

THIRD DIVISION

[G.R. No. 132663, July 02, 2002]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AGULBI PASCUAL Y CORNELIO, ACCUSED-APPELLANT.

DECISION

PUNO, J.:

This is an appeal from the decision of the Regional Trial Court of Baguio City finding Agulbi Pascual y Cornelio guilty of the crime of rape and sentencing him to *reclusion perpetua* and ordering him to pay the victim, Analyn Kidsolan, the amount of fifty thousand pesos (P50,000.00) as moral damages.

On May 9, 1997, Agulbi Pascual y Cornelio was charged before the Regional Trial Court with rape in an information that reads as follows:

"That on or about the 27th day of April, 1997, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously and by means of force or intimidation have carnal knowledge of ANALYN P. KIDSOLAN, a minor - 15 years of age, against her will and consent."^[1]

He pleaded not guilty to the charge during the arraignment on May 15, 1997.^[2] Hence, trial ensued.

The prosecution proved the following facts:

In the morning of April 27, 1997, private complainant Analyn Kidsolan went biking at Burnham Park together with her nine-year old sister and her cousin. At about 11:00 a.m., while they were resting, accused-appellant Agulbi Pascual approached her and asked if he could make her acquaintance. She agreed and they engaged in some small talk. Agulbi introduced himself as Alex Manuel. He gained Analyn's trust and confidence when she learned that he knew her cousins in Kagim-is. Agulbi then offered to drive the bike for Analyn and her sister. After an hour of biking, Agulbi invited Analyn to see a movie. She initially refused, but because of his insistence, she eventually relented. Analyn sent her sister and her cousin home, and she and Agulbi walked to New Baguio Theater at T. Alonzo Street. They watched a double program. They sat beside each other inside the moviehouse and they talked occasionally. Agulbi asked Analyn if she had a boyfriend. She told him she had none. Agulbi held her hand and kissed her on the right cheek. Analyn took back her hand. Agulbi again asked her if she had a boyfriend. Again, she replied in the negative. Agulbi and Analyn came out of the moviehouse at 5:00 p.m. They proceeded to Mariciel Theater to see another movie. But the moviehouse was full and they remained standing as they watched the film. Since they were not able to

find seats, they went out of the theater before the movie could end. Agulbi then invited Analyn to go see his cousin in Campo Sioco. Analyn declined because it was already late. Ignoring Analyn's refusal, Agulbi flagged down a taxicab and told the driver to bring them to Campo Sioco. He held her hand as they boarded the taxi. She asked him where they were going. He told her that they would go see his cousin. They sat beside each other behind the driver. They reached Campo Sioco at about 8:00 in the evening. They got off in a dark, isolated place, filled with pine trees. When she asked him what they were doing there, he suddenly turned and pulled her hand. Analyn tried to shout but Agulbi covered her mouth with his right hand. She kicked him as she struggled to free herself. Agulbi told Analyn to keep still or else he would throw her down the ravine. He also threatened to tie her hands. Agulbi slapped her several times and boxed her left eye. Analyn fell unconscious. When she woke up, she found herself lying on her back with her hands placed on her nape. She felt her body aching. She saw Agulbi standing a few meters from her. She noticed that her pants and underwear have been removed and only the upper part of her body was clothed. She also felt pain and bleeding in her vagina. Her left eye also ached. She put on her clothes and begged accused-appellant to bring her home. Agulbi apologized to Analyn for boxing her left eye. Analyn remained silent. She was angry. She felt Agulbi had violated her womanhood. Agulbi took Analyn to Marcos Highway where they hailed a taxicab to bring them to the city proper. They alighted at the Plaza and then walked to Magsaysay Avenue to get a taxi to bring her home. As they stood waiting for a cab, Analyn's mother, Benita Kidsolan, saw them. She bid Analyn to go with her. Analyn rode the taxicab with her mother. Benita scolded Analyn for going out with a man she hardly knows. Analyn kept silent. Fear prevented her from speaking about the sexual assault. When they got home, Analyn washed her face and her feet and went straight to bed. She woke up at 6:00 a.m. the following day. It was only at that time that she found the courage to tell her mother about the rape. She identified the suspect as Alex Manuel.^[3] Bent on filing a case against the rapist, Benita sought the advice of her brother, Samson Paulino, on the proper course of action. Samson accompanied Benita and Analyn to Baguio General Hospital where Analyn underwent medical examination. The examination conducted on May 3, 1997 by Dr. Wilma L. Lee,^[4] an Obstetrician and Gynecologist at the Baguio General Hospital, yielded the following findings:

"x x x

x x x

x x x

P.E. on Admission

BP: 110/70 PR: 80/min. RR: 16/min.

GS: Conscious, coherent, ambulatory

Heent: Pinkish palpebral conjunctivae

Subconjunctival hemorrhage lateral OS

Hematoma, infra orbital OS (2 cm)

C/L: clear breath sounds

Heart: Regular Rhythm, normal rate

Abdomen: flat, normoactive bowel sounds

Perineal Examination

(-) bruises (-) hematoma (+) hymenal laceration at 5 o'clock position with erythematous edges.

I.E.

Nulliparous intoitus, vagina admits 1 finger with ease, 2 fingers with difficulty, cervix closed, non tender, uterus small, (-) adnexae, (-) bleeding, (-) discharges.

x x x

x x x

x x x.”^[5]

They also went to the Baguio City Police to report the incident. Samson also advised Benita to use tact and diplomacy in dealing with Agulbi so that he would not flee. On May 4, 1997, Benita, knowing that Agulbi wanted to see Analyn, went with her daughter to Burnham Park. Benita confronted Agulbi. She chided him, saying, "Why did you do such a thing to my daughter? Why did you box my daughter? What you did was rape!" Agulbi admitted what he had done and was willing to take responsibility for it. He said that he did it because he wanted to be the first man to be intimate with her. Agulbi and Benita agreed to meet again on May 12 to confer with Samson Paulino. However, Agulbi went to see Benita on an earlier date, on May 7, 1997. Benita took Agulbi to Dainty Restaurant where Samson works. While they were talking with Samson, Benita saw an acquaintance who was a police officer. With the latter's help, Agulbi was brought to the police station where he was questioned about the rape charge. Benita fetched Analyn from their residence and brought her to the police station where she identified Agulbi as the rapist. It was revealed that his real name was Agulbi Pascual and not Alex Manuel.^[6]

Agulbi presented a different version of the story. He testified that he introduced himself to Analyn at Burnham Park on April 20, 1997. He and Analyn went biking for two hours, during which they exchanged stories and got acquainted with each other. They had some snacks at a canteen in Burnham Park. After eating, he invited Analyn to take a stroll at Marcos Highway. He told her that they would go to his cousin's house at Marcos Highway. Analyn agreed and they took a jeep going there. But when they reached the place, they found the house closed. They proceeded to a vacant lot nearby. They entered a wooden gate and looked for a spot where they could sit and talk. The place was grassy and filled with pine trees. They sat beside each other and whiled away the time exchanging stories and getting to know each other. Agulbi asked Analyn if she had a boyfriend. She said she had none. Then she asked him if he had a girlfriend. He also told her that he had no girlfriend. When he asked her if she wanted him to be her boyfriend, she did not answer. But when he asked her if she wanted them to be friends, she said yes. After two hours, they went back to Burnham Park and spent another hour together. Before they parted, they agreed to meet again the following Sunday, April 27, 1997, at the biking area at Burnham Park. On April 27, 1997, at about 11:00 in the morning, Agulbi saw Analyn sitting near the biking area. She introduced him to her sister and her cousin who were with her at that time. He drove the bike for Analyn and her sister who were both seated in the sidecar. They exchanged stories while biking. An hour later, Agulbi invited Analyn to a movie. She agreed and sent her sister and her cousin home. Agulbi and Analyn walked to New Baguio Theater where they watched a double program--one bold movie and another action movie. They were seated side by side at the balcony. Agulbi placed his arms around Analyn's shoulder and they held hands. They also embraced and kissed. Agulbi and Analyn went out of the moviehouse late in the afternoon. Wanting to spend more time together, they went to Mariciel Theater to see another movie. But the moviehouse was full and they could not find a seat. They remained standing while watching the movie. They