

## EN BANC

[ G.R. NO. 168101, February 13, 2006 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. GREGORIO  
CORPUZ Y ESPIRITU, APPELLANT.**

### D E C I S I O N

#### PER CURIAM:

We have before Us yet one more account of how a young girl, deprived of the attentions of a mother gone to work in foreign shores, is attacked and betrayed by the one other person she should have been able to depend on for solace, protection and love.

This is an appeal from the decision of the Regional Trial Court (RTC) dated 19 July 1999, Branch 08, Aparri, Cagayan, in Criminal Case No. 08-974 finding the herein appellant, Gregorio Corpuz y Espiritu, guilty beyond reasonable doubt of raping his 13-year-old daughter, Juvilie Corpuz y Antonio, sentencing him to die by lethal injection, and ordering him to pay the victim P100,000.00 in moral damages and P100,000.00 in exemplary damages.

The records of this case were originally transmitted to us on automatic review. However, conformably with our Decision in *People of the Philippines v. Efren Mateo y Garcia*<sup>[1]</sup> modifying Sections 3 and 10 of Rule 122, Section 13 of Rule 124, Section 3 of Rule 125 of the Revised Rules on Criminal Procedure and any other rule insofar as they provide for direct appeals from the RTC to the Supreme Court in cases where the penalty imposed is death, reclusion perpetua or life imprisonment, we referred the case and its records to the Court of Appeals<sup>[2]</sup> for appropriate action and disposition.

On 08 April 2005, the Court of Appeals rendered a Decision,<sup>[3]</sup> the dispositive portion of which reads:

WHEREFORE, the Judgment dated 19 July 1999 of the Regional Trial Court, Second Judicial Region, Branch 08, Aparri, Cagayan, in Criminal Case No. 08-974, finding accused-appellant Gregorio Corpuz guilty beyond reasonable doubt of qualified rape and sentencing him to suffer the DEATH penalty is hereby AFFIRMED with MODIFICATION in the sense that he is ordered to pay the victim, Juvilie Corpuz, P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P25,000.00 as exemplary damages.

The antecedent facts are as follows:

At the time of the incident, Juvilie, then 13, and her two sisters, Grace, aged 12, and Cheryl, aged 9, were living with their father, herein appellant Gregorio Corpuz y

Espiritu, in a two-bedroom bungalow in Palagao, Gattaran, Cagayan. The girls' mother had been working as a domestic helper in Hongkong since May 1995.

Juvilie and her sister Grace used to sleep in one room, while the youngest sister Cheryl slept with their father Gregorio in the other room. For two successive nights sometime prior to the night in question, Juvilie felt somebody fondling her breast and caressing her private parts, even inserting a forefinger inside her. On the second night, she caught her father doing it. She confronted him, but he denied it, explaining that his presence in the room was allegedly to put arsenic rat poison.

On the night of 16 November 1996, Juvilie was awakened by a fist blow to her stomach. When she reported the matter to her father, he claimed he had also been hit in his stomach, and advised her and Grace to sleep in the other room with him and Cheryl, which they did the following night. Juvilie laid down on one side of the mat while Gregorio laid on the other. Her sisters laid between them, with Grace beside Juvilie and Cheryl beside Gregorio.

At around 11:00 in the evening of 17 November 1996, Juvilie was awakened by pain she felt in her private parts. She felt and saw the shape of a man on top of her with his penis inside her. Her panties had been removed, and her skirt raised. She pushed and hit the man, and shouted "*Okinnam bastos a laklakayan uleg, baboy*" (Vulva of your mother, dirty old man, snake, pig)! The man moved hurriedly to the other side of the mat and said "*Pakawanennac anakko, tag-taginep ko lang daydiay*" (Forgive me my daughter, I was only dreaming).

Her two sisters, awakened by the shout, ran out of the room in fear. Juvilie was left inside the room crying. Her father prevented her from leaving the room, saying "*padasen iti rumuar ta adda mapasama kenca*" (try to go outside and something will happen to you). He also threatened her with harm if she told anyone what had happened.

Juvilie's shout had also been heard by her uncles, Rogelio and Walter Antonio, brothers of her mother, whose houses were only about ten meters away from Juvilie's. They immediately went to Juvilie's house, but hearing nothing further to arouse their suspicions, they went back to their own homes.

In the afternoon of the following day, Juvilie slipped out of her house while Gregorio was cooking and told Rogelio what her father had done to her. Rogelio reported the matter to their barangay captain, who advised him to inform the police. Since Gregorio was almost constantly with Juvilie, it was only on 27 November 1996 that she was able to report the rape to the police, where she executed a sworn statement.

Juvilie was examined by Dr. Nida Rosales, the Municipal Health Officer of Gattaran, Cagayan. Dr. Rosales observed one completely healed and two incompletely healed lacerations in Juvilie's hymen. The doctor also noted that Juvilie's vagina admitted one finger with ease. When asked for the possible cause of the lacerations, she replied that a hard object, such as an erect penis, could have caused the said lacerations.<sup>[4]</sup>

On 20 March 1997, on the basis of a complaint filed by Juvilie Corpuz y Antonio, an

Information<sup>[5]</sup> was filed before the RTC, Branch 08, Aparri, Cagayan, docketed as Criminal Case No. 08-974, charging the herein appellant with the crime of qualified rape, thus:

That on or about November 17, 1996, in the municipality of Gattaran, province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused, being then the father (parent) of the offended party, with lewd design, and by the use of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of said Juvilie Corpuz y Antonio, a woman under eighteen (18) years of age, all against her will and consent.

On 21 May 1997, the accused-appellant, with the assistance of counsel *de officio*, pleaded "Not Guilty" to the crime charged.<sup>[6]</sup> Trial thereafter proceeded.

The prosecution presented four witnesses: Rogelio and Walter Antonio, Dr. Rosales, and the private complainant herself.

The defense presented the lone testimony of Gregorio. On the stand, he claimed that he loved his children very much. He alleged that on the night of 17 November 1996, he pushed Juvilie's leg hard against the wall, which was why she woke up and shouted. Thereafter, the case was submitted for decision.

On 25 June 1999, the trial court issued an order<sup>[7]</sup> stating:

The Presiding Judge was in the process of preparing a decision when he noticed that there is variance between the offense charged and that proved.

In order to avoid the miscarriage of justice, the Trial Prosecutor is hereby directed to amend the Information to conform with the evidence, specifically, that the rape was committed while the woman is unconscious instead of by the use of force and intimidation. He is directed to do so within ten (10) days.

Thus, on 13 July 1999, the prosecutor filed the following Amended Information:<sup>[8]</sup>

That on or about November 17, 1996, in the municipality of Gattaran, province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused, being then the father (parent) of the offended party, with lewd design, and while the offended party was asleep and unconscious, did then and there willfully, unlawfully and feloniously have carnal knowledge of said Juvilie Corpuz y Antonio, a woman under eighteen (18) years of age, all against her will and consent.

On 05 August 1999, the trial court promulgated the decision finding the accused-appellant guilty beyond reasonable doubt of the crime of rape.<sup>[9]</sup> In giving credence to the evidence adduced by the prosecution, it explained thus:

It has been truly said that rape is so easy to charge and so difficult to defend. The logic is not quite difficult to apprehend. It is usually committed when nobody is present to witness the same. However, Filipino culture attaches an indelible stigma to the reputation of one who

has been raped. An accusation for rape is thus not made with indifference, but with much deliberation, usually only after consultation with relatives and the family council.

"Art. 335. When and how rape is committed. – Rape is committed by having carnal knowledge of a woman under any of the following circumstances.

- "1. By using force or intimidation;
- "2. When the woman is deprived of reason or otherwise unconscious; and
- "3. When the woman is under twelve years of age or is demented.

x x x x

"The death penalty shall be imposed if the crime of rape is committed with any of the following attendant circumstances:

- "1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, sanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim x x x.

The elements are carnal knowledge thru force or intimidation, when the woman is deprived of reason or unconscious, or when the woman is under 12 or demented.

We are satisfied that there was carnal knowledge by accused of private complainant while the latter was asleep on 17 November 1996. This is corroborated by finding of prosecution witness Dr. Nida Nolasco-Rosales, Municipal Health Officer of Gattaran Town, Gattaran, Cagayan who conducted a physical examination of the complainant Juvilie Corpuz on 28 November 1996. Her findings *viz*:

- "Incomplete healed laceration at 2:00 [o'clock] position
- "Complete healed laceration at 6:00 [o'clock] position
- "Incomplete healed laceration at 9:00 [o'clock] position
- "Genitalia admits one finger with ease"

On the witness box, on questioning by the Court, she testified that on 17 November 1996 witness-complainant did not yet have a boyfriend. The testimony of her maternal uncles Rogelio and Walter Antonio partly corroborates complainant's testimony. Both uncles testified hearing complainant cry on the evening of 17 November 1996 when the rape happened.

Accused himself when testifying admitted that on that evening, complainant cried when he pushed her legs hard, which hit the wall. His reason for pushing – that complainant's legs touched his in their sleep is incredible considering that the former and the latter were at extreme ends of the mat with Cheryl and Grace between them. While accused testified that complainant moves in her sleep, that is not a sufficient

explanation why he had to push her legs hard causing her to cry. Further, accused did not deny that complainant uttered the words "ukinam, bastos a laklakayan, uleg, baboy" during the incident when she discovered it was her father who was on top of her. On that occasion he said "*Pakawanennac anakko, tag-taginep ko lang daydiay*" (meaning "forgive me my daughter, I was only dreaming". Accused did not explain this.

Sleep is akin to "unconscious (ness)". It falls within its ambit.

Complainant is accused's daughter. She was barely 13 years old on 17 November 1996. Accused did not deny that complainant (his daughter) was aged 13.<sup>[10]</sup>

In his brief, the appellant assigns the following errors:

I.

THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT DESPITE THE PRIVATE COMPLAINANT'S HIGHLY DOUBTFUL POSITIVE IDENTIFICATION OF HER ALLEGED ABUSER.

II.

THE COURT A QUO ERRED IN ORDERING THE AMENDMENT OF THE INFORMATION TO CONFORM TO THE EVIDENCE ADDUCED BY THE PROSECUTION

In assailing Juvilie's credibility, the appellant claims that since the rape of Juvilie took place inside the bedroom with the lights switched off, and Juvilie was initially asleep when she was violated, it was extremely unlikely that she was able to identify her assailant.

The Court of Appeals correctly disposed of the appellant's arguments.

The pernicious consequences to both accused and offended party require that utmost care be taken in the review of a decision involving conviction of rape.<sup>[11]</sup> In such cases, we are guided by three principles: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.<sup>[12]</sup>

In rape cases, the accused may be convicted solely on the basis of the testimony of the victim, provided that such testimony is credible, natural, convincing and consistent with human nature and the normal course of things.<sup>[13]</sup>

If her testimony meets the test of credibility, such is sufficient to convict the