

SECOND DIVISION

[G.R. No. 147855, May 28, 2004]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CONDE RAPISORA
Y ESTRADA, APPELLANT.**

DECISION

CALLEJO, SR., J.:

This is an appeal from the Decision^[1] dated February 9, 2001 of the Regional Trial Court of Manila, Branch 27, in Criminal Case No. 97-161141, finding Conde Rapisora y Estrada guilty beyond reasonable doubt of rape and meting on him the penalty of *reclusion perpetua*. In addition, he was ordered to pay the victim the amounts of P50,000 as indemnity and P50,000 as moral damages.

Rapisora was charged under an Information which reads:

The undersigned Assistant Prosecutor, upon sworn complaint filed by the offended party, HELEN ROQUE y VICTORIO, a copy of which is hereto attached as Annex "A", hereby accuses CONDE RAPISORA y ESTRADA, of the crime of Rape, committed as follows:

That on or about June 05, 1997, in the City of Manila, Philippines, the said accused, with lewd designs, and by means of force, violence, and intimidation to wit: by then and there poking a knife against the complainant, forcibly undressing her and thereafter inserting his penis into her vagina, did then and there wilfully, unlawfully and feloniously succeeded in having carnal knowledge with the said complainant, against her will and consent.

Contrary to law.^[2]

At his arraignment, Rapisora, with the assistance of counsel, pleaded not guilty. Trial ensued.

The Evidence of the Prosecution^[3]

Based mainly on the testimony^[4] of the victim, Helen Roque, the prosecution established the following facts:

Helen is a salesclerk of Jag Clothing Company, then assigned at the Shoe Mart (SM) Department Store in Makati City. She is married and has a seven-month-old son.

On June 5, 1997, being her day off from work, Helen went to Pampanga to bring milk for her son who was under the care of her mother-in-law. Helen returned to Manila in the afternoon of the same day. When the bus that she was riding reached

Manila, Helen decided to pass by her sister's house in Mandaluyong City, where she used to reside when she was still single, to get some things that she had left when she moved to Taguig with her husband. It was almost 9:00 p.m.

While walking along Martinez Street in Mandaluyong City, Helen met the accused, Rapisora, who was clad in a white sleeveless shirt ("*sando*") and blue pants. Rapisora approached Helen, greeted her and asked why she could not remember him anymore. He claimed they were relatives. Rapisora was hitting his shoulders (as if flagellating himself) with a white face towel while talking to her. Helen, who was less than three feet from Rapisora, suddenly became dizzy and felt very weak.

Rapisora then hailed a passing taxi and immediately shoved Helen inside. He, likewise, boarded the cab and sat beside her at the backseat. He placed his arms around Helen's shoulder and whispered to her, "*huwag kang magkamaling sumigaw, huwag kang maingay.*"^[5] Helen got scared as she noticed that there was a knife bulging at Rapisora's waistline. He took out the knife and placed it inside the pocket of his pants.

They alighted along V. Mapa Street in Sta. Mesa, Manila, in front of what seemed to Helen was a house but was actually the Filipinas Walk-Inn Motel. They entered the "house" with Rapisora never releasing his hold on Helen. As soon as they were inside, Rapisora shoved Helen into a room. He pushed her so hard that she hit the wall. Helen attempted to run to the door, but Rapisora immediately closed and locked it. He then poked the knife at her neck saying, "*huwag kang magkamaling magwala dito kung gusto mong makawala ng buhay.*"^[6]

Helen knelt before Rapisora, pleading for mercy and said that she had a husband and a baby. Rapisora, however, was unmoved saying, "*pagbigyan mo na lang ako sa gusto ko, makakauwi ka ng buhay.*"^[7] He ordered her to undress. Helen refused. In the meantime, Rapisora discarded his clothes. When he saw that Helen was not undressing herself, he forcibly took off her shirt, pants and even her underwear. Thereafter, he pushed her to the bed.

When Helen was lying prostrate, Rapisora immediately placed himself on top of her. He proceeded to kiss her on the lips and on her breasts. He spread her legs and tried to insert his flaccid organ into hers, but did not initially succeed. Wiping off the blood on his organ, as Helen had her monthly period then, he held Helen's head and forced him to suck his organ. When it hardened, he again inserted it into her vagina. This time, his organ penetrated hers.

After his bestial desires had been satisfied, Rapisora told Helen to put on her clothes. She did as she was told, since she desperately wanted to go home. Rapisora, likewise, got dressed. Before they left the room, Rapisora warned her against making any noise. He placed his arm around her shoulders as they went outside. Upon reaching the street, Rapisora instructed her to cross it. Helen obeyed. When she got to the other side, she looked back and saw that Rapisora was no longer there.

Despite her condition, Helen managed to get home. She broke down when she saw her husband. She narrated to him her ordeal and they both cried. They agreed to report the matter to the authorities. On June 9, 1997, Helen submitted herself to a

medico-genital examination with the National Bureau of Investigation (NBI). At that time, she did not know the identity of her assailant. The examination yielded the following conclusions:

- 1.) No evident of extragenital physical injuries noted on the body of the subject at the time of examination;
- 2.) Hymen, reduced to carunculae myrtiformis.^[8]

A few months later, on August 21, 1997, while on her way to work, Helen passed by a newsstand. A picture appearing in the tabloid "Abante Tonite" caught her attention. The man on the picture resembled her assailant. The news item, with the title "*Biktima pa ng bumberong serial rapist, lumitaw*,"^[9] identified the man as Conde Rapisora. After looking at the picture more closely, Helen became certain that he was her assailant. Bringing the tabloid with her, she went back to the NBI and showed them the news item. She was advised to go to the Western Police District (WPD) where she showed the news item to the police authorities. She was also interviewed by PO2 Dolores Villegas. Thereafter, Helen was brought to a detention cell. There were several men inside, but Helen immediately recognized Rapisora. She pointed to him as the one who raped her.

Thereafter, PO2 Villegas took Helen's sworn statement^[10] and prepared the booking sheet and arrest report,^[11] police report^[12] and referral letter for inquest.^[13] When she took the witness stand, Helen again positively identified Rapisora as her assailant.^[14]

Dr. Armie Soreta-Umil, the medico-legal officer of the NBI, explained the results of the medico-genital examination that she conducted on Helen.^[15] According to Dr. Soreta-Umil, the absence of laceration in Helen's hymen was due to the fact that it had been reduced to carunculae myrtiformis or, in laymen's term, "tug." Normally, the hymen of a woman who had already given birth, as in Helen's case, would no longer suffer any laceration even if she was raped. Dr. Soreta-Umil did not conduct an examination to determine the presence of spermatozoa on Helen's sexual organ because exactly four days had already lapsed since the alleged rape. At most, the spermatozoa's life span in the vaginal canal would only be up to seventy-two hours.

The Evidence of the Accused^[16]

For his part, Rapisora^[17] vigorously denied raping Helen. He testified that he was a fireman at the Mandaluyong Fire Department. In the morning of May 23, 1997, his day off from work, Rapisora was eating "*lugaw*" at one of the stores along Boni-EDSA Highway when a lady arrived at the store. She made a phone call using the pay phone. Rapisora noticed that the lady was glancing at him so he invited her to eat "*lugaw*." She politely declined. Apparently, she was not able to contact the person at the other end because she put down the phone and sat beside Rapisora. She introduced herself as Helen and said that she worked at a department store in Makati. Rapisora also introduced himself and told her that he was a fireman at the Mandaluyong Fire Department. When she asked for his telephone number, Rapisora gave the fire station's number as he practically lived there. Helen, on the other hand, told him that she did not have a telephone. She teased him, saying that his wife might receive the call if she phoned him. Rapisora replied that he was still single and jokingly countered that someone would probably get mad if he invited

her out. Helen said that she was already a “graduate” and has a “diploma.” He took this to mean that she was already married and had a child.

The following day, he received a phone call from Helen. She claimed that she missed him and confided that she had a problem. They talked briefly. Helen even commented that “*okay kang kausap, malakas ang dating mo, tatawagan na lang kita.*”^[18]

On May 25, 1997, Helen again called up Rapisora and after learning that he was not on duty then, set a date with him that same morning. At 8:00 a.m., upon their agreement, they met in a Jollibee restaurant in Cubao. While they were eating, Helen mentioned to Rapisora that she liked him and that he was her “type.” He replied that she was his “type,” too. Before parting, they agreed to meet again.

At 5:00 p.m. on June 5, 1997, they met along Martinez Street in Mandaluyong. Helen informed him that she just arrived from Pampanga where she delivered her baby’s food supply. Upon her insistence that they transfer to a more private place, Rapisora suggested that they go to a motel. Helen offered no objection.

Rapisora flagged down a taxi and they briefly stopped at the convenience store in the corner of Shaw Boulevard and Kalentong to buy some food. They proceeded to the Filipinas Walk-Inn Motel at V. Mapa Street in Sta. Mesa, Manila. After they had checked-in with the receptionist, they entered one of the rooms. Helen confided to him about her problems. She proposed that they rent a room where they could meet at least twice a week. She, likewise, asked if he could give support to her child, and Rapisora replied that he would think about it.

Thereafter, Helen went to the bathroom. When she returned, she had already taken off her pants and a towel was wrapped around her waist. She still had her shirt on. She laid down on the bed and they began kissing and caressing each other. Since Helen had her monthly period then, they mutually decided not to consummate the sexual act. They checked out of the motel later in the evening of that day. By then, Helen was worried that her husband might already be looking for her. They both rode the jeepney bound for Crossing. Rapisora noticed during the ride that Helen was trying to cover her face with her hair. When he alighted in Kalentong, Helen told him that she would call him up again.

The following day, Rapisora reported for work. As she had promised, Helen called him up. She pressed him for his answer to her request for support to her child. She also mentioned that her sister already knew about them, as somebody saw them together in Martinez Street. He flatly told her that he could not accede to her request. She became angry at once and accused him of being a coward. That was the last time that they talked.

The Trial Court’s Ruling

After weighing the parties’ respective evidence, the trial court rendered the appealed judgment finding Rapisora guilty beyond reasonable doubt of rape. In convicting him, the trial court found Helen to be a credible witness. On the other hand, it characterized Rapisora’s testimony to be “replete with inconsistencies and

improbabilities” which rendered his uncorroborated testimony “unworthy of belief.”

[19] The dispositive portion of the decision of the trial court reads:

Wherefore, in view of all the foregoing, the Court finds the accused CONDE RAPISORA y ESTRADA guilty beyond reasonable doubt of the crime of Rape and hereby sentences him to suffer the penalty of *Reclusion Perpetua*. Accused is further ordered to pay the complainant the amount of P50,000.00 as indemnity and another P50,000.00 as moral damages.[20]

The Present Appeal

In his appeal brief, Rapisora, now the appellant, assails the judgment of the trial court alleging that:

I

THE LOWER COURT ERRED IN NOT FINDING THAT [THE] COMPLAINING WITNESS HAD CLOSE ACQUAINTANCE WITH THE ACCUSED BEFORE JUNE 5, 1997, AND HAD AGREED TO MEET ON SAID DATE;

II

THE LOWER COURT ERRED IN NOT FINDING THAT [THE] COMPLAINING WITNESS WENT ALONG VOLUNTARILY (sic) WITH [THE] ACCUSED FOR A DATE AT FILIPINAS WALK-IN MOTEL ON JUNE 5, 1997;

III

THE LOWER COURT ERRED IN NOT FINDING THAT [THE] COMPLAINING WITNESS HAD SEX VOLUNTARILY (SIC) WITH [THE] ACCUSED ON JUNE 5, 1997 AT THE SAID MOTEL;

IV

THE LOWER COURT ERRED IN FINDING [THE] COMPLAINING WITNESS AS AN INNOCENT ANGEL, SO TO SPEAK, AND IN GIVING CREDENCE TO HER TESTIMONY; AND

V

THE LOWER COURT ERRED IN NOT ACQUITTING THE ACCUSED ON THE BASIS OF HIS DEFENSE AND ON THE GROUND OF REASONABLE DOUBT.

[21]

Underlying the foregoing issues is the credibility of the victim, Helen, as the prosecution’s principal witness. Thus, in assailing his conviction, the appellant impugns her credibility. According to the appellant, Helen’s version of what transpired on June 5, 1997 taxes credulity. It is allegedly difficult to believe that, as Helen had testified, she and the appellant just coincidentally met each other in Martinez Street in Mandaluyong. Rather, the appellant insists that he and Helen had previous close acquaintance and that they agreed to meet each other on the said place and time. And with nary a sign of struggle, she boarded the taxi with him as