

## THIRD DIVISION

[ G.R. Nos. 140235 & 142748, May 09, 2002 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. PEDRO DARAMAY JR., APPELLANT.**

### DECISION

**PANGANIBAN, J.:**

The sole testimony of a rape victim, if clear and credible, is sufficient to convict the accused. Denials cannot prevail over positive assertions.

#### Statement of the Case

Pedro Daramay Jr. appeals the June 24, 1999 Decision<sup>[1]</sup> of the Regional Trial Court (RTC) of Iriga City (Branch 37) in Criminal Case Nos. Ir-4716 and Ir-4717, in which he was adjudged guilty of rape beyond reasonable doubt. The decretal portion of the Decision reads as follows:

"WHEREFORE, the Court finds the accused Pedro Daramay, Jr. guilty beyond reasonable doubt of rape under Criminal Case No. Ir-4716 as principal thereof, and hereby sentences accused to suffer the penalty of reclusion perpetua and to indemnify Diana Estadilla P60,000.00 as moral damages."<sup>[2]</sup>

Appellant was charged with two (2) counts of rape allegedly committed on January 14, 1998 and January 31, 1998. The Information on the first charge, docketed as Criminal Case No. Ir-4716, reads as follows:

"That on or about the 14<sup>th</sup> day of January, 1998, in Barangay San Vicente, Bato, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence, threat and intimidation, did then and there willfully, unlawfully, and feloniously succeed in having carnal knowledge [of] one Diana J. Estadilla, against her will and without her consent, to her damage and prejudice in such amount as shall be proven in court."<sup>[3]</sup>

On the other hand, the second Information, docketed as Criminal Case No. Ir-4717, reads thus:

"That on or about the 31<sup>st</sup> day of January, 1998, in Barangay San Vicente, Bato, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence, threat and intimidation, did then and there willfully, unlawfully and feloniously succeed in having carnal knowledge [of] one Diana Estadilla, against her will and without her consent, to her damage and prejudice in such amount as shall be proven in court."<sup>[4]</sup>

During his arraignment on July 7, 1998, appellant pleaded “not guilty”<sup>[5]</sup> to both charges. After due trial on the merits, the RTC convicted him of rape in Criminal Case No. Ir-4716, but dismissed Criminal Case No. Ir-4717 for insufficiency of evidence.

### **The Facts**

#### **Version of the Prosecution**

In its Brief,<sup>[6]</sup> the Office of the Solicitor General presents the prosecution’s version of the factual incidents as follows:

“At about 11:00 o’clock in the morning of January 14, 1998, Diana J. Estadilla, married and a resident of San Vicente, Bato, Camarines Sur left her house at San Vicente, Bato, Camarines Sur to buy ice at a nearby store. On her way to the store, appellant Pedro Daramay, Jr., Diana’s neighbor, who was standing at the doorway of his house called Diana. Thinking that appellant was being neighborly, Diana approached appellant without any hesitation. However, when Diana reached appellant’s doorway, the latter suddenly grabbed Diana’s hand and dragged her inside his house. Diana shouted for help but appellant instantly covered her mouth with his hand. To immobilize Diana, appellant pushed her against the wall, facing it, and pressed the full weight of his body against hers. Appellant covered her mouth with his left hand. Afterwards, appellant removed his shorts and brief by using his right hand. Immediately thereafter, appellant pulled down Diana’s short pants and panty likewise using his right hand. Aroused, appellant attempted to penetrate Diana but did not succeed as she had vehemently resisted. Appellant persisted. He forcibly pried open Diana’s legs by kicking them hard and when they were apart, he forcibly inserted his penis into her vagina. Diana felt weak as appellant made push and pull movements. After satisfying his lust, appellant threatened Diana that harm would befall her and her family if she were to tell anyone of the incident. Trembling and petrified, Diana immediately went home. Having be[e]n intimidated, Diana did not go out of her house nor did she reveal to her husband what appellant did to her.

“On March 11, 1998, Diana executed a sworn statement relative to the incident before the Municipal Circuit Trial Court of Nabua, Bato, Camarines Sur.

“A warrant of arrest of appellant was issued by Hon. Orlando L. Espinas, then Pairing Judge, Fifth Judicial Region, Branch 37, Iriga City.”<sup>[7]</sup>

#### **Version of the Defense**

In his Brief<sup>[8]</sup>, appellant did not present a statement of facts. He simply denied that any incident of rape occurred on January 14, 1998. However, he admitted having had consensual intercourse with complainant on another occasion.<sup>[9]</sup> In an attempt to cast doubt on the probability of the occurrence of the alleged rape on January 14, 1998, he stated that she continued to go to his house even after that date. He cited

two specific instances to support his claim: (1) on January 31, 1998, she allegedly went to his house on the pretext that she wanted his wife to teach her how to make cassava cake; and (2) on January 21, 1998, complainant supposedly requested him to go to her house to repair the water pump, which he refused to do to avoid any scandal.<sup>[10]</sup>

### **Ruling of the Trial Court**

The RTC ruled that the self-serving assertions of appellant that he had been seduced by complainant cannot prevail over her positive and candid statements. It gave credence to her testimony, because it was positive, clear and straightforward. Noting her appearance to be that of a simple, reticent and unsophisticated woman, the trial court opined that she could not have seduced him, whom her family considered to be a good neighbor.

Hence, this appeal.<sup>[11]</sup>

### **Issue**

In his eight-page Brief, appellant assigns this single error for our consideration:

"The trial court erred in not appreciating vital testimonies of Aida Estadilla and in convicting the appellant in Crim. Case No. Ir-4716."<sup>[12]</sup>

### **The Court's Ruling**

The appeal has no merit.

### **Sole Issue:** **Sufficiency of Evidence**

Appellant assails the lower court's Decision for giving credence to the "weak evidence" presented by the prosecution.

We disagree. *First*, the records clearly show that complainant testified positively, clearly and credibly on how she had been raped by appellant on January 14, 1998. The relevant portions of her testimony are reproduced as follows:

"WITNESS

A I was walking going to the store to buy ice and that devil man called for me.

PROSECUTOR RAMOS:

Q Who is that man?

A Daramay, Jr.

Q The person you just pinpointed a while ago?

A Yes, sir.

Q Where was he when he called you?

A He was in his house by the door.

Q And where is his house located?

A In San Vicente, Bato, Camarines Sur.

Q And what did you do when the accused in this case, Pedro Daramay, called you?

A When he called for me, trusting that he was our neighbor, I went near him.

Q And what happened next when you went near to him?

A He suddenly grab[bed] my hand and pulled me inside his house.

Q And what did you do when the accused grabbed you and pulled you inside his house?

A When he grabbed my hand I shouted but he covered my mouth and he pulled me inside his house.

Q When the accused pulled you inside his house[, ] what happened there?

A He pushed me to the wall.

Q And then?

A He pushed me to the wall and since I was so nervous he pinned me to the wall and he removed his shorts and brief and after that he also removed my shorts and my panty and I was very nervous at that time.

Q And what did you do when the accused was removing your panty?

A He started having sexual intercourse with me and when I was not giving in[, ] he kicked my leg.

COURT:

While you were standing and pinned against the wall?

A Yes, your Honor.

COURT:

Proceed.

PROSECUTOR RAMOS:

Q And when the accused kicked you what happened next?

WITNESS:

A He pushed me to the wall and that was the time he was able to insert his penis [into] my vagina.

Q And what were you doing also when the accused was inserting his penis [in]to your vagina?

A I was already very weak and I could not resist because he was pushing me very tightly.

Q And what else happened when the accused inserted his penis [in]to your vagina?

A The insertion took a while and after he had used me he already sent me home and he did not allow me to go to the store to buy ice because he threatened me that I should not tell anybody.

Q Can you tell the Honorable Court how the accused threatened you?

A He told me, '*Huwag kang magsumbong kahit kanino, kung hindi may mangyayari sa pamilya mo.*' (Don't tell anybody especially your husband or else something will happen to your family.[.])

Q And what was in your mind after the accused threatened you with those x x x words?

A I was not x x x my usual self because I often remember what had happened to me.

Q By the way, what did you do when the accused was raping you?

A I was very nervous; I [didn't] know what that man was doing to me.

COURT:

Q Do you mean to tell the court that you [did] not know what the accused did to [you] because of your nervousness?

WITNESS:

A Yes, your Honor because he was very strong.

Q How did you know that the accused here inserted his penis [in]to your vagina?

A I noticed it when it was already slippery when something came out.