

## FIRST DIVISION

[ G.R. No. 149531, July 22, 2003 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ERNESTO RAMIREZ, JR., Y MARQUEZ, APPELLANT.**

### DECISION

**VITUG, J.:**

An appeal is interposed by Ernesto Ramirez, Jr., from the decision of the Regional Trial Court, Branch 27, of Manila, convicting him of rape. The accusatory Information charging him with the crime reads:

"That on or about April 10, 1997, in the City of Manila, Philippines, the said accused, did then and there willfully, unlawfully and feloniously, by means of force, violence and intimidation, to wit: by poking his .45 cal. Pistol against one AAA, threatening to kill her should she create a noise, forcing her to undress, thereafter slapping and handcuffing her, lying on top of her and inserting his penis into her private part, and succeeded in having carnal knowledge of her, against her will and consent."<sup>[1]</sup>

Upon his arraignment, Ramirez entered a plea of "not guilty" to the accusation. Culled from the findings of the trial court and the records of this case, the prosecution and the defense presented conflicting versions of the incident.

#### **The case for the prosecution. -**

On 09 April 1997, around five o'clock in the afternoon, AAA left her home at [REDACTED], following a quarrel with her husband [REDACTED]. AAA proceeded to her aunt's house in Tondo, Manila, arriving thereat at about ten o'clock in the evening. The following day, Olive Ramirez, a cousin, accompanied AAA to the house of the latter's brother, Norman. Later, Ernesto Ramirez arrived at Norman's house. She requested Ernesto to help her find a job. After Ernesto had left, AAA stayed in the house for about six more hours, tending to Norman's sick child. At seven o'clock in the evening, Norman accompanied AAA to LRT station. Arriving thereat, they saw Ernesto in front of the Jollibee fastfood restaurant. Ernesto offered to accompany AAA to the Baliwag Transit bus terminal after he would have first reported to the Western Police District (WPD) headquarters at United Nations Avenue, Manila, where he was assigned. AAA acceded, and they took the LRT. At the UN Avenue, Ernesto requested her to wait on the sidewalk. After about an hour, Ernesto returned. The two then took a taxicab and asked the driver to proceed to the Baliwag Transit terminal. Before reaching the terminal, Ernesto told the driver to pull over. Alighting from the taxicab, they crossed the street and entered a building, along the LRT line, where Ernesto said he would introduce her to a prospective employer.

The building where they went turned out to be a hotel. Ernesto talked to a person,

and they were ushered to a room. AAA asked Ernesto what they were doing there and insisted that he bring her to the bus terminal. Ernesto, however, slapped her and pointed a gun at her. He ordered AAA to take off her clothes. After taking off his own clothes, he handcuffed her right hand and put the other end of the handcuff on his left hand. Ernesto placed the gun on top of a small table and ordered AAA to lie on the bed. He parted her legs, placed himself on top of her, kissed her neck and breast, and succeeded in having carnal knowledge of her. Ernesto then went to sleep without removing the handcuff joining them. AAA cried and remained awake.

Early the following morning, Ernesto brought AAA from the hotel to the bus station. AAA took the bus and arrived in Plaridel, Bulacan, at around seven o'clock in the morning. She proceeded to her mother's house. AAA, accompanied by her mother, returned home and informed her husband [REDACTED] of what had transpired. [REDACTED] immediately sought the help of Col. Francisco Villaroman for whom he worked as an "informer." Col. Villaroman advised him to defer the filing of the complaint against Ernesto as it might jeopardize their surveillance operations against a certain Tongco and one Pareña.

Finally, on 15 September 1997, AAA filed a complaint before the National Bureau of Investigation (NBI) and subjected herself to medical examination. Dr. Aurea P. Vilena, an NBI Senior Medico-Legal Officer, conducted a medico genital examination on AAA on 15 September 1997 but found no extra-genital injury on her body.

P/Supt. Francisco J. Villaroman, Chief Intelligence of the Philippine National Police (PNP) Regional Office 4, confirmed that [REDACTED] was a police informer. Sometime in April, [REDACTED] asked for his help regarding the alleged rape committed by Ernesto Ramirez, then also his subordinate, against [REDACTED]'s wife AAA. He advised [REDACTED] to seek help from the NBI, cautioning him, however, against filing a case at that time since it could jeopardize their surveillance operations against Alfredo Tongco and Rey Pareña. He gave [REDACTED] and AAA some financial support to enable them to get the services of a lawyer.

### **The case for the defense.**

The accused Ernesto Ramirez, Jr., asserted that AAA, aside from being a close relative, was his former girlfriend. The two met on 30 May 1980 in a town *fiesta* when he was seventeen years old and AAA was sixteen. It was love at first sight and already had sexual relations the following day. Later, they discovered that they were relatives, his grandmother and AAA's grandmother being sisters; nevertheless, they continued to see each other. He would visit her in Bulacan while, at other times, she would go to Manila. The affair lasted for one and a half years until it was discovered by elders who opposed their plans of getting married. Ernesto admitted that he had sexual relations with AAA on 10 April 1997 but maintained that it was an act of two consenting adults. According to him, at about eight o'clock in the morning of that day, he was fetched by his brother Norman who told him that someone was waiting for him in Norman's house. He went with Norman. Upon seeing Ernesto, AAA immediately kissed and embraced him, and sat on his lap in the presence of Norman and his wife Gladys. AAA informed him that she had left home because she was mauled by her husband. She told him that she wanted to leave her husband and to instead stay with Ernesto. He reminded her, however, that they now had their own respective families. He gave her some money for lunch, and he then left to report for duty at the WPD headquarters. At approximately eight o'clock in the evening of

the same day, while he was at Jollibee Tayuman branch, he saw AAA who again professed that she would like to be with him. He agreed but told her that he had to go first to the WPD headquarters. He and AAA took the LRT. She waited for him in front of the headquarters. After about two hours, they boarded a taxicab and checked-in at the Sogo Hotel. He paid for a room and AAA entered it ahead of him. AAA then took off her clothes and took a shower. The "lovers" had sexual relations twice, spending the night at the hotel. He admitted that he had his .38 caliber gun at that time but denied having used it to intimidate AAA. He claimed that AAA later told him that she had filed the complaint against him due to her husband's insistence.

Glady Escaño Ramirez, seeking to corroborate the testimony of Ernesto, narrated that on the morning of 10 April 1997, AAA, together with Olive, arrived at their house and told her husband Norman that she wanted to see Ernesto. When Ernesto arrived, AAA kissed and embraced him. AAA also sat on Ernesto's lap. Ernesto, apparently embarrassed, told AAA to take another chair. He gave her lunch money, and they ate together. Ernesto then left for work while she accompanied AAA to Olive's house to get the former's belongings. It was already dark when AAA left their house again. Norman accompanied AAA downstairs, and he returned fifteen minutes later.

Erlinda Ramirez, mother of the accused, confirmed that she and AAA's mother were first cousins. She recalled that when AAA was still single, she and her mother went to their house and told her of the marriage plans of AAA and Ernesto. She objected. When AAA arrived at their house in April 1997, she admonished her and reminded her that she and Ernesto already had families of their own. Erlinda averred that [REDACTED] was demanding P50,000.00 from Ernesto in exchange for the settlement of the case.

The trial court found for the prosecution; in its decision, dated 31 July 2001, it adjudged:

"WHEREFORE, in view of all the foregoing, judgment is hereby rendered finding accused ERNESTO RAMIREZ, JR. y MARQUEZ guilty beyond reasonable doubt of the crime of RAPE and hereby sentencing him to suffer the penalty of *Reclusion Perpetua*; to indemnify the offended party in the amount of P50,000.00; to further pay her the amount of P50,000.00 as moral damages; P50,000.00 as exemplary damages and to pay the costs."<sup>[2]</sup>

In the instant appeal, appellant would insist that AAA lacked credibility and that the trial court erred in giving weight and credence to her improbable testimony.

The Court, unfortunately for appellant, finds no cogent justification to reverse the findings of the trial court to which an issue on credibility of witnesses is primarily addressed. A review of the records does not disclose any indication that the trial has manifestly overlooked a matter of substance or significance in making its assessment of the evidence.

The admission of carnal knowledge of the complainant by appellant effectively placed upon him the burden of proving his defense by convincing evidence,<sup>[3]</sup> i.e., that the sexual congress was an act of two consenting adults. The two conflicting

versions were heard by the trial court; it gave credence to the testimony of AAA as against that proffered by appellant. AAA, recalling her ordeal before the trial court, testified:

"COURT:

"Q That building you entered, is there a name or sign?

"A I did not notice, your Honor.

"PUB. PROS. REBAGAY:

"Q Now, after getting out of the elevator and you saw a table there and there are also people waiting there, what happen[ed] after that?

"A Ernesto Ramirez talk[ed] with somebody.

"Q And, then, after talking with somebody, what happen[ed]?

"A He called me and told me that he will introduce me to my prospective employer.

"Q Now, were you able to talk to this prospective employer?

"A There was no person in the place we entered.

"Q So, what did you do when you did not find any person inside that place where you enter[ed], Madam Witness?

"A Because when we enter[ed] the place I notice[d] that there was a bed. So, I ask[ed] him why he brought me there.

"Q Now, let me clarify this. What is that place that you entered?

"A It is a room where there was a bed.

"Q So, after entering that room, what happen[ed] next if any?

"A I told him to bring me to the Baliwag Transit Terminal because I am afraid [of] what he was intending to do.

"Q So, what was the reply of Ernesto Ramirez, if any?

"A Because I was crying and because he was also holding his gun he was telling me to stop crying and [when] I did not stop he slap[ped] my face and he was pointing his gun at me.

"x x x x x x x x x

"Q You said that you obey[ed], you undress[ed] yourself, what happen[ed] after that?