

SECOND DIVISION

[G.R. No. 139694, December 27, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CENON
PAGSANJAN Y CARLOS, ACCUSED-APPELLANT.**

D E C I S I O N

CALLEJO, SR., J.:

This is an appeal from the decision^[1] of the Regional Trial Court of Bulacan, Branch 14, in Criminal Case No. 1288-M-95, finding accused-appellant Cenon Pagsanjan y Carlos guilty beyond reasonable doubt of simple rape and meting out on him the indivisible penalty of *reclusion perpetua* and ordering him to pay to the victim, Maritess Carreon, indemnity in the amount of P40,000.00.

As established by the prosecution, the facts are -

Spouses Alfredo and Felicidad Carreon had three children, namely, Marilyn Carreon, Maritess Carreon, who was born on September 7, 1973, and Michael Carreon. The Carreon couple and their children Maritess and Michael resided in Zulueta Street, Sto. Rosario, Malolos, Bulacan, while their daughter Marilyn resided in Makati. Alfredo was employed in La Trinidad, Benguet Province and temporarily resided thereat but went home to Malolos, Bulacan, every 14th and at the end of each month. The couple employed Delia Fernandez as their laundrywoman. The latter and accused-appellant, her common-law husband, who was known to Alfredo Carreon and to other people in the neighborhood as Cenon Galman, resided about 200 meters away from the house of Alfredo Carreon. Accused-appellant worked as a tricycle driver. He used to go to the house of Alfredo to wash and clean his tricycle near said house. At one time, accused-appellant was introduced to Maritess by Felicidad.

Maritess was a mental retardate, with a mental age of a child aged six years and six months old. It took her five years to finish Grades I and II in the elementary grades. Thereafter, her parents gave up and no longer sent her back to school.

Sometime in September 1992, Felicidad fell ill and was confined at the Bulacan Provincial Hospital for medical examination and treatment. Maritess was left alone in their house and was told to just lock the doors of the house.

One night in September 1992, Maritess was sleeping with her shorts on, but was awakened by accused-appellant who told her that he wanted to have a drink of water. Maritess obliged and gave him a glass of water. Thereafter, accused-appellant, who was wearing a pair of short pants, made her lie down, mounted her and forced himself on Maritess. He succeeded in inserting his penis in her vagina. She felt pain in her vagina as she was ravished. Accused-appellant threatened to kill her if she divulged to her mother what he did to her. Afraid that her mother might get angry with her, Maritess kept the incident to herself. In the meantime, Felicidad continued to be confined in the hospital for about a week after the incident.

Sometime in January 1993, Felicidad was perturbed after she noticed that the abdomen of Maritess was bulging. She suspected that her daughter was pregnant. She had Alfredo summoned from Benguet and informed him that their daughter was pregnant. The couple were puzzled because Maritess had no male friends or visitors. The only person who frequented their house was accused-appellant. When asked by her parents who was the father of the child, Maritess at first did not respond and appeared nonchalant. However, when she was asked anew by her parents if Cenon Galman was the father of her child, Maritess nodded her head several times and declared that Cenon had sexually abused her.

Alfredo and Felicidad lodged a complaint with the Barangay Captain of Sto. Rosario. Accused-appellant was subsequently brought to the Municipal Building. It was only then that Alfredo Carreon learned that the full name of accused-appellant was Cenon Pagsanjan, and not Cenon Galman.

Upon the suggestion of a niece of Felicidad, Maritess underwent an ultrasound examination by Dr. Ireneo Villano of the Sto. Nino Medical Clinic. Dr. Villano issued a Certification dated February 26, 1993, that Maritess was pregnant with her child, with 24.2 weeks gestation.^[2]

On March 1, 1993, Maritess, accompanied by Felicidad, arrived in the Municipal Trial Court of Malolos, Bulacan and filed a criminal complaint for rape against accused-appellant with said court. Maritess affixed the imprint of her right thumb while Felicidad affixed her signature on the criminal complaint for rape. Said complaint was docketed as Criminal Case No. 3908.

Maritess was brought to the National Center for Mental Health, where she underwent a physical examination conducted by Dr. Annabelle Reyes on March 9, 1993. The latter issued a certification on her findings that Maritess was pregnant, probably of six to seven months gestation, and that she was suffering from a moderate mental retardation.^[3] The doctor opined that in her mental state, Maritess was capable of freely and voluntarily submitting herself to a sexual act although she may not be capable of comprehending the consequences of her action.^[4] However, since psychiatry or psychology was not her specialty, Dr. Reyes referred Maritess to Dr. Susan Sabado, a Clinical Psychologist of the National Center for Mental Health, who interviewed Maritess on March 9 and 17, 1993, and subjected her to a series of tests as well as a psychological examination. Dr. Sabado submitted a report stating that Maritess was imbecile, with a mental numerical intelligence quotient (I.Q.) of 50 and a mental age of that of a child of six years and eight months. According to said physician, this meant that Maritess was incapable of determining whether an act is wrong or not.^[5] On June 13, 1993, Maritess gave birth to a baby boy, christened Bryan Dexter Carreon.

On June 23, 1993, an Information was filed against accused-appellant with the Regional Trial Court of Bulacan, docketed as Criminal Case No. 1288-M-93 for rape, which reads:

"The undersigned Asst. Provincial Prosecutor, on complaint of the offended party, Marites (sic) Carreon, assisted by her mother, Felicidad Carreon, accuses Cenon Pagsanjan y Carlos of the crime of rape, penalized under the provisions of Article 335, paragraph 3 of the Revised Penal Code, committed as follows:

That on or about the 14th day of September, 1992, in the municipality of Malolos, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Cenon Pagsanjan y Carlos, by means of violence, force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the said Maritess Carreon, 18 years of age and a mentally retarded woman, against her will and by means of force.

Contrary to law.”^[6]

When arraigned on July 9, 1993, accused-appellant, assisted by counsel *de officio*, pleaded not guilty to the charge.

When he testified in his defense, accused-appellant denied having sexually assaulted Maritess and claimed that he never met her until the latter testified during the trial of the case. He further declared that since 1990, he and his common-law wife Delia Fernandez had been residing at Zulueta Street, Sto. Rosario, Malolos, Bulacan. Delia’s daughter by another man, Veronica, lived with them. Alfredo and Felicidad decided to finance the studies of Veronica and thenceforth, the latter stayed in the house of the couple.

Accused-appellant eked out a living by driving a tricycle. Sometime in 1992, Felicidad hired Delia as her laundrywoman. He used to bring Delia on board his tricycle to the house of Felicidad every morning and fetched her there in the afternoon.

On Maritess’ birthday on September 7, 1992, Delia, Veronica and accused-appellant had dinner in the house of Alfredo and Felicidad. However, Maritess did not join them for dinner. Accused-appellant did not see Maritess on that occasion.

On September 14, 1992, in the morning accused-appellant brought Delia on board his tricycle to the house of the Carreons for work. At around 6:00 p.m., he fetched Delia from the Carreon house and brought her home. Later that evening accused-appellant also fetched Veronica from the residence of the Carreons and brought her home to his and of Delia’s house. Accused-appellant slept at 9:00 p.m. and woke up at about 8:00 am. the following day.

Subsequently, Delia resigned from her employment barely two months after she started work for Felicidad because the latter did not pay her for her services.

Although the court, on motion of accused-appellant, issued *subpoenae ad testificandum* for the attendance of Delia Fernandez and her daughter Veronica Fernandez, for them to corroborate accused-appellant’s testimony, the latter decided not to present them anymore as his witnesses.

After due proceedings, the trial court rendered its decision finding accused-appellant guilty beyond reasonable doubt of the crime of simple rape. The decretal portion of said decision reads as follows:

“WHEREFORE, finding accused Cenon Pagsanjan y Carlos, guilty beyond reasonable doubt of the crime of RAPE, he is hereby sentenced to suffer the penalty of reclusion perpetua; to compulsory acknowledge the child Bryan Dexter, to render support to the said child until he attains the age

of 21 years; to indemnify the offended party the sum of Forty Thousand (P40,000.00) and to pay the cost.

SO ORDERED.”^[7]

The trial court declared that the prosecution mustered the requisite quantum of evidence to prove the guilt of accused-appellant of the crime charged and that the latter failed to prove his twin defenses of denial and alibi.

Aggrieved, accused-appellant appealed from the decision of the court, contending that:

I

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGED BY RELYING ON THE WEAKNESS OF DEFENSE EVIDENCE RATHER THAN ON THE STRENGTH OF THE EVIDENCE OF THE PROSECUTION.

II

THE TRIAL COURT ERRED IN NOT GIVING DUE CREDENCE AND WEIGHT TO THE OPINION OF AN EXPERT WITNESS THAT SAID PRIVATE COMPLAINANT DESPITE HER MODERATE MENTAL RETARDATION IS CAPABLE OF GIVING HER FREE AND VOLUNTARY WILL.^[8]

Accused-appellant avers that the prosecution failed to prove his guilt for the crime charged beyond cavil of doubt. He argues that on the basis of the testimony of Dr. Annabelle Reyes, the expert witness of the prosecution, it can be concluded that the private complainant was not a mental retardate. In fact, the latter freely and voluntarily consented to have sexual intercourse with him.

We are not convinced. Accused-appellant is clutching at straws. Even a cursory reading of Dr. Reyes’ testimony will readily show that she merely conducted an initial interview and hence, did not conduct a comprehensive and complete psychological examination of the private complainant. Indeed, she found it imperative to refer the private complainant to Dr. Susan Sabado, a psychologist, to determine the specific classification of the mental aberration of the private complainant:

“A: Initially during the interview, I noted that it is not already within the normal range for a person her age, sir.

Q: Are you saying that this Maritess Carreon is abnormal?

A: Yes, in a layman’s term you will call abnormal because Abnormal is a derivative from a normal.

Q: Can you tell us the degree of abnormality of Maritess Carreon?

A: Upon interview, she will not be able to give us specific classification regarding her. What I did is I requested for a psychological test to be done which more or less will give us more exact gauge of her mental capacity, sir.

Q: Did you actually refer her to a Psychologist?

A: Yes, sir.

Q: And that Psychologist is also holding office at the National Center for Mental Health?

A: Yes, sir."^[9]

Accused-appellant made capital of the testimony of Dr. Reyes that a person of moderate mental retardation is capable of giving her free and voluntary will:

"Q: But in time you will admit to this Court that the examinations allegedly on two (2) occasions to the patient are not enough for you to establish with medical certainty the medical condition of the patient?

A: Yes, sir.

Q: You will agree with me that free will is different from intelligent decision, one may give his free will to a certain act but not necessarily an intelligent decision?

A: Yes, sir.

Q: So, a person of moderate mental retardation you said a while ago is capable of giving her free and voluntary will?

A: Yes, sir.

Q: In fact when asked by the prosecutor, you also answered in the affirmative that the same kind of person would freely and voluntarily submit herself to a sexual act?

A: Yes, sir.

Q: Although she may not be capable of apprehending the consequence of that action?

A: Yes, sir."^[10]

Accused-appellant thereby erroneously concluded that the private complainant freely and voluntarily consented to his having carnal knowledge of her. Evidently, the conclusion culled by accused-appellant is a *non sequitur*. Even Dr. Reyes unabashedly declared that "one suffering from mental retardation may not be capable of apprehending (sic) the consequences of her actuations."

What is decisive is the testimony of Dr. Susan Sabado, the Clinical Psychologist of the National Center for Mental Health who was presented by the prosecution precisely to prove that private complainant was a mental retardate. It was she who conducted a series of tests and subjected private complainant to a psychological examination on the basis of which she prepared and signed her Report.^[11] She testified that the private complainant had a mental numerical I.Q. of 50, which meant that for her age, her mental capacity was that of an imbecile or a retardate; and that she had the mental age of a child six years and eight months of age and therefore was incapable of determining whether her actuations are right or wrong:

"Q: And what happened afterwards?