

EN BANC

[G.R. No. 130488, June 08, 2004]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LINO CLORES, JR., APPELLANT.

DECISION

CALLEJO, SR., J.:

This is an automatic review of the Decision^[1] of the Regional Trial Court of Masbate, Branch 44, in Criminal Case No. 7810 convicting the appellant Lino Clores, Jr. of rape, sentencing him to suffer the supreme penalty of death and ordering him to pay damages to the victim in the amount of P50,000.00.

On July 31, 1995, an Information was filed charging Lino Clores, Jr. with rape. The accusatory portion of the Information reads:

That on or about the 4th day of May 1995, in the evening thereof, at Barangay Quezon, Municipality of Uson, Province of Masbate, Philippines, within the jurisdiction of this Honorable Court, the above-named accused with lewd design, did then and there willfully, unlawfully and feloniously have sexual intercourse with one Eden Bandol y Castillo, a girl of 15 years old, against the latter's will.

CONTRARY TO LAW.^[2]

Upon arraignment, the appellant, assisted by counsel, entered a plea of not guilty. Trial, thereafter, ensued.

The Evidence for the Prosecution

The Spouses Eduardo and Norma Bandol and their seven children, including Eden, resided in Barangay Quezon, Uson, Masbate. Their son, James, lived with his family in the same barangay, about a kilometer away. At around 7:00 p.m. on May 4, 1995, Eden, one of the couple's children, was sent by her father to bring some cooking oil to her elder brother James. Eden, who was then wearing a pair of shorts, passed by the house of her friend, Eleanor Buhay, and asked the latter to accompany her to her brother's house. Eleanor replied that they should first wait for her mother so that she could ask for permission. However, Eleanor's mother did not allow Eleanor to leave the house when she arrived some thirty minutes later. By that time, it was starting to get dark.

Eden proceeded to her brother's house by her lonesome. There were no houses along the way. Momentarily, Eden noticed that the appellant was close by, at a distance of about five (5) meters, and seemed to be following her. Nevertheless, she walked on. The appellant then overtook Eden, grabbed her by her shoulders and

covered her mouth to prevent her from shouting. He kissed her and dragged her to the nearby riverbank. Eden punched and kicked the appellant, but her efforts proved futile. The cooking oil she was carrying spilled from its container. Upon reaching the river bank, the accused pushed her to the ground and removed her shorts and panty. The appellant stepped on Eden's forearms and removed his jogging pants and underwear. He then mounted her. He told Eden that whatever happens, he would marry her. Eden kept on punching and kicking the appellant until she weakened and lost consciousness. The appellant then had sexual intercourse with her. When she came to her senses, the appellant was gone.

Eden was able to get up and proceeded to her brother's house. It was already late in the evening. When she arrived at the house, she saw her sister-in-law, Suhita, and spontaneously told the latter that she was not able to arrive early as she was sexually abused along the way by the appellant. The next day, Suhita accompanied Eden back to their house and reported the incident to her parents. Upon instructions of Eduardo, Norma accompanied Eden to the police station and reported the incident. Eden and her mother then proceeded to the Moises R. Espinosa, Sr. Memorial Municipal Hospital at Dimasalang, Masbate, where she was examined by Dr. Levi B. Osea, Jr. who prepared a Medico-Legal Report which contained the following findings:

- 1) + Linear Erythematous Skin 7 cm. (R) shoulder area.
- 2) + Erythematous Skin:
 - a) 5 mm x 1 cm (R) lateral neck.
 - b) 5 mm x 1 cm Mid-upper neck.
 - c) 5 mm x 1 cm Mid lower neck.
 - d) 5 mm x 1 cm (L) lateral neck.
- 3) + Linear Erythematous Skin 8 cm D/3rd lateral aspect (L) forearm.
- 4) + Linear Erythematous Skin 5 cm D/3rd dorsum (R) forearm.
- 5) + Shallow punctured wound 1 mm x 1 mm hypogastric area.
- 6) Perineal Examination:
 - External: Negative Finding
 - Internal: (+) small fresh hymenal laceration at 5 o'clock position. [3]

The Case for the Appellant

The appellant was born on November 3, 1979. He denied raping Eden. He testified that he was at the house of his Lolo Selay in the evening of May 4, 1995. He opined that Eden filed the rape case against him probably because she liked him. He added that the parents and brothers of Eden wanted him to marry the latter, but he refused, saying that she was ugly. Because of such refusal on his part, Eden and her family pushed through with the filing of the rape case against him.

Numeriano Villacorta testified that at 4:30 p.m. on May 4, 1995, he was at the house of the appellant's grandfather, Marcelo (Selay) Clores. At around 6:00 p.m., Villacorta had supper together with the occupants of the house, including the appellant. After dinner, Villacorta spent the night at the said house and slept beside the appellant. He stated that the appellant never left his side during the night and both of them woke up at around 5:00 a.m. the next day.

Jose Monterde testified that he was at the house of Marcelo Clores on May 4, 1995. He had supper with the appellant and other people who were also present therein.

He spent the night in the copra dryer which was adjacent to the house of Marcelo.

After trial, the court rendered judgment finding the appellant guilty of rape and sentenced him to death. It also suspended further proceedings, on its finding that the appellant was a youthful offender. The court, likewise, ordered the commitment of the appellant to the care and custody of the Department of Social Welfare and Development (DSWD). The decretal portion of the decision reads:

All told, the court finds the accused Lino Clores, Jr. guilty beyond reasonable doubt of the crime of rape which is punishable by death. The court also finds the accused civilly liable to the victim, Eden Bandol in the sum of FIFTY THOUSAND (P50,000.00) PESOS.

Lino Clores, Jr. is a youthful offender at the time of the commission of the offense as defined under Presidential Decree No. 603 otherwise known as the Child and Youth Welfare Code. Lino was then fifteen (15) years, six (6) months and one (1) day old, having been born on November 3, 1979.

WHEREFORE, pursuant to the provisions of Presidential Decree No. 603, the court hereby suspends all further proceedings in this case and hereby commits the accused, Lino Clores, Jr. to the care and custody of the Department of Social Welfare and Development through Miss Perseverancia Rey or any other responsible person in coordination with Miss Rey until the accused reaches the age of twenty-one years.

Lino Clores, Jr. shall be subject to visitation and supervision by Miss Rey or any of her duly authorized representative if Lino's care and custody is entrusted to other responsible individual and in any event, he or she under whose care Lino Clores, Jr. is committed shall submit to the court every four (4) months a written report on the conduct of Lino Clores, Jr. as well as the intellectual, physical, moral, social and emotional progress made by him.

IT IS SO ORDERED.^[4]

The Present Appeal

The appellant, avers that the trial court erred as follows:

1. In convicting the accused-appellant without sufficient evidence to warrant such conviction;
2. In not acquitting the accused-appellant on the ground of reasonable doubt; and
3. In imposing upon the accused-appellant the penalty of death instead of reclusion temporal.

Anent the first and second assigned errors, the appellant asserts that it was impossible for him to have raped Eden because he was at the house of his grandfather, Marcelo Clores, at the time the rape was supposed to have occurred. He contends that the testimony of Eden is weak, because she did not even shout when she was raped and did not even try to escape. He asserts that Eden agreed to

have sexual intercourse with him because he had promised to marry her. He argues that since the evidence of the prosecution is weak, the trial court should have found his defenses of denial and alibi meritorious. He should, thus, have been acquitted of the crime charged.

The Court's Ruling

We find the contention of the appellant to be bereft of merit.

Eden narrated to the trial court, when she testified, how the appellant succeeded in raping her. The testimony reads:

Q And what happened when the accused dragged you out at the bank of the river?

A He kissed me and when I could not do anything he abused me.

Q In what way were you abused?

A He turned (sic) my short and my panty.

Q Did he successfully turned (sic) your short and panty?

A Yes, Sir.

Q And were you naked completely (sic) after your short and panty were taken up (sic)?

A Yes, Sir.

Q And what did the accused do when you were already naked?

A He abused me.

Q In what way you were (sic) abused?

A He placed (sic) on top of me.

Q And while he was lying on top of you, what happened?

A He abused me and after succeeding his abuse (sic) he went home.

Q Can you tell the court what is meant by you were abused by the accused?

PROS. ALFORTE
manifesting)

I move that the persons present inside the court be ordered to go outside the courtroom.

COURT

All persons inside the courtroom are hereby ordered to go

outside except the accused.

PROS. ALFORTE

continuing)

Q Please tell the court in what way were you abused by the accused?

A He sexually abused me.^[5]

Eden's testimony is corroborated by the Medico-Legal Report of Dr. Levi B. Osea, Jr. that when he examined Eden on May 5, 1995, barely a day after she was raped by the appellant, he found a "fresh laceration in the hymen at 5 o'clock position."^[6] It is settled that when the victim's testimony is corroborated by the physician's finding of penetration, there is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge. Laceration, whether healed or fresh, is the best physical evidence of forcible defloration.^[7]

When the victim in this case stated that she was sexually abused, there can be no other conclusion than that she was raped. In *People v. Mabunga*,^[8] this Court has declared that what is important is the victim's testimony that the appellant had sexually abused her. The Court has consistently held that when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed.^[9] The rationale therefor is that no woman would weave a tale of sexual assaults to her person, open herself to the examination of her private parts and later be subjected to public trial or ridicule if she was not, in truth, a victim of rape and impelled to seek justice for the wrong done to her.^[10]

Eden wanted to shout for help but the appellant covered her mouth and dragged her to the riverbank:

Q Now, what did you do when you were dragged by the accused to the bank of the river?

A I wanted myself to free (sic) from his hold and he held (sic) my mouth so that I could not shout.

Q Did the accused successfully able to (sic) drag you to the bank of the river?

A Yes, Sir.

Q And in what manner (sic) you desisted from the accused for you to set free?

A I boxed and kicked him.^[11]

Eden tenaciously resisted and tried to extricate herself from the appellant's hold by kicking him, but the appellant succeeded in raping her after she weakened because of her tenacious resistance:

Q Now, did you not resist when the accused was sexually abusing you?

A I resisted.