Dr. Luis Taburnal and the said examination revealed the following findings:

1. Hematoma, middle portion of upper lip about 3x2 cm in size;
2. Fresh Hymenal Lacerations at 3 o'clock and 9 o'clock locations;
3. Fresh mucocutaneous abrasions, labia minora left and right side;
4. No other physical injuries noted.^[4]

A month after her harrowing experience, Milan got married to her fiance Amado Nillo. On the same day, however, that Milan reported the crime of rape to the police, accused-appellant left for Manila. Hence, when a formal complaint was filed with the Municipal Trial Court of Balatan on June 27, 1991 and a warrant of arrest issued on June 28, 1991, accused-appellant could no longer be found. He was only arrested by virtue of an alias warrant of arrest when he returned to Balatan in 1994.

On September 14, 1995, an information was filed against accused-appellant in the Regional Trial Court of Iriga, Branch 37, for the crime of rape committed against Milan G. Salcedo. The information reads as follows:

"The undersigned, upon prior complaint signed by the offended party, accuses RAMON ROMAN y BERNALDEZ of Barangay Cabungan, Balatan, Camarines Sur, of the crime of RAPE, defined and punished under Article 335 of the Revised Penal Code, committed as follows:

"That on or about the 26th day of June, 1991, in Barangay Cabungan, Balatan, Camarines Sur, and within the jurisdiction of this Honorable Court, the above-named accused, by means of intimidation, force and violence and use of a firearm (Handgun), did then and there willfully, unlawfully and feloniously have carnal knowledge with one Milan G. Salcedo, against her will, to her damage and prejudice in such amount as may be proven in court.

"ACTS CONTRARY TO LAW."

Upon arraignment, accused-appellant pleaded not guilty. He did not deny having carnal knowledge of complainant but interposed the defense that the three encounters of sexual congress were consensual.

Accused-appellant maintains that he and the complainant were sweethearts and he had been living with the family of the complainant for over a month before the incident in question. He claims that he and Milan had sexual relations even before June 26, 1991. As proof that he and Milan were sweethearts, accused-appellant presented a handkerchief allegedly given to him by Milan with the embroidered initials MS, a heart and the letter R.^[5] Accused-appellant alleged that on June 26, 1991, at around 3:00 o'clock in the afternoon, Milan wanted to take a bath and she asked him to accompany her to a public pumpwell located about 150–200 meters away from her house. When they reached the said place, accused-appellant pumped water for Milan to use in taking a bath. When Milan finished taking a bath, accused-appellant asked if he could have sex with her and she readily consented. The sexual congress was repeated for two more times on the same afternoon. At around 5:00 o'clock in the afternoon, accused-appellant and Milan proceeded to the latter's house. When they reached the house, Milan prepared some snacks while accused-appellant chatted with her brother, Carlito. As Milan prepared coffee, accused-appellant and Carlito continued chatting and thereafter spent some time at a nearby highway. Accused-appellant later returned to Milan's house ahead of Carlito. When he reached the house, he was met by Milan who told him that rumors started circulating about their sexual encounter at the pumpwell. Milan was apparently worried that the rumors might jeopardize her impending wedding to her fiance Amado Nillo. Accused-appellant was surprised to discover that Milan was already engaged to be married to someone else.^[6] The next day, he left for a trip to Manila. Accused-appellant claims his trip was scheduled months beforehand.

Accused-appellant's claim that he and the complainant were sweethearts was supported by his cousin Romeo Roman who testified in open court that at around 4:00 o'clock in the afternoon of June 26, 1991, he accidentally chanced upon accused-appellant and Milan having a tryst in a secluded spot of a grassy field. Milan allegedly had her legs wrapped around those of the accused with both arms embracing the latter's head as they made love.^[7] Romeo decided not to tell anyone of the incident since one of the parties involved was his cousin who at that time was already a married man.^[8]

Accused-appellant's story that his trip to Manila a day after the fateful incident had been planned months before the incident was corroborated by another cousin, Charlie Talagtag who said that in the late afternoon of June 26, 1991, he went to complainant's house to verify from accused-appellant when are they going to Manila. Accused-appellant and Charlie apparently had a previous agreement to go to Manila supposedly to fix someone's car, Charlie being a mechanic by profession.^[9] Charlie stated that he proceeded directly to Milan's house to talk to accused-appellant since he knew that he had been living with the family of Milan two or three months before June 1991.^[10]

Finally, accused-appellant's wife, Evangeline Pacer-Roman, testified that her husband admitted having an affair with complainant Milan, and that he and Milan were living together. Evangeline claimed that Milan herself admitted having a "good