

SECOND DIVISION

[G.R. No. 143716, April 05, 2002]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO OBQUIA, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision,^[1] dated November 22, 1999, of the Regional Trial Court, Branch 2, Tagbilaran City, Bohol, finding accused-appellant Rolando Obquia guilty of rape and sentencing him to suffer the penalty of *reclusion perpetua* and to indemnify the offended party, Marietta Segovia, the sum of P75,000.00 and to pay the costs.

The information against accused-appellant Rolando Obquia alleged —

That on or about the 1st day of July, 1997 in the municipality of Tubigon, province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, a deadly weapon, with lewd designs, and with the use of force and intimidation, did then and there willfully, unlawfully, and feloniously drag the victim, Marietta Segovia, to a secluded place and point at her the said knife warning her not to shout otherwise she would be killed, and, thereafter removed her underwear, laid on top of her and inserted his erect penis into her vagina, thus the said accused succeeded in having carnal knowledge with the said offended party, without her consent and against her will; to the damage and prejudice of the offended party.

Acts committed contrary to the provisions of Article 335 of the Revised Penal Code as amended by Republic Act No. 7659.^[2]

A warrant of arrest was issued on October 8, 1997 against accused-appellant, but it was only on March 22, 1999 when he was finally arrested.^[3] When arraigned, accused-appellant pleaded not guilty to the charge and trial thereafter ensued.

The prosecution presented five witnesses, namely: the victim, Marietta Segovia, her father, Nicasio Segovia, her grandmother, Rosario Segovia, her father's friend, Roger Tapik, and Dr. Aida Ramiro. Their testimonies established the following facts:

Marietta Segovia testified that on June 11, 1997, she worked as a salesgirl in Pedro Obquia's store in Suba, Tubigon, Bohol. Accused-appellant Rolando Obquia, a nephew of Pedro, also worked in the same store, selling rice and slippers. Marietta said that accused-appellant tried to court her, but she rejected him because she already had a boyfriend.^[4]

According to Marietta, on July 1, 1997, at about 7 o'clock in the evening, she and accused-appellant went out to dispose the garbage at a site near the Suba Public Market. Accused-appellant, however, told her that throwing garbage on that place had already been prohibited and suggested that they take the garbage to another site located after the Tinangnan Bridge.

As they approached the bridge, accused-appellant seized her and dragged her to a place below the bridge, saying that he was forced to do this because she would not accept his offer of love. Marietta said she tried to free herself from accused-appellant's hold and was going to shout for help, but accused-appellant poked a knife at her neck. He forced her to lie down and removed her shorts and panty. Accused-appellant then pulled down his shorts and succeeded in having sexual intercourse with her. She explained that she felt pain and that her private parts bled because it was the first time she had sexual intercourse. Accused-appellant then stood up after he had finished with her and Marietta tried to run towards the bridge. However, accused-appellant caught up with her and took her to their employer's house.

Upon their arrival, Marietta told her housemates, Vicky and Manilyn, a niece of accused-appellant, what happened to her. Their employer, Pedro Obquia, was not in the house at that time, but, as soon as he arrived, Manilyn told him about the incident. Pedro said that he would arrange the wedding of Marietta and accused-appellant. Marietta said she did not tell her father about the incident for fear that he might kill accused-appellant.^[5]

On July 4, 1997, Marietta's father, Nicasio Segovia, and his friend, Roger Tapik, visited Marietta at Pedro Obquia's store. Roger saw Marietta crying and learned from the latter that she had been raped by accused-appellant. Roger approached accused-appellant and punched him, and then ran away before accused-appellant could hit back. When Nicasio asked him why he boxed accused-appellant, Roger, afraid that if he told the truth Nicasio would become violent and harm accused-appellant, lied and said that it was just out of mischief he punched accused-appellant. Nonetheless, as a result of that incident, a complaint was filed against Marietta's father, although the same was later dismissed after the police found out that he had no participation in the punching incident.^[6]

Marietta thereafter left Pedro's employment and went home to her parents and grandmother. On July 8, 1997, accused-appellant, accompanied by his uncle Pedro and three other persons, went to ask for her hand in marriage. Only Marietta and her grandmother Rosario Segovia were at home at that time, but Marietta refused to come out of her room and see the visitors. Pedro informed Marietta's grandmother that Marietta and accused-appellant had had a sexual relationship and it would be best if they were married. As she did not know that Marietta had actually been raped, Rosario consented to the marriage proposal. Thus, when Marietta's father Nicasio returned home, they went to the municipal hall to apply for a marriage license for her, but it was disapproved because Marietta was only 17 years old at that time. They, therefore, decided to have the wedding the following year.^[7]

In the evening of the same day, when accused-appellant came to Marietta's house to render pre-nuptial service in accordance with the custom of the place, Marietta finally told her grandmother what had happened to her and asked her to send

accused-appellant away. Upon learning this, her grandmother became angry and told accused-appellant to leave, lest he be killed by Marietta's father.^[8]

Marietta eventually told her father about the rape incident. On July 10, 1997, they filed a complaint for rape against accused-appellant with the Tubigon police.^[9] Marietta was then examined at the Gov. Celestino Gallares Memorial Hospital.

The medico-legal certificate of Dr. Aida Ramiro showed that Marietta's hymen had healed lacerations at the 9 o'clock and 3 o'clock positions.^[10] According to Dr. Ramiro, these lacerations could have been caused by any hard object or sexual intercourse. She later testified that based on the appearance of the lacerations, which were smooth without any redness in the area, these could have been caused more than a week before the medical examination.^[11]

The defense presented three witnesses, namely: accused-appellant Rolando Obquia, his niece, Manilyn Cruzin, and his uncle Pedro's employee, Andres Miano.

Accused-appellant claimed that Marietta was his girlfriend. He admitted that on the night of July 1, 1997, after disposing of the garbage at Tinangnan, Tubigon, he had sexual intercourse with Marietta at the nearby nipa groves, but he claimed it was consensual. He said that he and Marietta in fact went home that night to their employer's house and slept together in his room. According to accused-appellant, they had sexual intercourse three more times that night and again at dawn of the following day. Accused-appellant said that Andres Miano, who saw them going inside accused-appellant's room together, teased Marietta, but the latter good naturedly laughed it off.^[12]

Accused-appellant also admitted that on July 4, 1997, Roger Tapik hit him and then Marietta's father, Nicasio, asked him, "What did you do with my daughter?" For this reason, they were taken to the police station, where accused-appellant told the police that he and Marietta had sexual intercourse. Accused-appellant said he agreed to marry Marietta because of pressure from Marietta and her family.^[13]

Continuing, accused-appellant said he and his uncle Pedro met with Marietta and her family on July 8, 1997 and went with them to the municipal building to apply for a marriage license.^[14] That evening, he stayed behind in Marietta's house to render the traditional pre-nuptial service, but, not knowing why, he was ordered by Marietta's grandmother to leave the house. Two days later, he was charged with rape. Accused-appellant claimed that Marietta felt so ashamed of the incident that she filed a complaint for rape against him. Accused-appellant surmised that the case was filed against him because Marietta was embarrassed after being teased by Andres for having spent the night with accused-appellant in the latter's room, and so alleged she had been raped.^[15]

Another defense witness was Manilyn Cruzin, a niece of accused-appellant and Marietta's roommate, who was also living in Pedro's house. She confirmed Marietta's testimony that after coming from the dump site, Marietta said she had been raped by accused-appellant. For this reason, Manilyn said, she reported this incident to Pedro,^[16] who said, "We will get them married, in that case." Manilyn said, however, that Marietta and accused-appellant had been lovers prior to July 1,

1997.^[17]

The last defense witness was Andres Miano, who also worked in Pedro's store. Andres stayed in a room adjacent to accused-appellant's room. Andres claimed that on July 1, 1997, Marietta slept in accused-appellant's room. According to him, Marietta and accused-appellant were sweethearts and they had been sleeping together in accused-appellant's room even before July 1, 1997.^[18]

On November 22, 1999, the trial court rendered its decision, the dispositive portion of which reads:

WHEREFORE, in the light of the foregoing, the Court finds accused Rolando Obquia, guilty beyond reasonable doubt of the crime of Rape, defined and penalized under Articles 335, No. 1, of the Revised Penal Code, as amended by R.A. 7659 as embraced in the aforequoted information, and hereby sentences the said accused to suffer the penalty of RECLUSION PERPETUA, with the accessory penalties of the law, to indemnify the offended party Marietta Segovia the sum of P75,000.00 and to pay the costs.

The accused who is a detained prisoner is hereby credited in full of the period of his preventive imprisonment in accordance with Article 29 of the Revised Penal Code, as amended.

SO ORDERED.^[19]

Hence, this appeal. Accused-appellant contends that:

I. THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

II. THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE INCREDULOUS TESTIMONY OF THE PRIVATE COMPLAINANT.^[20]

After reviewing the records of this case, we find no basis for reversing the trial court's findings.

First. Accused-appellant contends that the prosecution evidence is insufficient to show that he had sexual intercourse with Marietta through force and intimidation. According to him, force and intimidation, if they existed at all, were present only in the beginning because Marietta did not make any outcry even though he was unarmed during the sexual intercourse. Since Marietta did not resist his further advances, she could not later complain of having been raped.^[21]

This contention has no merit. Well-settled is the rule that in order to prove rape, it is not imperative that the force or intimidation employed be so great or that it must be of such character as to be irresistible. It is only necessary that the force or intimidation applied enabled the assailant to consummate his evil intent.^[22] Physical resistance need not be established in rape when intimidation is exercised upon the victim and the latter submits herself to the rapist's will because of fear for her life