

## THIRD DIVISION

[ G.R. No. 119592, October 07, 1998 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
FERDINAND EMOCLING ACCUSED-APPELLANT.**

### D E C I S I O N

**ROMERO, J.:**

What could possibly drive a maiden of seventeen years, barely a woman but no longer a girl, to expose herself to the degradation that attends a charge of rape? To vindicate a wrong, as the accuser maintains, or, as imputed by the accused, to conceal an unwanted pregnancy for which he was not responsible? After examining the divergent tales of these two individuals, together with the physical and testimonial evidence, the Court agrees with the trial court that the complainant in the case at bar was the true victim.

Angelita Jazareno was employed as house helper by the Emoclings sometime in April 1990. Their families had been friends in Baguio City since 1972; so, with Magdalena Emocling's offer of employment and educational opportunity for the then 15-year-old Angelita, she and her mother, Patricia Anicas,<sup>[1]</sup> agreed. Magdalena's son, accused-appellant Ferdinand Emocling, a professional jeepney driver whom Angelita fondly called "Uncle Ticman," got married in October of the same year.

One morning in April 1992, while accused-appellant's parents were abroad, Angelita, now a young lass two months shy of her seventeenth birthday, was roused from sleep at around 6:00 o'clock when she felt her Uncle Ticman embracing her and about to kiss her. He had nothing on except his underwear. She was able to thwart his advances, though, by shouting "Auntie Jane," his wife's name. Accused-appellant immediately went to the bathroom and took a shower. While he was there, Angelita related to Jane what had happened. In her anger and disgust, Jane threw a feeding bottle at her husband upon seeing him.<sup>[2]</sup>

That same day, Angelita repeated her story to her older brother, to the spouses Dumaguing, relatives and landlords of the Emoclings, then to her mother, who told her there was no need to report the incident to the police inasmuch as she was untouched. She, however, opted to stay with her mother. A week later, when Magdalena Emocling had arrived from the United States, Angelita was requested by the old lady, who used to look after her when she was a small girl, to return to their house. Angelita did come back, but in the morning she left again and thereafter stayed with her mother.

One late afternoon in August 1992, however, while walking downhill towards the Botanical Gardens after visiting with friends,<sup>[3]</sup> Angelita saw accused-appellant's jeepney approaching from the opposite direction. As it stopped near her, accused-appellant alighted and advanced toward her, poked a knife at her waist, held her by

the left arm, then forced her into the front passenger seat of his jeepney before boarding through the same side himself. He continued to nudge her side with his knife as he traversed the periphery of the Baguio Country Club, occasionally placing it in the cash box only when he had to use both hands in steering and shifting gears. Accused-appellant parked near the golf course of the club, went out through the passenger side, then pulled Angelita out before leading her to a grassy portion which was partially concealed by a concrete wall and foot-high reeds and sunflowers. He made her lie on the ground then lay beside her. Angelita tearfully tried to resist him and begged for mercy, "*Huwag po, Uncle Ticman,*" but these words fell on the deaf ears of the man she once trusted and, at that very moment, dreaded. She refused to take off her jeans and underwear when ordered by accused-appellant, so the latter removed them himself while steadily jabbing her with the knife. He fondled her breasts and pressed the knife harder when she tried to scream. Accused-appellant then unzipped his pants, went on top of her, forced her legs apart using his own legs, and greedily ravished her innocent body against her will. After that, he directed her to dress up, then threatened her not to tell anybody about the incident lest she wanted to die along with her parents, a warning he repeated just before dropping Angelita off in front of the St. Joseph's Church.<sup>[4]</sup>

Because of the continuing threat on her life posed not only by accused-appellant himself, who would glower at her every time he passed her by in his jeepney, but also by his barkada, she would have kept her silence, except for one unfortunate consequence of that violation on her virtue: she got pregnant. By January 1993, when her state of infanticipation was becoming obvious, she decided to pre-empt any vicious rumor in school by revealing the root of her predicament to her close friends.<sup>[5]</sup> The latter, in turn, related the story to her mother who furiously confronted her daughter and heard the truth "straight from the horse's mouth."<sup>[6]</sup> Patricia brought Angelita to the Baguio General Hospital and Medical Center for examination. Dr. Norma Batnag confirmed her pregnancy and said that the baby was around twenty-two weeks into the second trimester, about five months old, based on ultrasound fetal aging.<sup>[7]</sup> Angelita gave birth to a baby boy on May 20, 1993, but accused-appellant refused to acknowledge him as his son.

In the meantime, Angelita formally charged accused-appellant with the crime of rape in a complaint dated March 19, 1993, supported by a resolution of even date by Baguio City Prosecutor Alfredo R. Centeno, recommending the prosecution of Ferdinand Emocling for rape.

Accused-appellant denied the charges hurled against him and harped on the alleged loose morality of Angelita whom he claimed was probably impregnated by one of the boys with whom she flirted.<sup>[8]</sup> He submitted that he was being made the scapegoat for her misdeeds and that the case was filed to compel him to support Angelita's child<sup>[9]</sup> because she thought that his family had "plenty of money."<sup>[10]</sup> To demonstrate the improbability of Angelita's accusations, the defense presented the testimony of weatherman Salvador Olivares, who declared that it was raining almost the whole month of August 1992.<sup>[11]</sup> They also put in issue some of the information supplied by Angelita to Dr. Batnag during the former's examination at the BGHMC, such as the exact date of the incident, that is, September 15, 1992.<sup>[12]</sup> Finally, the defense questioned the delay in Angelita's reporting of the alleged sexual assault. They dismissed her fear of accused-appellant's threats as a figment of her fertile

imagination, considering that after the alleged incident, she was relatively safe in her mother's house and her stepfather was even a Barangay Captain.

After trial on the merits, Judge Ruben C. Ayson of the Regional Trial Court of Baguio City, Branch 6, rendered a judgment dated February 8, 1995, finding accused-appellant guilty as charged, to wit:

"WHEREFORE, judgment is hereby rendered finding the accused Ferdinand Emocling Guilty beyond reasonable doubt of the crime of Rape, defined and penalized under Article 335 of the Revised Penal Code with the aggravating circumstances (sic) of use of a knife, a deadly weapon, and hereby sentences him to suffer the penalty of reclusion perpetua; to indemnify the offended party, Angelita Jazareno, the sum of P50,000.00 as Moral Damages without subsidiary imprisonment in case of insolvency; and to acknowledge Mark Jazareno as his Natural child and to give support to the said child pursuant to Article 345 of the Revised Penal Code in the reasonable amount of P1,000.00 a month which the Court deems commensurate with his financial capacity as a passenger jeepney driver and a man of means.

Having been convicted of the capital offense of Rape, the cash bond posted by accused is hereby cancelled and the same is directed to be released to accused who posted the same and the accused is hereby ordered committed and detained in jail until further orders of this Court.

SO ORDERED."

As stated at the outset, the Court sees no merit in accused-appellant's declaration of innocence. Neither can we bear hearing him once again vilify the virtue of this teenager by impressing upon us that her adolescent mind is so polluted as to recklessly allow herself to be used by one or more partners; point to accused-appellant, a married man, as the father of her bastard son; and finally, in order to get financial support to raise the child, concoct a colorful tale of sexual abuse replete with lurid details and even prefaced by an earlier attempt at her chastity.

This Court has, time and again, been most scrupulous in resolving charges of rape because of the private character of this offense, notwithstanding its reclassification as a public crime.<sup>[13]</sup> Often, the Court is torn between by the diametrically opposed testimonies of the accused and the victim, other testimonial and physical evidence on the matter merely being corroborative. Another point to consider is the established principle that in convicting a person accused of committing a crime, the trial court is constrained to rely on the strength of the State's evidence, not on the weakness of the defense. Ultimately, the question that truly matters is: Was accused-appellant's guilt proved by the prosecution beyond a shadow of a doubt?

Let us examine the evidence.

Angelita Jazareno testified on the circumstances surrounding her alleged violation by accused-appellant. She was called to the witness stand no less than seven times. In those seven days, she was literally grilled upon cross-examination by the defense. Notwithstanding their attempts to derail the track of her testimony or to confuse her with petty details concerning the weather and geography, she never faltered in her

testimony.

She declared in open court, under the eagle-eyed scrutiny of the trial judge, the malevolent stare of the defense, and the probing stance of the prosecution, that she, indeed, was raped by accused-appellant. He had always lusted for her, it seemed, for the moment her body exhibited signs of blossoming womanhood and they began to share one roof, his bestiality correspondingly asserted itself into his consciousness which his mind translated into action that early morning in April 1992. Fortunately, Angelita's quick thinking and the presence of accused-appellant's wife in the adjacent room served to abort the dastardly intent. She wasted no time in packing her bags and returning to her mother. Even gratitude for the kindness of her Lola Magdalena to her family and to her, in particular, failed to convince her to return in the service of the Emoclings. The defense could not offer a single contrary reason why she hastily left the Emocling household in April 1992. Accused-appellant's throbbing desire for Angelita apparently persisted even after she had left. If at all, her absence only heightened his libido. Again, giving vent to this urge, he waylaid her in August 1992 while she was walking home after visiting friends.

The defense makes much of her failure to pinpoint the exact day in August when the incident supposedly occurred. Presumably, Angelita just made up the whole sordid tale, such that she could not say with certainty when she was actually violated. In pursuing this line of reasoning, accused-appellant also cites the medical report of Dr. Batnag where Angelita supplied the precise date of the alleged rape, that is, September 15, 1992. Considering further Dr. Batnag's testimony to the effect that said date was consistent with the baby's fetal age of twenty-two weeks on January 16, 1993, accused-appellant concludes that no rape was perpetrated in August 1992.

This is captious logic.

For one thing, the date September 15, 1992, appears only twice in the entire proceedings: It is contained in the medical report, and Dr. Batnag confirmed it on the witness stand. Angelita testified otherwise, both on direct and on cross-examination, where she insisted that the incident happened sometime in August 1992. In fact, when Patricia Anicas, Angelita's mother, testified on August 9, 1993, about what her daughter had confessed to her on January 12, 1993, she vaguely remembered the latter saying that the incident occurred on August 15, 1992.<sup>[14]</sup> The cause for the confusion is readily apparent. Dr. Batnag's testimony only served to muddle this issue, especially when she said, upon the defense counsel's prodding, that at twenty-two weeks on January 16, 1993, the fetus in Angelita's womb could have been conceived on September 15, 1992.<sup>[15]</sup> A simple arithmetic would, however, demonstrate that the fetal age of the baby on January 16, 1993, that is, twenty-two weeks, is inconsistent with September 15, 1993, but consistent with August 15, 1993.

With this incontrovertible proof that Angelita's child was conceived around the time she claimed she was sexually abused by accused-appellant, the Court has to defer to the findings of the court *a quo* in this regard. The factual findings of the trial court, especially those pertaining to the judge's evaluation of the witnesses' body language, vocal digressions, and over-all comportment, are entitled to respect and even finality in the absence of any omission or misapprehension of the facts.<sup>[16]</sup>