

SECOND DIVISION

[G.R. No. 139338, May 28, 2002]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LITO EGAN ALIAS AKIAO, ACCUSED-APPELLANT.

D E C I S I O N

BELLOSILLO, J.:

The universal puff about love being free, doubtless a stale statement, remains a useful piece of legal advice yet for the roaming lothario, to stress that money in all its forms, the dowry included, is not the legitimate consideration for passion and affection which ordinarily spring from courtship and requited love, nor does it endow a license to subject the object of his affection to lewd desires, as the 36-year old *Manobo* would have now realized.

Lito Egan alias *Akiao*, thirty-six (36) years old, was an avid admirer of a twelve (12)-year old girl named Lenie T. Camad.^[1] Since both the accused and Lenie were members of the *Manobo* indigenous cultural community in Mindanao and residents of Sitio Salaysay, Marilog, Davao City,^[2] he had convenient access to courting her but his love was instantly and decidedly spurned.^[3] Between despair and the impossibility of a passionate affair, his unreciprocated love would soon become the frailty of his distressed mind. He was convicted of forcible abduction with rape of Lenie and was meted the penalty of *reclusion perpetua* and was ordered to pay her the amounts of P30,000.00 for moral damages and P20,000.00 for exemplary damages.^[4] The *Decision* was seasonably appealed to this Court.^[5]

On 6 January 1997 Lenie and her cousin Jessica Silona^[6] were fetching water at a deep well several meters from Lenie's house in Sitio Salaysay. At around 2:00 o'clock in the afternoon, the accused appeared from nowhere and forcibly dragged and pushed Lenie towards Sitio Dalag, Arakan, Cotabato.^[7] He threatened to kill her if she resisted.^[8] Before leaving the site of the deep well, he likewise terrorized Jessica by brandishing his hunting knife which forced the girl to scamper for safety.^[9] About 5:00 o'clock that same afternoon, Jessica was able to report to Lenie's father, Palmones Camad, the abduction of his daughter.^[10] Palmones immediately borrowed the horse of a neighbor and together with a friend proceeded to Sitio Dalag to look for Lenie.^[11] They sought the help of the barangay captain of Sitio Dalag and then returned to Sitio Salaysay to rest for the night. For their part, the accused and Lenie stayed that same night in a house in Sitio Dalag.^[12]

On 7 January 1997 accused Lito Egan forced Lenie to escort him to Sitio Sayawan, Miokan, Arakan, Cotabato, still threatening to kill her if she shouted or resisted,^[13] and there stayed in the house of a sister of Lito.^[14] It was in this place where under the cover of darkness and desolation he allegedly raped Lenie.^[15] (She would

however change her recollection of the alleged rape when she later testified that the crime had happened on 6 January 1997 at the house where they lodged in Sitio Dalag and that no other incidents of rape subsequently took place).^[16] On the same day, Palmones Camad continued the search for his daughter in Miokan.^[17] With the help of village elders, he was able to talk to Datu Salimbag Paguyan of Sitio Sayawan who confirmed that Lenie and Lito were seen in the sitio.^[18] As Palmones was running out of daily provisions, he returned to Sitio Salaysay.^[19] Thereafter, the mission to rescue Lenie was continued by the three (3) *datus* of Sitio Salaysay^[20] who, like potentates of a sovereign kingdom, interceded in his behalf with the *Datu* of Sitio Sayawan for Lenie's safe release.

For four (4) months^[21] the *datus* attempted a customary settlement of the abduction in accordance with *Manobo* traditions.^[22] It appears that the accused agreed to give two (2) horses to the family of Lenie in exchange for her hand in marriage.^[23] Since the accused however reneged on his promise to give two (2) horses,^[24] Palmones thus insisted on the unconditional return of his daughter to his custody.^[25] Neither did the accused appear before the *datus* of Sitio Salaysay when he was asked to explain himself before them.^[26] Since the amicable settlement was not realized, the accused forcibly relocated Lenie to Cabalantian, Kataotao, Bukidnon, where she was eventually rescued on 15 May 1997.^[27]

Lenie lost no time in denouncing the accused and exposing to her village elders the disgrace that had befallen her.^[28] She and her father also reported the crime at the police station in Lamundao, Marilog, Davao City.^[29] She was turned over to the *Balay Dangupan*, a shelter house of the Department of Social Welfare and Development,^[30] which helped her in obtaining a medico-legal examination^[31] and executing the necessary affidavit-complaint against accused Lito Egan.^[32]

On 12 August 1997 the Information for forcible abduction with rape was filed against the accused.^[33] On 9 July 1998, after several warrants of arrest and attempts to arrest him, he was finally arrested at Arakan, Cotabato.^[34] On 28 July 1998 he pleaded not guilty to the crime charged.^[35]

When trial ensued, the accused tried to prove that he and Lenie had actually been living together under *Manobo* rites in the house of her father Palmones Camad since 2 September 1996 after giving dowry or, in the indigenous language, *bagay*^[36] to Lenie's family consisting of one (1) horse, two (2) pigs, ten (10) sacks of palay and P2,000.00.^[37] It was also his allegation that after the dowry had been offered and accepted, Palmones demanded one (1) wild horse from him, which forced him and Lenie, who he claimed voluntarily went with him, to depart on 1 January 1997 for Sitio Dalag, Arakan, Cotabato, to capture one.^[38] They allegedly stayed in Sitio Dalag at the house of Lenie's aunt, Imbing Camad, until 7 January 1997 when it was evident that they could not find any horse there.^[39] He further averred that they went to Sitio Sayawan, Miokan, Arakan, Cotabato, to seek the help of Datu Salimbag Paguyan who fortunately had one (1) wild horse in his stable.^[40] The accused allegedly delivered the horse to heed Palmones' command but was again refused when Lenie's father increased the number of horses he was asking from one (1) to

two (2).^[41] The accused concluded that because he failed to deliver two (2) wild horses which Palmones required, the instant case was filed against him.^[42] The accused finally posited that Lenie was aware of the entire situation as she in fact helped him do household chores during their tryst and that she could have shouted or complained to call people's attention while they were walking or when they stayed in populated communities such as Sitio Dalag and Sitio Sayawan, or that she could even have escaped to her father if she really wanted to do so.^[43] To prove that he and Lenie were destined for marriage, accused presented a letter dated 4 February 1997 (Exh. "2") addressed to one *Apo Boyilon Awe* and written by *Berting Bayaan* purportedly detailing the delivery of two (2) horses to Palmones.^[44]

On 5 May 1999 the trial court rejected the defenses of accused Lito Egan and convicted him of forcible abduction with rape;^[45] hence, this appeal.

The only issue before us is the calibration of the competing evidence for the prosecution and the defense - verily, our resolution would hinge on whose version is more credible, more plausible and more trustworthy considering the circumstances surrounding the commission of the crime charged.

Accused-appellant Lito Egan was charged with forcible abduction with rape of twelve (12)-year old Lenie T. Camad. Although from the records it appears that Lenie was less than twelve (12) years old as shown by her birth certificate (Exh. "B")^[46] when the abduction took place on 6 January 1997 and the alleged rape was perpetrated a day after, the criminal liability of accused-appellant would nevertheless be confined only to the crime alleged in the *Information*. Hence, a judgment of conviction is proper only where the prosecution was able to prove the elements of the complex crime of forcible abduction with rape -

x x x x Article 342 of the Revised Penal Code defines and penalizes the crime of forcible abduction. The elements of forcible abduction are (a) that the person abducted is a woman, regardless of her age, civil status, or reputation; (b) that the abduction is against her will; and, (c) that the abduction is with lewd designs. On the other hand, Art. 335 of the same Code defines the crime of rape and provides for its penalty. The elements of rape pertinent to this case are: (a) that the offender had carnal knowledge of a woman; and, (b) that such act is accomplished by using force or intimidation.^[47]

All the elements of forcible abduction were proved in this case. The victim, who is a young girl, was taken against her will as shown by the fact that at knife-point she was dragged and taken by accused-appellant to a place far from her abode. At her tender age, Lenie could not be expected to physically resist considering the fact that even her companion, Jessica Silona, had to run home to escape accused-appellant's wrath as he brandished a hunting knife. Fear gripped and paralyzed Lenie into helplessness as she was manhandled by accused-appellant who was armed and twenty-four (24) years her senior. What we held in *People v. Rapisora*^[48] could be said in the case at bar -

Appellant would urge the Court to ignore the testimony of complainant for her alleged failure to call for help. In *People vs. Akhtar*, similarly involving the crime of forcible abduction with rape, the same contention

was raised. This Court, rejecting the proposition made by the alleged offender, held that '[c]omplainant's failure to ask for help when she was abducted, or to escape from appellant's house during her detention, should not be construed as a manifestation of consent to the acts done by appellant. For her life was on the line. Against the armed threats and physical abuses of appellant, she had no defense. Moreover, at a time of grave peril, to shout could literally be to court disaster. Her silence was born out of fear for her safety, to say the least, not a sign of approval' x x x This Court, in several cases, has observed that behavioral psychology would indicate that most people, confronted by unusual events, react dissimilarly to like situations. Intimidation, more subjective than not, is peculiarly addressed to the mind of the person against whom it may be employed, and its presence is basically incapable of being tested by any hard and fast rule. Intimidation is normally best viewed in the light of the perception and judgment of the victim at the time and occasion of the crime.

The evidence likewise shows that the taking of the young victim against her will was done *con miras deshonestas* or in furtherance of lewd and unchaste designs. The word *lewd* is defined as obscene, lustful, indecent, lascivious, lecherous. It signifies that form of immorality which has relation to moral impurity; or that which is carried on in a wanton manner.^[49] Such lewd designs were established by the prurient and lustful acts which accused-appellant displayed towards the victim after she was abducted. This element may also be inferred from the fact that while Lenie was then a naive twelve (12)-year old, accused-appellant was thirty-six (36) years old and although unmarried was much wiser in the ways of the world than she.^[50]

Given the straightforward and candid testimony of Lenie and her father Palmones as well as the absence of any motive to testify falsely against accused-appellant, the logical conclusion is that there was no improper motive on their part, and their respective testimonies as to facts proving forcible abduction are worthy of full faith and credit.^[51] We generally sustain the factual findings of the trial court on account of its strategic access to circumstances decisive of the question of credibility as it saw and heard the witnesses themselves and observed their behavior and manner of testifying. In the instant case, there is no reason to depart from the rule since no fact or circumstance of weight and influence proving that accused-appellant had abducted Lenie against her will and with lewd designs has been overlooked or the significance of which has been misinterpreted by the court *a quo*.^[52] Significantly, accused-appellant has not even challenged the unequivocal pronouncement of the trial court that the complainant testified in a spontaneous and straightforward manner which thus leaves no doubt in the mind of this Court that she was telling the truth and that her declarations were positive, clear and convincing. The best that he could do to assail the conviction was, unfortunately, to state mere speculations of inconsistencies in the testimonies of the prosecution witnesses without however substantiating by specific examples such conjecture. We have no doubt that his studied silence on the evaluation of evidentiary matters unmistakably preserves the integrity of the decision of the trial court.

Accused-appellant would however insist that he and Lenie had been engaged under *Manobo* rituals to marry each other and that her companionship was willful and voluntary. Proof of this, he said, was the alleged dowry of one (1) horse, two (2)

pigs, ten (10) sacks of palay, and P2,000.00, with two (2) wild horses forthcoming, he had given her father in exchange for her hand in marriage. In moving from one place to another to look for the horses which the old man Palmones had demanded, it was allegedly only his intention to realize his matrimonial aspiration with Lenie.

The testimony of the victim negated this contrived posture of accused-appellant which in reality is simply a variation of the *sweetheart defense*. If they were, surely, Lenie would not have jeopardized their relationship by accusing him of having held her against her will and molesting her and, on top of it all, by filing a criminal charge against him. If it had been so, Lenie could have easily told her father after the latter had successfully traced their whereabouts that nothing untoward had happened between her and the accused. Her normal reaction would have been to cover-up for the man she supposedly loved and with whom she had a passionate affair. But, on the contrary, Lenie lost no time in denouncing accused-appellant and exposing to her family and the authorities the disgrace that had befallen her. If they had indeed been lovers, Lenie's father would not have shown so much concern for her welfare and safety by searching for the couple for four (4) months, desperately wanting to rescue her from captivity and seeking the intervention of the *datus* in resolving the matter.

Neither was accused-appellant able to present any convincing evidence to substantiate his claim, like love letters, notes and other symbols of affection attesting to a consensual relationship.^[53] In fact, none of the persons he and Lenie supposedly lived with during the period that he was allegedly looking for two (2) wild horses could corroborate his claim of engagement under the traditions of the *Manobos*. Imbing Camad was not summoned to testify and Datu Salimbag Paguyan who took the supposed couple under custody would even admit in his testimony that he knew nothing about the relationship between them.^[54] Furthermore, Exh. "2," the letter which allegedly details the matrimonial offer of accused-appellant to Lenie, is inadmissible and otherwise barren of probative value. For one, the letter is hearsay being as it is an out-of-court statement of a person who did not testify; moreover, it was not authenticated during the trial by either its author or its recipient. Nor is it in any manner conclusive of any wedding plans *prior* to the abduction of Lenie on 6 January 1997, as Exh. "2" is explicitly dated 4 February 1997 and significantly coincides with the attempts of the several *datus* to rescue Lenie from the hands of accused-appellant. Indubitably, all that was done and said in the letter with reference to marrying the girl was clearly an afterthought.^[55]

Verily it is evident that accused-appellant was a rejected suitor of Lenie with no hope of having her in marriage and whose persistent offers of love and marriage had been decidedly spurned. It was in the sleepy mid-afternoon of 6 January 1997 when he took the girl by force and at that time no marriage was proved to have been offered by accused-appellant much less considered by Lenie or her elders. The accused dragged the victim to walk with him and to proceed to unknown destinations by warning her of a present and grave danger to her life should she refuse. In the night which followed, he forcibly embraced, kissed, and handled her against her will. No protestation of noble intentions can obviate the conclusion that all these acts proved lewd designs.

To be sure, several acts of accused-appellant would betray his criminal intentions. For one he offered in evidence, partly through Exh. "2" and to a degree by his