

## THIRD DIVISION

[ G.R. No. 186234, December 21, 2009 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FELIX PALGAN,  
APPELLANT.**

### R E S O L U T I O N

**NACHURA, J.:**

For final review by the Court is the trial court's conviction of appellant Felix Palgan for rape. In the October 29, 2008 Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. CR-HC No. 00169, the appellate court affirmed with modification the June 24, 2002 Decision<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 17, Kidapawan City, Cotabato in Criminal Case Nos. 191-98 and 214-98.

Angelina Palgan and appellant Felix Palgan were married on January 31, 1984. Out of their marriage, they begot three children, namely: Abner, Rene and Fe. Before their marriage, Angelina had a daughter named AAA by a man named "Jun," whose surname she could no longer recall.

On March 16, 1997, at around seven o'clock in the evening, AAA, then fourteen (14) years old, was ordered by appellant to go to the rubber plantation, which was about forty (40) meters from their house, both of which places were located in Old Bulatukan, Makilala, Cotabato. At the plantation, appellant inquired if AAA was mad at him, because he learned that she was spreading stories that he was not her father. When she denied this, appellant got angry and removed her dress and panty, laid her down and mounted her. He then undressed himself, held his penis and forcibly inserted it into her vagina. AAA cried and told appellant that it was painful. AAA testified that, after about ten (10) minutes of the push and pull movement, appellant shivered, and that some substance spilled onto her thighs. She did not tell anyone about the incident because appellant threatened her.

On September 9, 1997, at around eight o'clock in the evening, while her mother was away, AAA testified that she was sleeping on the bed, while her three (3) siblings lay on the floor; that appellant woke her up and told her to transfer to the floor, which she obeyed; that he turned the lights off and then touched her cheeks and breasts; that he removed her shorts and panty, while he raised her shirt up to her armpits; and that he removed his shorts and brief, took hold of his penis, and inserted it into her vagina. AAA stated that appellant did the push and pull movement for about ten (10) minutes. Afterwards, she observed that appellant had a chilling motion and that she felt a slippery substance spill onto her thighs. Appellant then put on his clothes.

AAA kept quiet about the incident until her mother, Angelina, discovered a letter in the former's bag. The letter contained the phrase "*he will get angry if I will not let him to (sic) touch my body.*" Angelina caused AAA to reveal that the latter was

raped by appellant.

On September 12, 1997, Angelina and AAA reported appellant's acts to the Makilala Police Station.

On the same date, AAA was examined by Dr. Wilson Solis, Municipal Health Officer of Makilala, Cotabato. The internal examination of AAA revealed: "admits middle finger with ease; index and middle finger with slight difficulty; vaginal wall is lax (sic), not tense; and cervix is firm and non-tender. Laxity of the vaginal wall could be due to repeated manipulation or entry of a foreign body (e.g. glans penis)."

Consequently, two Informations for rape were filed as follows:

#### CRIMINAL CASE NO. 214-98

That on September 9, 1997, in the Municipality of Makilala, Province of Cotabato, Philippines, the said accused, with lewd design, with force and intimidation, did then and there, willfully, unlawfully and feloniously succeeded (sic) in having carnal knowledge with AAA, against her will.

**CONTRARY TO LAW.**<sup>[3]</sup>

#### CRIMINAL CASE NO. 191-98

That on March 16, 1997, in the Municipality of Makilala, Province of Cotabato, Philippines, the said accused, with lewd design, with force and intimidation, did then and there, willfully, unlawfully and feloniously succeeded (sic) in having carnal knowledge with AAA, against her will.

**CONTRARY TO LAW.**<sup>[4]</sup>

Appellant denied having sexual intercourse with AAA on March 16, 1997, because he was at Sandique Rubber Plantation which was more than one (1) kilometer away from their house in Old Bulatukan, Makilala, Cotabato. He also maintained that on September 9, 1997, when he arrived home, his wife was not there since she had gone to Toril, Davao City. AAA was not there also, because she was probably afraid to be reprimanded, for appellant discovered two love letters sent by the former's boyfriend, Scorpio. Appellant also learned that AAA went to school for 2½ days only in September 1997. Furthermore, he maintained that the reason his stepdaughter implicated him was that he denied his wife's request to sell his 2½-hectare land in order for her to use the proceeds to start a business.

After trial on the merits, the RTC rendered the June 24, 2002 Decision,<sup>[5]</sup> convicting appellant of two (2) counts of rape in Criminal Case Nos. 191-98 and 214-98, and imposing the penalty of *reclusion perpetua* for each count. The RTC further ordered appellant to pay the victim the amount of P50,000.00 as civil indemnity and P50,000.00 as moral damages.<sup>[6]</sup>