

SECOND DIVISION

[G.R. No. 117702, February 10, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CRISPIN YPARRAGUIRRE, ACCUSED-APPELLANT.
D E C I S I O N**

PUNO, J.:

Accused-appellant Crispin Yparraguirre was charged with the crime of rape in an Information that reads as follows:

"That on or about July 6, 1990, in the Municipality of Panabo, Province of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a hunting knife, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of Rosita Bacaling, against her will."^[1]

The prosecution established that Rosita Bacaling was a housemaid of appellant and his wife; that on or about 7:00 in the evening of July 6, 1990 at the spouses' room in Panabo, Davao, Rosita was cooking porridge for the spouses' two children, one aged four years old and the other nine months old. Accused-appellant arrived from work and found the two children asleep. He approached Rosita and gave her a small white envelope said to contain medicine for her skin disease. Rosita was afflicted with rashes on her thighs and stomach which she allegedly contracted from one of the children. Rosita opened the envelope and counted fifteen (15) tablets inside. As instructed by appellant, Rosita took all the tablets. A few minutes later, she felt weak and fell down. Suddenly, she realized that appellant was dragging her to the spouses' bed. She tried to get up but appellant pushed her down the bed and pointed a hunting knife at her neck. He ordered Rosita not to move or he would kill her. Then he removed her clothes and went on top of her. He kissed her face, breasts, stomach and private parts and then entered her. Rosita cried out in pain but appellant continued entering her. After satisfying his lust, appellant pulled out and punched Rosita in the stomach. She lost consciousness.Exsm

A few minutes later, Rosita woke up and saw blood in her private parts. She wiped the blood and changed her clothes. Seeing her awake, appellant threatened to kill her should she report the incident to her parents. Appellant then left the house.^[2]

Rosita did not say a word about the incident. She continued serving the Yparraguirres for one month before leaving them to return to her mother's house in Barrio Cagangohan. Her mother found Rosita in a state of shock. She could not eat nor talk, neither could she perform ordinary daily functions such as dressing herself. In short, Rosita became helpless. She was brought to the Municipal Health Officer by her mother for examination. On August 22, 1990, the Municipal Health Officer, Dr. Imelda T. Bendijo, interviewed the girl and found her unresponsive and unable to talk. She conducted a physical examination and also found that:

"x x x Physical examination externally no abnormal findings;

Pelvic examination -- normal vagina with old laceration found at 2:00 [position]; hymen not intact;

Internal examination -- admits one finger;

Advised for pregnancy test and for consultation by [sic] psychiatrist.

x x x."^[3]

Upon the Municipal Health Officer's advice, Rosita was confined at the Davao City Mental Hospital for observation and treatment. After a week of treatment, Rosita began to talk and revealed that she was raped by appellant.^[4]

Accused-appellant pled not guilty to the crime charged. He claimed that on the night of the alleged rape he was selling fish at the public market. Allegedly, he was at the market at 4:00 in the morning, and worked straight until 8:00 in the evening. He never left the fish stall until after 8:00 in the evening because of his many customers.^[5]

The trial court found accused-appellant guilty and sentenced him to reclusion perpetua. It also ordered him to indemnify Rosita Bacaling P50,000.00 as moral damages and pay P5,000.00 as attorney's fees, thus:

"WHEREFORE, IN LIGHT OF THE FOREGOING, the court finds accused Crispin Yparraguirre guilty beyond reasonable doubt of the crime of rape punishable under Article 335 of the Revised Penal Code. Correspondingly, the court hereby sentences the said accused to suffer and undergo the penalty of RECLUSION PERPETUA with all the accessory penalties provided for by law and to pay the costs.

Accused Crispin Yparraguirre is also ordered to indemnify the victim Rosita Bacaling the amount of P50,000.00 as moral damages, plus payment of P5,000.00 as attorney's fees.

SO ORDERED."^[6]

In this appeal, accused-appellant contends that:

I

"THE COURT ERRED IN HOLDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME OF RAPE;

II

THE COURT ERRED IN HOLDING THAT WITNESS MARY ANN YPARRAGUIRRE WENT TO THE MOTHER OF THE ACCUSED ON NOVEMBER 23, 1990 TO NEGOTIATE FOR