

## FIRST DIVISION

[ G.R. No. 187495, April 21, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDGAR JUMAWAN, ACCUSED-APPELLANT.**

### DECISION

**REYES, J.:**

*"Among the duties assumed by the husband are his duties to love, cherish and protect his wife, to give her a home, to provide her with the comforts and the necessities of life within his means, to treat her kindly and not cruelly or inhumanely. He is bound to honor her x x x; it is his duty not only to maintain and support her, but also to protect her from oppression and wrong."*<sup>[1]</sup>

Husbands do not have property rights over their wives' bodies. Sexual intercourse, albeit within the realm of marriage, if not consensual, is rape. This is the clear State policy expressly legislated in Section 266-A of the Revised Penal Code (RPC), as amended by Republic Act (R.A.) No. 8353 or the Anti-Rape Law of 1997.

#### The Case

This is an automatic review<sup>[2]</sup> of the Decision<sup>[3]</sup> dated July 9, 2008 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00353, which affirmed the Judgment<sup>[4]</sup> dated April 1, 2002 of the Regional Trial Court (RTC) of Cagayan de Oro City, Branch 19, in Criminal Case Nos. 99-668 and 99-669 convicting Edgar Jumawan (accused-appellant) of two (2) counts of rape and sentencing him to suffer the penalty of *reclusion perpetua* for each count.

#### The Facts

Accused-appellant and his wife, KKK,<sup>[5]</sup> were married on October 18, 1975. They lived together since then and raised their four (4) children<sup>[6]</sup> as they put up several businesses over the years.

On February 19, 1999, KKK executed a Complaint-Affidavit,<sup>[7]</sup> alleging that her husband, the accused-appellant, raped her at 3:00 a.m. of December 3, 1998 at their residence in Phase 2, Villa Ernesto, Gusa, Cagayan de Oro City, and that on December 12, 1998, the accused-appellant boxed her shoulder for refusing to have sex with him.

On June 11, 1999, the Office of the City Prosecutor of Cagayan de Oro City issued a Joint Resolution,<sup>[8]</sup> finding probable cause for grave threats, less serious physical injuries and rape and recommending that the appropriate criminal information be

filed against the accused-appellant.

On July 16, 1999, two Informations for rape were filed before the RTC respectively docketed as Criminal Case No. 99-668<sup>[9]</sup> and Criminal Case No. 99-669.<sup>[10]</sup> The Information in Criminal Case No. 99-668 charged the accused-appellant as follows:

That on or about 10:30 in the evening more or less, of October 9, 1998, at Gusa, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of force upon person did then and there wilfully, unlawfully and feloniously have carnal knowledge with the private complainant, her [sic] wife, against the latter[']s will.

Contrary to and in Violation of R.A. 8353, the Anti-Rape Law of 1997.

Meanwhile the Information in Criminal Case No. 99-669 reads:

That on or about 10:30 in the evening more or less, of October 10, 1998, at Gusa, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of force upon person did then and there wilfully, unlawfully and feloniously have carnal knowledge with the private complainant, her [sic] wife, against the latter's will.

Contrary to and in Violation of R.A. 8353, the Anti-Rape Law of 1997.

The accused-appellant was arrested upon a warrant issued on July 21, 1999.<sup>[11]</sup> On August 18, 1999, the accused-appellant filed a Motion for Reinvestigation,<sup>[12]</sup> which was denied by the trial court in an Order<sup>[13]</sup> dated August 19, 1999. On even date, the accused-appellant was arraigned and he entered a plea of not guilty to both charges.<sup>[14]</sup>

On January 10, 2000, the prosecution filed a Motion to Admit Amended Information<sup>[15]</sup> averring that the name of the private complainant was omitted in the original informations for rape. The motion also stated that KKK, thru a Supplemental Affidavit dated November 15, 1999,<sup>[16]</sup> attested that the true dates of commission of the crime are October 16, 1998 and October 17, 1998 thereby modifying the dates stated in her previous complaint-affidavit. The motion was granted on January 18, 2000.<sup>[17]</sup> Accordingly, the criminal informations were amended as follows:

Criminal Case No. 99-668:

That on or about October 16, 1998 at Gusa, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of force upon person did then and there wilfully, unlawfully and feloniously have carnal knowledge with the private

complainant, his wife, [KKK], against the latter's will.

Contrary to and in violation of R.A. 8353, the Anti-Rape Law of 1997.<sup>[18]</sup>

Criminal Case No. 99-669:

That on or about October 17, 1998 at Gusa, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of force upon person did then and there wilfully, unlawfully and feloniously have carnal knowledge with the private complainant, his wife, [KKK], against the latter's will.

Contrary to and in violation of R.A. 8353, the Anti-Rape Law of 1997.<sup>[19]</sup>

The accused-appellant was thereafter re-arraigned. He maintained his not guilty plea to both indictments and a joint trial of the two cases forthwith ensued.

**Version of the prosecution**

The prosecution's theory was anchored on the testimonies of KKK, and her daughters MMM and OOO, which, together with pertinent physical evidence, depicted the following events:

KKK met the accused-appellant at the farm of her parents where his father was one of the laborers. They got married after a year of courtship.<sup>[20]</sup> When their first child, MMM, was born, KKK and the accused-appellant put up a *sari-sari* store.<sup>[21]</sup> Later on, they engaged in several other businesses – trucking, rice mill and hardware. KKK managed the businesses except for the rice mill, which, ideally, was under the accused-appellant's supervision with the help of a trusted employee. In reality, however, he merely assisted in the rice mill business by occasionally driving one of the trucks to haul goods.<sup>[22]</sup>

Accused-appellant's keenness to make the businesses flourish was not as fervent as KKK's dedication. Even the daughters observed the disproportionate labors of their parents.<sup>[23]</sup> He would drive the trucks sometimes but KKK was the one who actively managed the businesses.<sup>[24]</sup> She wanted to provide a comfortable life for their children; he, on the other hand, did not acquiesce with that objective.<sup>[25]</sup>

In 1994, KKK and the accused-appellant bought a lot and built a house in Villa Ernesto, Gusa, Cagayan de Oro City.<sup>[26]</sup> Three of the children transferred residence therein while KKK, the accused-appellant and one of their sons stayed in Dangcagan, Bukidnon. She shuttled between the two places regularly and sometimes he accompanied her.<sup>[27]</sup> In 1998, KKK stayed in Gusa, Cagayan De Oro City most of the days of the week.<sup>[28]</sup> On Wednesdays, she went to Dangcagan, Bukidnon to procure supplies for the family store and then returned to Cagayan de Oro City on the same day.<sup>[29]</sup>

Conjugal intimacy did not really cause marital problems between KKK and the accused-appellant. It was, in fact, both frequent and fulfilling. He treated her well

and she, of course, responded with equal degree of enthusiasm.<sup>[30]</sup> However, in 1997, he started to be brutal in bed. He would immediately remove her panties and, *sans* any foreplay, insert her penis in her vagina. His abridged method of lovemaking was physically painful for her so she would resist his sexual ambush but he would threaten her into submission.<sup>[31]</sup>

In 1998, KKK and the accused-appellant started quarrelling usually upon his complaint that she failed to attend to him. She was preoccupied with financial problems in their businesses and a bank loan. He wanted KKK to stay at home because "a woman must stay in the house and only good in bed (sic) x x x." She disobeyed his wishes and focused on her goal of providing a good future for the children.<sup>[32]</sup>

Four days before the subject rape incidents or on October 12, 1998, KKK and the accused-appellant slept together in Cebu City where the graduation rites of their eldest daughter were held. By October 14, 1998, the three of them were already back in Cagayan de Oro City.<sup>[33]</sup>

On October 16, 1998, the accused-appellant, his wife KKK and their children went about their nightly routine. The family store in their residence was closed at about 9:00 p.m. before supper was taken. Afterwards, KKK and the children went to the girls' bedroom at the mezzanine of the house to pray the rosary while the accused-appellant watched television in the living room.<sup>[34]</sup> OOO and MMM then prepared their beds. Soon after, the accused-appellant fetched KKK and bid her to come with him to their conjugal bedroom in the third floor of the house. KKK complied.<sup>[35]</sup>

Once in the bedroom, KKK changed into a *daster* and fixed the matrimonial bed but she did not lie thereon with the accused-appellant and instead, rested separately in a cot near the bed. Her reclusive behavior prompted him to ask angrily: "[W]hy are you lying on the c[o]t[?]", and to instantaneously order: "You transfer here [to] our bed."<sup>[36]</sup>

KKK insisted to stay on the cot and explained that she had headache and abdominal pain due to her forthcoming menstruation. Her reasons did not appease him and he got angrier. He rose from the bed, lifted the cot and threw it against the wall causing KKK to fall on the floor. Terrified, KKK stood up from where she fell, took her pillow and transferred to the bed.<sup>[37]</sup>

The accused-appellant then lay beside KKK and not before long, expressed his desire to copulate with her by tapping his fingers on her lap. She politely declined by warding off his hand and reiterating that she was not feeling well.<sup>[38]</sup>

The accused-appellant again asserted his sexual yearning and when KKK tried to resist by holding on to her panties, he pulled them down so forcefully they tore on the sides.<sup>[39]</sup> KKK stayed defiant by refusing to bend her legs.<sup>[40]</sup>

The accused-appellant then raised KKK's *daster*,<sup>[41]</sup> stretched her legs apart and rested his own legs on them. She tried to wrestle him away but he held her hands and succeeded in penetrating her. As he was carrying out his carnal desires, KKK continued to protest by desperately shouting: "[D]on't do that to me because I'm

*not feeling well.”* [42]

With a concrete wall on one side and a mere wooden partition on the other enclosing the spouses’ bedroom, [43] KKK’s pleas were audible in the children’s bedroom where MMM lay awake.

Upon hearing her mother crying and hysterically shouting: *“Eddie, don’t do that to me, have pity on me,”* [44] MMM woke up OOO who prodded her to go to their parents’ room. [45] MMM hurriedly climbed upstairs, vigorously knocked on the door of her parents’ bedroom and inquired: *“Pa, why is it that Mama is crying?”* [46] The accused-appellant then quickly put on his briefs and shirt, partly opened the door and said: *“[D]on’t interfere because this is a family trouble,”* before closing it again. [47] Since she heard her mother continue to cry, MMM ignored his father’s admonition, knocked at the bedroom door again, and then kicked it. [48] A furious accused-appellant opened the door wider and rebuked MMM once more: *“Don’t interfere us. Go downstairs because this is family trouble!”* Upon seeing KKK crouching and crying on top of the bed, MMM boldly entered the room, approached her mother and asked: *“Ma, why are you crying?”* before asking her father: *“Pa, what happened to Mama why is it that her underwear is torn[?]”* [49]

When MMM received no definite answers to her questions, she helped her mother get up in order to bring her to the girls’ bedroom. KKK then picked up her torn underwear and covered herself with a blanket. [50] However, their breakout from the room was not easy. To prevent KKK from leaving, the accused-appellant blocked the doorway by extending his arm towards the knob. He commanded KKK to *“[S]tay here, you sleep in our room,”* when the trembling KKK pleaded: *“Eddie, allow me to go out.”* He then held KKK’s hands but she pulled them back. Determined to get away, MMM leaned against door and embraced her mother tightly as they pushed their way out. [51]

In their bedroom, the girls gave their mother some water and queried her as to what happened. [52] KKK relayed: *“[Y]our father is an animal, a beast; he forced me to have sex with him when I’m not feeling well.”* The girls then locked the door and let her rest. [53]

The accused-appellant’s aggression recurred the following night. After closing the family store on October 17, 1998, KKK and the children took their supper. The accused-appellant did not join them since, according to him, he already ate dinner elsewhere. After resting for a short while, KKK and the children proceeded to the girls’ bedroom and prayed the rosary. KKK decided to spend the night in the room’s small bed and the girls were already fixing the beddings when the accused-appellant entered. *“Why are you sleeping in the room of our children,”* he asked KKK, who responded that she preferred to sleep with the children. [54] He then scoffed: *“It’s alright if you will not go with me, anyway, there are women that could be paid [P]1,000.00.”* She dismissed his comment by turning her head away after retorting: *“So be it.”* After that, he left the room. [55]

He returned 15 minutes later [56] and when KKK still refused to go with him, he became infuriated. He lifted her from the bed and attempted to carry her out of the