

## THIRD DIVISION

[ G.R. Nos. 137991-92, June 10, 2002 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
VENTURA BELEN Y LAZALITA, ACCUSED-APPELLANT.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

Appeal from the Decision<sup>[1]</sup> dated May 29, 1998 of the Regional Trial Court, Branch 166, Pasig City in Criminal Case Nos. 108362-H and 108363-H, finding Ventura Belen y Lazalita guilty of the crime of rape on two counts and sentencing him to suffer the penalty of *reclusion perpetua* in each case.

The two (2) Informations filed against accused Ventura Belen y Lazalita read:

"CRIMINAL CASE NO. 108362-H

"That on or about the 18<sup>th</sup> day of June, 1995 in the City of Pasig, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one Joana Lacson y Valenzuela, without her consent and against her will.

"Contrary to law."

"CRIMINAL CASE NO. 108363-H

"That on or about 25<sup>th</sup> day of June, 1995 in the City of Pasig, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one Joana Lacson y Valenzuela, without her consent and against her will.

"Contrary to law."<sup>[2]</sup>

Upon arraignment, the accused, assisted by counsel *de officio*, pleaded "not guilty" to both charges.<sup>[3]</sup> Thereafter, a joint trial of the cases ensued. Four (4) witnesses testified for the prosecution, namely: Joana Lacson, the victim; Fe Lacson, the victim's mother; Dr. Jesusa Nieves Vergara; and PO3 June Valencia.

Joana Lacson testified<sup>[4]</sup> that in 1995, she was a 15-year old grade six student living with her parents and two (2) younger siblings at Lupang Pari, San Miguel, Pasig City. The accused, Ventura Belen, then 52 years old, whom she claimed as "the

brother of the father” of her mother, was their neighbor, residing just about three (3) houses away from their residence. She fondly called accused’s first wife as auntie Mameng. Before the rape incidents, the accused frequently visited the Lacson house to ask for food. During such visits, Joana would usually pull his gray hair.

On June 18, 1995, at around 2:00 o’clock in the afternoon, Joana was with her brother and sister in their house at Lupang Pari. Both her parents were away for work. While her brother was playing outside and her sister was downstairs, the accused, without knocking, entered their house. He went to the bedroom and asked Joana to pull his gray hair. Joana obliged. Then he suddenly kissed her and mashed her breast. Thereupon, he undressed her, parted her legs and inserted his penis inside her vagina. He pressed his body on her tightly while moving his buttocks up and down. In the process, she felt pain. Afterwards and before he left, he told her not to tell anyone what happened to them, otherwise, he will kill her and her entire family.

Again, at around 3:00 in the afternoon of June 25, 1995, the accused, then slightly drunk, entered Joana’s house while her parents were away. As usual, he requested her to pull his gray hair. Thereafter, he mashed her breast, undressed her and removed her panty. He parted her legs and inserted his sex organ into her vagina. Once more, he succeeded in satisfying his bestial desire, then made a similar threat.

But despite such threat, Joana, on June 27, 1995, disclosed the rape incidents to her class adviser, Mrs. Añonuevo, who, on the same day, summoned the girl’s mother, Fe Lacson, and informed her of her daughter’s ordeal.

In her testimony,<sup>[5]</sup> Fe Lacson claimed that the accused is closely related to her family and they respected him. She was aware that every time he visited their house, he usually asked Joana to pull his gray hair. After learning his dastardly acts, she wanted to kill him. On that same day, June 27, she brought Joana to the Pasig City Police Station, lodged a complaint against the accused and had her medically examined.

Dr. Jesusa Nieves Vergara,<sup>[6]</sup> of the Philippine National Police Crime Laboratory, testified that she conducted a physical examination on Joana. Her Medico-Legal Report<sup>[7]</sup> shows the following findings:

#### “GENERAL AND EXTRAGENITAL

Fairly developed, fairly nourished and coherent female subject. Breasts are hemi-spherical with light brown areola and nipples from which no secretion could be pressed out. Abdomen is flabby and soft.

#### GENITAL

There is absence of pubic hair. Labia majora are full, convex and gaping with the pinkish brown labia minora presenting in between. On separating the same disclosed a congested and abraded vestibule and an elastic, fleshy-type and congested hymen with shallow, healed laceration at 3 and 9 o’clock. External vaginal orifice offers strong resistance to

the introduction of the examining index finger and the virgin-sized vaginal speculum. Vaginal canal is narrow with prominent rugosities. Cervix is normal in size, color and consistency.

#### CONCLUSION:

Subject is in non-virgin state physically.

There are no external signs of application of any form of violence."

According to Dr. Vergara,<sup>[8]</sup> the injuries in Joana's private organ - abrasion and congestion on the external genital, particularly on the vestibule; congestion of the hymen; and lacerations at 3 and 9 o'clock positions - were caused by the forcible entry of a hard blunt object like an erected male organ. She declared that those injuries "are compatible with Joana's allegation that she was sexually molested."

PO3 June Valencia of the Pasig City Police Station, who investigated the case, testified and identified his Investigation Report regarding the rape complaint filed by Joana and her mother.<sup>[9]</sup>

For his part, the accused denied the charges against him and interposed the defense of alibi.<sup>[10]</sup>

He admitted that he was a frequent visitor of the victim and her family and that they have been neighbors since 1986. He also stated that Joana is the granddaughter of his first wife. He could not have raped her on June 18, 1995 and June 25, 1995. On those days, at about 8:00 o'clock in morning, he was fetched by Joey Matusa to play a card game called *tong-its* in the latter's house at Lupang Pari, about eight (8) houses away from his place. They played for several hours until 12:00 noon when he went home to eat lunch. Then he returned to continue playing cards which lasted up to 5:00 in the afternoon.

When asked why he has been charged with two (2) counts of rape, the accused explained that after the death of his first wife, Mameng, who, as earlier mentioned, is a relative of the Lacsons, he married again. Since then, the Lacsons manifested ill feelings against him and every time he passed at their place, he would hear them say, "One year is not enough to get another wife."

On May 29, 1998, the trial court rendered its Decision convicting the accused of the crimes charged and imposing the penalty of *reclusion perpetua*, thus:

"WHEREFORE, the court finds accused, VENTURA BELEN Y LAZALITA, GUILTY beyond reasonable doubt of the crimes charged in the Informations and he is hereby sentenced to suffer the penalty of *reclusion perpetua* in each case and indemnify the victim, Joana Lacson, the sum of P50,000.00, also in each case, plus the costs of suit.

"SO ORDERED."

Hence, this appeal.

Appellant ascribes to the trial court this lone error:

"THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF TWO (2) COUNTS OF RAPE DESPITE THE LACK OF TENACIOUS RESISTANCE ON THE PART OF THE ALLEGED VICTIM."

In pleading for his acquittal before this Court, appellant contends that the sexual contacts between him and Joana on June 18 and June 25 of 1995 were both consensual. In fact, she did not protest, nor did she say anything. He told her what to do and she obeyed him willingly. According to him, even if she was only a 6<sup>th</sup> grader, she was already 15 years old and mature enough to resist his sexual advances.

Appellant's theory entirely contradicts his defense before the trial court that he was in another place during the incidents. This serious inconsistency obviously destroys his credibility and reinforces the version of the prosecution.

In criminal cases, the task of this Court is to ensure that the appellant's conviction before the trial court proceeded from the strength of the prosecution's own evidence and not on the weakness of the defense. Unless the prosecution proves the guilt of the accused beyond reasonable doubt, the constitutional presumption of innocence prevails and acquittal must follow.<sup>[11]</sup> But once the presumption of innocence is overcome, it becomes inevitable for the defense to bear the burden of evidence to show reasonable doubt as to appellant's guilt.<sup>[12]</sup>

After a circumspect analysis of the evidence adduced by both parties, this Court is convinced that appellant's guilt has been established by the prosecution's evidence beyond indicia of doubt.

Article 335 of the Revised Penal Code, before its amendment by R.A. 8353 (otherwise known as Anti-Rape Law of 1997), provides:

"Art. 335. When and how rape is committed. – Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious;  
and
3. When the woman is twelve years of age or is demented.

x x x"

Here, Joana positively and categorically identified appellant as her abuser and narrated how he sexually molested her on June 18 and 25, 1995, thus:

"DIRECT EXAMINATION

x x x

**Q Do you know the accused** in this case?