

FIRST DIVISION

[G.R. No. 142860, January 16, 2003]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VICTOR TAPERLA Y TAMOSA, RONNIE AVILA Y CULPA
(ACQUITTED) AND JONATHAN LASTIMADO Y ALPECHE
(ACQUITTED), ACCUSED.**

VICTOR TAPERLA Y TAMOSA, ACCUSED-APPELLANT.

DECISION

YNARES-SANTIAGO, J.:

Before us is an appeal from the decision^[1] dated November 22, 1999, of the Regional Trial of Davao City, Branch 33, in Criminal Case No. 43, 500-99, finding accused-appellant Victor Taperla guilty of rape and sentencing him to suffer the penalty of *reclusion perpetua*. His co-accused, Ronnie Avila y Culpa and Jonathan Lastimado y Alpeche, were acquitted for failure of the prosecution to prove their guilt beyond reasonable doubt.

The accusatory portion of the Information reads:

That on or about July 4, 1998, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, conspiring and confederating with one another by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with AAA, against her will.

CONTRARY TO LAW.^[2]

Upon arraignment, the three accused pleaded not guilty. Trial on the merits ensued.

In the evening of July 4, 1999, at around 9:00 o'clock, seventeen-year old AAA was walking towards the direction of her aunt's house located in Sitio Kinapa-an, Daliao, Toril, Davao City. She decided to take a short-cut by passing through the Davao Fish Port Complex which was adjacent to her aunt's house.^[3] As she approached the fish port's main gate, she noticed that accused-appellant had been following her. AAA hurriedly walked away but was nonetheless blocked by Ronnie Avila and Jonathan Lastimado, who took hold of her arms and brought her to accused-appellant.^[4]

Accused-appellant dragged the victim towards the back of the Polar Bear Storage. AAA tried to break free from him but to no avail. She tried to shout but nobody was around.^[5] Accused-appellant's size and weight, at 5'5" tall and 64 kilograms in weight, enabled him to successfully bring the victim, who stood only 4'11" and weighed only 45 kilograms, to the back of the storage building.^[6] He laid AAA on top of a makeshift table and pinned her neck with his arm. Then, he removed his

shorts and forcibly spread her legs. As he tried to insert his penis into her vagina, the victim continued to fight back. Accused-appellant punched the victim's stomach which caused her to gasp for breath.^[7] He was able to insert his penis into the vagina of the victim and thereafter ejaculated. After consummating his lustful act, accused-appellant threatened to kill the victim's brother if she were to tell anyone what had just transpired.^[8]

AAA immediately proceeded to her aunt's house where she narrated her harrowing experience. They first went to the Barangay Captain of Brgy. Lizada and thereafter proceeded to Dr. Casquejo who conducted a physical examination of the victim.^[9] They then headed to the police station where they filed their complaint against the accused-appellant.^[10]

The Medical Findings revealed the following:

PHYSICAL EXAMINATION:

- a) 1 x ½ cm abrasion at the left lateral portion of the thyroid gland area of the neck.
- b) Contusion lateral portion of the neck left and right side and painful to slight pressure.
- c) Contusion upper and lower lips and painful to slight pressure.
- d) 10 x 6 cm. contusion lower third of the right arm anterior side and extends downwards at the upper third right forearm anterior portion.
- e) 6 x 5 cm. contusion lower third anterior side left forearm.
- f) 6 x 5 cm. contusion posterior area lower third right forearm.^[11]

Dr. Casquejo further testified that AAA's vaginal canal had lacerations at 3 and 9 o'clock positions and the mucus fluid taken inside tested positive for spermatozoa.^[12]

On the other hand, accused-appellant claimed that he and AAA were lovers and that what happened on the night of July 4, 1999 was consensual.^[13]

After trial, judgment was rendered against accused-appellant, the dispositive portion of which reads:

WHEREFORE, for all of the foregoing, the Court holds that the prosecution was able to prove the guilt of the accused VICTOR TAPERLA beyond reasonable doubt as to rebut his constitutionally presumed innocence. Accordingly, the accused VICTOR TAPERLA is hereby SENTENCED to suffer the indivisible penalty of RECLUSION PERPETUA with all the accessory penalties attendant thereto. He is further sentenced to indemnify the offended party, AAA, of the sum of P75,000.00 as civil indemnity and the additional sum of P50,000.00 as moral damages.

For failure of the prosecution to prove the guilt of the accused RONNIE AVILA y CULPA and JONATHAN LASTIMADO y ALPECHE beyond reasonable doubt and thus failed to rebut their constitutionally presumed

innocence, they are hereby ACQUITTED of the crime charged in the Information.

The immediate release from confinement of accused Ronnie Avila y Culpa and Jonathan Lastimado y Alpeche are hereby ordered unless they are detained for some other lawful cause.

The immediate confinement at the National Penitentiary of Victor Taperla is hereby ordered.

Costs de oficio.

SO ORDERED.

In this appeal, accused-appellant raises the following assignment of errors:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.

II

THE TRIAL COURT GRAVELY ERRED IN NOT CONSIDERING THE DEFENSE INTERPOSED BY ACCUSED-APPELLANT.

III

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT NOTWITHSTANDING THE ERRONEOUS INFORMATION AS TO THE DATE OF COMMISSION OF THE OFFENSE AND THE ABSENCE OF AN AFFIDAVIT-COMPLAINT OF THE PRIVATE COMPLAINANT.^[14]

The "sweetheart theory" advanced by the defense fails to convince us. It is uncorroborated, self-serving and deserves scant consideration. Save for his own declaration, accused-appellant was unable to prove that carnal knowledge between him and AAA was consensual. Accused-appellant's claim that he met the victim on the night of the alleged incident and had sexual intercourse with her is highly incredible and contrary to ordinary human behavior. No woman, much less a married one with five children, would have sexual relations with a complete stranger whom she had just met. There is no evidence on record that she is a pervert, nymphomaniac, temptress or in any other condition that may justify such a theory.^[15]

Verily, accused-appellant failed to substantiate his sweetheart theory. There were no letters or notes, no photos or mementos, nothing at all prove their alleged love relationship.^[16] Even assuming that they were sweethearts, he had no excuse to employ force and intimidation in satisfying his carnal desires.^[17] In *People v. Gecomo*, it was held that "love is not a license for carnal intercourse through force or intimidation. . . A sweetheart cannot be forced to have sex against her will. A man cannot demand sexual submission and, worse, employ violence upon her on a