

## FIRST DIVISION

[ G.R. Nos. 150079-80, June 10, 2004 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FLORENTINO O. RAMIREZ, JR., APPELLANT.**

### D E C I S I O N

**PANGANIBAN, J.:**

The Constitution presumes the accused to be innocent until the contrary is proved. No less than proof beyond reasonable doubt of every fact necessary to constitute the crime charged must be established to overcome such presumption. This duty subsists notwithstanding the weakness of the evidence for the defense. Prosecutors are enjoined to exert their best to lay out the facts faithfully, clarify contradictions and fill up gaps in their evidence.

#### The Case

Florentino O. Ramirez Jr. appeals the June 29, 2001 Decision<sup>[1]</sup> of the Regional Trial Court (RTC) of Lingayen, Pangasinan (Branch 68), in Criminal Case Nos. L-6275 & L-6276, finding him guilty of rape on two counts and sentencing him to *reclusion perpetua* for each crime. The dispositive portion of the Decision is worded thus:

"WHEREFORE, in view of the foregoing, judgment is hereby rendered convicting the accused Florentino Ramirez, Jr. beyond reasonable doubt of two (2) counts of rape as narrated in the aforequoted [I]nformations, which are contrary to Article 266-A, Revised Penal Code as amended by R.A. 8353 and hereby sentenc[ing] him to *reclusion perpetua* for each of the instant two (2) cases.

"The accused is likewise ordered to pay the complainant Diana Pagaduan the following: moral damages of P100,000.00 and exemplary damages of P50,000.00 for each of the two (2) cases."<sup>[2]</sup>

Two (2) Informations<sup>[3]</sup> were filed against appellant on May 30, 2000. Except for the dates of the commission of the crimes, the Informations are similarly worded thus:

#### **Criminal Case No. 6275**

"That on or about the 7th day of May, 1999, in the evening, at Sitio Mangas, Barangay Baquieon, Municipality of Sual, Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, through force, threats and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with Diana F. Pagaduan, a minor 14 years old, against her

will, to her damage and prejudice.”<sup>[4]</sup>

### **Criminal Case No. 6276**

“That on or about the 26th day of May, 1999 early dawn[,] at Sitio Mangas, Barangay Baquieon, Municipality of Sual, Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, through force, threats and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with Diana F. Pagaduan, a minor 14 years old, against her will, to her damage and prejudice.”<sup>[5]</sup>

Upon his arraignment on June 27, 2000,<sup>[6]</sup> appellant, assisted by his counsel,<sup>[7]</sup> pleaded not guilty to both charges. The RTC tried the two cases jointly and thereafter rendered the assailed Decision.

### **The Facts**

#### **Version of the Prosecution**

At the initial hearing on August 24, 2000, Prosecutor Edmundo M. Manaois informed the trial court of an amicable settlement reached between the parties as shown by an Affidavit of Desistance executed by private complainant, fully quoted herein as follows:

#### **“AFFIDAVIT OF DESISTANCE**

“I, DIANA F. PAGADUAN, 14 years old and a resident of Ba[c]quioen, Sual, Pangasinan after having duly sworn to on oath in accordance with law, hereby depose and say:

“1. That I am the complaining witness in Criminal Cases Nos. L-6275 and L-6276, both for Rape against accused Florentino O. Ramirez (detention prisoner) and pending trial in Regional Trial Court-Branch 68, Lingayen, Pangasinan;

“2. That after a heart to heart confrontation with the accused, I realize that the criminal charges against him is a mere product of a trivial misunderstanding between me and the accused;

“3. That I further realize that the accused is indeed innocent of the crimes charge[d] since in truth, he never molested me sexually as charged;

“4. That I and the accused have already patched up x x x our differences;

“5. That in fairness to the accused, I decided to desist from further prosecution of the charges against him not only because we intended to return our cordial relationship with each other but most of all because the accused had done me no wrong;

“6. That I have executed this instrument voluntarily without any force or

intimidation imposed by anybody and neither [have I] been paid any consideration;

"7. That I am executing this affidavit in order to affirm the truth of the foregoing statements and in order to seek from the Honorable Court and other government entities for the dismissal of the charges against the accused.

"IN WITNESS WHEREOF, I hereby affixed my signature below this 16th day of August, 2000 at Lingayen, Pangasinan, Philippines.

(Sgd)  
DIANA F. PAGADUAN  
Affiant

"ASSISTED BY:  
(Sgd)  
ALEJO O. VERZO  
Uncle Guardian

(Sgd) Zenaida Pagaduan

"SUBSCRIBED AND SWORN to before me this 16th day of August, 2000 at Lingayen, Pangasinan, Philippines.

(Sgd)  
EDMUNDO M. MANAOIS  
Asst. Prov'l. Prosecutor  
Lingayen, Pangasinan"[8]

During this hearing, private complainant affirmed the veracity and the voluntariness of her Affidavit. She said that the document had been translated to her in Ilocano, and that she fully understood its contents. She confirmed her awareness that by reason of her execution thereof, her case was likely to be dismissed. The mother, Zenaida Pagaduan, affirmed that the Affidavit had been explained to and signed by her daughter.

Prosecutor Manaois then called the following witnesses to the stand: (1) Soledad Pagaduan, private complainant's older sister, and (2) Dr. Maria Teresa G. Sanchez, a medical officer of the Western Pangasinan District Hospital. Their respective testimonies are summarized by the Office of the Solicitor General (OSG) in its Brief as follows:

**"SOLEDAD PAGADUAN, sister of private complainant, confirmed having brought the latter to the Western Pangasinan District Hospital, in Alaminos, Pangasinan for medical examination on June 25, 1999. She also confirmed the fact that during the preliminary investigation of these cases, she made the following statements, to wit: that at early dawn of May 26, 1999, she was inside their house in Sitio Mangas, Ba[c]quieon, Sual, Pangasinan, [with] her brother, Romeo Pagaduan, her mother, Zenaida Pagaduan, her sister, herein private complainant Diana Pagaduan; and appellant [Florentino Ramirez] who is her mother's 'live-in partner'; that when she woke up that morning,**

she went upstairs and saw appellant on top of private complainant and holding her thigh; that when appellant saw her, he immediately picked up his shortpants and fled downstairs; that when she confronted the private complainant about the incident, the latter cried 'I was raped'.

"MARIA TERESA G. SANCHEZ, Medical Officer of the Western Pangasinan District Hospital related to the court that private complainant was brought to her for medical examination on June 25, 1999 by her sister, Soledad, and uncle, Alejo Verzo; that in the course of her examination, private complainant disclosed that she was raped by appellant; that the rape happened twice, the first time on May 7, 1999 and the second time on May 26, 1999; that the May 7, 1999 incident occurred about 9:00 p.m. when she was left behind in their house at Sitio Mangas, Barangay Ba[c]quieon, Sual, Pangasinan, with appellant and her niece; [that] appellant poked a knife and forced her to have sexual intercourse with him; that the May 26, 1999 incident occurred at 4:00 a.m. and her companions at that time were the father and mother of the appellant[; and that] when [she] inquired [about] the whereabouts of the private complainant's father, the latter replied that he 'died sometime on May 1993 or 1994'. The vaginal examination made by the doctor on private complainant disclosed the following findings:

- = Nonparous introitus
- = Old hymenal laceration at 3 o'clock position
- = Vagina admits 2 fingers with ease
- = Cervix close
- = Uterus small
- = No bleeding

x x x x x x x x x

1. non-parous introitus means that the patient [has] not given birth
2. old hymenal laceration 3:00 o'clock position that relates to hymen as compared to the face of a watch[;] the laceration have already healed.
3. vagina admits two fingers with ease, in layman's term, because normally the membrane around and inside the vagina is "kul[u]bot", but after repeated sexual act, the shape of the vagina would be obliterated, so there would be laxity of the vaginal muscle and that during the medical examination, insertion of two (2) fingers will have the slightest resistance.
4. include Cervix close[d].  
Normally the cervix of a woman is close[d].
5. No bleeding – upon examination, the patient is not bleeding (vagina).

**= Menstrual History**

**Menarche means the first menstrual period June 18, 1999.**

- 6. No external physical injuries upon examination**
- 7. Negative of Pregnancy Test**
- 8. Negative for gram stain of vaginal discharge for the presence of spermatozoa.”<sup>[9]</sup>**

After formally offering private complainant's Affidavit of Desistance and the Medical Certificate prepared by Dr. Sanchez as documentary evidence, the prosecution rested its case. Notwithstanding the Affidavit submitted by the prosecution, the RTC proceeded to hear the defense.

On October 6, 2000, after the defense had closed its presentation of evidence, Prosecutor Manaois objected to its formal offer of the Affidavit of Desistance of private complainant. He manifested her retraction thereof on the ground that it had been obtained through improper influence and force. Thus, the Affidavit was not admitted by the court a quo.

On February 14, 2001, private complainant testified on rebuttal that the allegation by appellant that he was in Baguio City on May 7, 1999, was not true. She declared that in reality, he had been at home in Sitio Mangas, Barangay Bacquioen, Sual, Pangasinan, where he had sexual intercourse with her. She affirmed that she really wanted her mother to be separated from him because, as private complainant declared in Tagalog, "*Binaboy niya ako.*"

**Version of the Defense**

The version of the facts offered by the defense is summarized in appellant's Brief as follows:

**"Accused FLORENTINO O. RAMIREZ, JR., under oath, testified that he is 29 years old, married, farmer and a resident of Urdaneta, Pangasinan.**

**"He is the same Florentino Ramirez, Jr. the accused in Criminal Case Nos. 6275 and 6276 for rape filed against him by Diana F. Pagaduan, his stepdaughter. It is not true that he sexually abused the latter sometime in the evening of May 7, 1999, because he was then [at] Camp 8, Baguio City working as a laborer for his uncle Piano Ramirez, who was then repairing his three-storey house x x x. On the said date that he was working at his uncle's house, he was with his co-workers, namely: Boy Ramirez, Julie Ramirez, Rudy Ramirez, Joel Pagaduan and one person [whose name he forgot]. He never left his uncle's house on May 7, 1999 particularly in the evening [thereof]. x x x, he slept at his uncle's house together with his fellow workers, leaving only his stepdaughter Diana and his wife Zenaida Pagaduan in their house at Barangay Bacquioen, Sual, Pangasinan. However, on May 26, 1999, he was in the residence of Diana Pagaduan [at] Sitio Mangas, Barangay Bacquioen, Sual,**