

FIRST DIVISION

[G.R. No. 134679, August 08, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BERNALDO DOCDOC Y AUDITOR, ACCUSED-APPELLANT.**

D E C I S I O N

PUNO, J.:

BERNALDO DOCDOC y AUDITOR appeals the Decision of the Regional Trial Court of Manila, Branch XVIII, finding him guilty of rape and sentencing him to suffer, *inter alia*, the penalty of *reclusion perpetua*.

The Information charged him thus:

"That on or about the 5th day of December, 1997, in the City of Manila, Philippines, the said accused did then and there wilfully, unlawfully and feloniously and by means of force and violence, have carnal knowledge with MARILOU ALBIT Y QUEREZ, by then and there suddenly embracing her, lying her on the sofa, kissing her on the lips, neck and breast, putting (sic) down her panty and kissing her vagina, spreading her legs, covering her mouth with his hand and thereafter inserting his penis into her vagina and succeeded in having carnal knowledge of (sic) her, against her will and consent.

"Contrary to law."^[1]

After the accused pled not guilty, trial ensued.

The facts:^[2] The crime scene is the ground floor of a two-story house located at #1107 P. Guevarra Street, Sta. Cruz, Manila. The complainant, nineteen-year old MARILOU "Malou" ALBIT, was originally from Bohol. She came to Manila in September, 1997 and stayed in the house of her sister Baby and her brother-in-law RICARDO "Ricky" ROSATASI as their househelp. Accused BERNALDO DOCDOC worked in the same company as Ricky. They have known each other for two (2) years prior to that fateful incident.

On December 5, 1997, at about 7:30 p.m., Ricky was in his house watching a basketball game on TV when the accused arrived. He invited the accused to join him. The accused suggested that it would be better if they had some liquor while watching TV. The accused left and, after a few minutes, returned with a bottle of Tanduay Rhum which they consumed while watching TV. When the game ended at about 10:00 p.m., the accused decided to leave. Ricky awakened Malou and asked her to open the door for the accused and lock it behind him. Malou did as she was told. The accused went downstairs, with Malou in tow. Ricky continued to watch TV.

^[3]

Before the accused and Malou reached the front door, the accused asked if he could buy cold water from the adjoining store in the first floor. Malou acceded and opened the door leading to the store. The accused followed her inside, turned off the light and approached her. Malou asked the accused why he turned off the light but the accused did not reply. Instead, he held her hands behind her back and covered her mouth with his other hand. He embraced and kissed her, putting his tongue in her mouth. This lasted for about ten (10) minutes. The accused then pushed her down on the sofa, with both her hands pinned behind her back. As the sofa was short, Malou's head and feet were dangling as she lay there. The accused then went on top of her and kissed her mouth and neck for about five (5) minutes. Using his mouth, he raised her shirt and bra and started kissing and caressing her breasts for about four (4) minutes. With his left hand, the accused pulled Malou's pajama pants and underwear down to her thighs. The accused then reversed his position such that his face was on top of Malou's private part and his organ was on top of Malou's face. The accused kissed her private part for about five (5) minutes after which he turned around again and resumed his original position on top of Malou. He then placed his knees between her legs and forced them apart. He inserted his organ into hers and did the pumping motion for about twenty (20) minutes. Malou felt severe pain and struggled to free herself but her strength was no match to that of the accused. Neither could she shout as the accused covered her mouth with his left hand during the whole time they were in the room, even when the accused reversed his position on top of her. The sexual assault lasted for about thirty (30) minutes. After the accused satisfied his lust, he warned Malou that he would kill her should she tell Ricky about the incident. She cried due to intense pain and shock.^[4]

Meanwhile, Ricky noticed that Malou had not returned. Neither did he hear the opening and closing of the front door downstairs. He called out to Malou thrice but got no response. Puzzled, he proceeded downstairs and looked around the house. He tried to open the door of the store but found it locked. He got the key and opened it. When he turned on the light, he saw Malou seated on the sofa, crying, with her pajama pants down to her thighs. The accused was standing beside the sofa, panting, with his pants unzipped. When Ricky asked what happened, the accused replied that he was unable to restrain his emotions. When he turned to Malou, she denied that the accused was her boyfriend and claimed that the accused raped her. Ricky then called up a friend in their office, Francis, and asked for his advice. Francis suggested that they call the police authorities. After an hour, the policemen arrived and arrested the accused. Ricky and Malou followed at the police station where they gave their statements. Malou was also brought to the NBI for examination.^[5] DR. VALENTIN BERNALES, the NBI medico-legal officer who examined Malou, found two (2) superficial lacerations on her hymen.^[6]

The 29-year old accused, BERNALDO DOCDOC, admitted having carnal knowledge with Malou but insisted that it was consensual. He first met Malou in Ricky's house in September, 1997. Ricky told him about Malou's arrival from the province and the accused requested that he be introduced to her. The following day, Ricky accompanied him to his house where he met Malou and her mother. He instantly developed an interest in Malou as she seemed kind. Towards the last week of September, he again saw her at the drugstore where he winked at her and she smiled at him.

On December 4, 1997, at about 7:30 p.m., he again saw Malou, with her sister Baby and Ricky at the Central Market in Manila. They invited him to watch a movie with

them. He accepted their invitation. Inside the theater, he sat beside Malou and courted her. Malou promised that she would answer his proposal the next day. They held each other's arm inside the moviehouse.^[7]

The following day, December 5, 1997, at about 7:30 p.m., he went to Ricky's house to see Malou as she promised to accept his proposal that day. Malou opened the door for him. Minutes later, Ricky arrived and saw them at the kitchen on the ground floor. Ricky inquired about the purpose of his visit. He asked Ricky if he could court Malou but got no reply. Instead, Ricky proceeded to the second floor. When they were left alone, Malou told him that she accepts his proposal and that he shall be her first boyfriend. He kissed Malou and they embraced each other. Malou then invited him to go upstairs.

When they reached the second floor, they saw Ricky seated on the sofa watching television. Ricky invited him to join him. After a while, Ricky requested him to buy liquor. He did as he was told. When they finished drinking at about 10:00 p.m., he told Ricky that he was leaving and requested him to wake up Malou so she could open the door for him. Ricky agreed. When Ricky awakened Malou, Baby got mad for Ricky could have easily let the accused out himself instead of waking up Malou. Ricky, however, replied that he was too drunk to do it.^[8]

The accused proceeded downstairs, followed by Malou. When they reached the front door, he pointed to a door at the side and asked Malou what it was. When she said it was a room, he asked her to go inside with him. She acceded.^[9]

Once inside, they sat on a small sofa and hugged each other. It did not end there. The accused then pulled Malou's pajama pants and underwear down to her knees and raised her shirt and bra. He licked her breast and private part for about five (5) minutes. Malou then asked if he would be true to her should she give herself to him. In response, he promised to marry her. The accused was only able to partially insert his organ into hers as she pleaded with him to stop for she was afraid she would get pregnant. He withdrew and ejaculated outside her. Some of his semen fell on her lower abdomen, some spilled on her pajama pants and others on the floor. He pulled up Malou's pajama pants and underwear and they sat on the sofa. Thus, he did not employ any force or intimidation during his sexual congress with Malou as their act was completely consensual. Malou never shouted for help.^[10]

They were seated on the sofa when Ricky came into the room and asked them what happened. Malou replied: "*Nakuha ako.*" When Ricky confronted him, the accused assured Ricky that he would marry Malou. Ricky warned that Malou's parents would kill her if they learned what happened. Ricky then called up their officemate, Francis, to ask for advice. Francis suggested that Ricky put the accused behind bars as he already had a live-in partner. Ricky followed his advice and requested Francis to call the police authorities.^[11]

JESSICA DOCDOC, the sister of the accused, was presented to corroborate his story. She was an appraiser at the Max Trading Company where the accused and Ricky also worked. She and the accused also lived and slept in said office which was only a few blocks away from Ricky's house. On December 4, 1997, at about 7:30 p.m., she was at the ground floor of their office. The accused was outside, sitting on a concrete fence when Baby, Malou and Ricky passed by. After a while, she saw the three leave with the accused. She went up to the office and turned in for the night.