

FIRST DIVISION

[G.R. No. 135034, January 18, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ADRIANO SEGUIS A.K.A. "JUNIOR", ROSALITO ESTEBE A.K.A.
"DODONG", RODRIGO DOQUILA A.K.A. "LOLONG" (AT LARGE),
ELMER CANICO (AT LARGE), LOLOY GIBERTAS (AT LARGE),
BERFEL DELA CRUZ (AT LARGE), AND JOHN DOE (AT LARGE),
ACCUSED.**

**ADRIANO SEGUIS AND ROSALITO ESTEBE, ACCUSED-
APPELLANTS.**

D E C I S I O N

PUNO, J.:

Juliet A. Magamayo, a nineteen-year-old barrio lass from an obscure town in Surigao del Norte complains that she has been ravished, then robbed by seven men, who, following her accounts, were definitely no *Romeos*. She claims they did not only forcibly take her gold ring, they stole her innocence as well. She claims they did not only dispossess her of a gold bracelet, they also divested her of her sense of security. She claims they did not only deprive her of her last remaining fifty pesos, they denied her furthermore a future.

Juliet pointed to the following men as the ones who committed the outrage against her womanhood: Adriano Seguis a.k.a. Junior, Rosalito Estebe a.k.a. Dodong, Rodrigo Doquila a.k.a. Lolong, Elmer Canico, Loloy Gibertas, Berfel dela Cruz, and a certain John Doe. They were charged with the crime of robbery with multiple rape and were indicted in an Amended Information which reads:

"That on or about August 19, 1995, in Barangay Togbongon, City of Surigao, Philippines and within the jurisdiction of this Honorable Court, the above named accused, conspiring, confederating together and with mutual understanding with one another, with lewd designs and by means of force and intimidations (sic), did then and there willfully, unlawfully and feloniously have carnal knowledge of Juliet A. Magamayo, while the latter was already sleeping, by taking turns in raping her against her will and without her consent and on same occasion, accused with intent to gain and by means of violence and intimidation, took, stole and carried away the following personal belongings of Juliet A. Magamayo, to wit:

1. Gold bracelet	P 500.00
2. Gold ring	4,000.00
3. Cash money	50.00

T O T A L	P 4,550.00
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in the total amount of FOUR THOUSAND FIVE HUNDRED FIFTY (P4,550.00) PESOS, Philippine currency, to the damage and prejudice of said Juliet A. Magamayo in the aforesaid amount of P4,550.00 and such other damages as may be allowed by law.

Contrary to law.

Surigao City, Philippines, August 21, 1995."^[1]

Of the seven accused, the record reveals that five of them remain at large. Only the first two were placed under the custody of the authorities: Seguis and Estebe, and they are the appellants in this case. During arraignment, both entered a plea of NOT GUILTY. Trial then proceeded.

The prosecution's version of the story is based mainly on the private complainant's recollection of what happened that dreadful night. The offended party is one Juliet A. Magamayo, a nineteen-year old unmarried girl residing at San Jose, Mainit, Surigao del Norte. According to her, in the afternoon of August 18, 1995 at about 3 o' clock, she went to Barangay Togbongon, Surigao City, a few kilometers away from the city proper. Her purpose was to collect a loan of fifty pesos from Michael Balantucas, a friend of long standing whom she met when she was still staying with her elder sister in Togbongon. She arrived there after approximately one hour of travel. As customary with friends, they exchanged pleasantries and stories, and basically caught up with old times. A while later, accused Loloy Gibertas and Elmer Canico who were on their way to fetch water passed by the house. Michael introduced them to Juliet. They shook hands and talked a little before the two eventually left. Michael then invited Juliet to stay in their home for the night because darkness was closing in. Michael was living with his younger brother Rolando and younger sister Lilibeth since their parents already died. Juliet agreed as she has slept in the place before. She thought that it was too late and perilous to go back home.

Little did Juliet know that, in a cruel twist of fate, danger would visit her in the very refuge where she sought safety. Following a dinner of cooked bananas plus a few more stories, she and the Balantucas siblings prepared to retire. Juliet and Lilibeth slept in the house's only bedroom, which was lighted by a kerosene lamp. Michael was just outside the room's doorway while Rolando stayed in the sala. At about midnight, Juliet was awakened by the noise brought about by the commotion of five men who entered the house. She got up and saw Rodrigo Doquila pointing a knife at the throat of a crouching Michael. She noticed that Lilibeth was not beside her anymore as it turned out that the young girl went to the kitchen to relieve herself. Afraid, she shouted for help to Michael who understandably could not do anything being himself mentally preoccupied with, in a manner of speaking, saving his own neck.

At this juncture, Elmer Canico grabbed the hair of Juliet and commanded her to lie down on the floor. Loloy Gibertas held her right hand even as someone else was holding her left. She struggled and twisted her body, so another man had to restrain her legs. Elmer Canico removed his pants and brief, and knelt in front of her. He stripped Juliet of her pants and underwear before continuing to place himself on top of the woman. He inserted his penis into her vagina then made a push and pull movement. Feeling pain, she fought to free herself. She kicked her legs but Canico

did not seem to mind a bit. After satisfying his lust, he stood up and put on his pants. He replaced Lolong Doquila in guarding Michael with a knife.

The next time, it was Doquila who introduced his penis into the lady's private part. Perhaps realizing the futility of her struggle, Juliet tried to appeal to their sense of mercy. She begged him to stop, mainly because of the pain. This also proved fruitless. He made the same push and pull movements stopping only afterwards when he was able to satisfy his lust. Doquila was replaced by Loloy Gibertas who had coital intercourse with the hapless victim. Again she resisted and shouted for help. The men around her told her to remain silent if she does not want to get killed. Shortly, Gibertas stood up and informed Berfel dela Cruz that it was his turn. Like the others before him, and like the others soon to follow, he forced himself on Juliet. When he had his fill, the unidentified man also had sexual contact with her.

Almost after the five predators finished ravaging their prey, Adriano Seguis and Rosalito Estebe came into the room. Juliet already knew them even before this incident. She recognized the two that night by means of a flashlight which Estebe brought to illuminate the area. Earlier, the small kerosene lamp had been extinguished by the five men. As expected, Estebe laid himself on top of the girl, who fought weakly against her new tormentor. He rammed his penis into her vagina. He got up on his feet only after some minutes of sexual activity. Then Elmer Canico returned to the bedroom and Juliet heard him announce that it was his turn again. For the second time that early morning, he succeeded in copulating with her. The last one to have carnal knowledge of Juliet against her will was Adriano Seguis. The latter inserted his male organ into her private part and performed the same push and pull maneuverings using his buttocks. The victim begged him to stop for she could not bear it anymore. Seguis told her to keep quiet.

When Seguis was done, he rose to his feet and went to the kitchen. He came back with a plate of rice which he gave to the sobbing lady. Juliet pretended to eat the rice only so that she would not be raped anymore. She did not utter a word but cried a river of tears over her heartbreaking experience. She requested Seguis to help her up and she sat down in a corner. Rosalito Estebe was seated on a nearby trunk. When Seguis tried to blame her for what took place, she answered that the five men sexually abused her. Michael appeared and Juliet asked him how it happened. Michael replied that he also did not know because they were all asleep when the incident started. Seguis and Estebe warned them not to tell anybody of what transpired otherwise they might all be killed. It was about one o'clock in the morning when the two remaining accused left.

Juliet discovered later on that she had been despoiled of her gold ring worth P4,000.00 and her gold bracelet worth P500.00. Furthermore, her cash money amounting to P50.00 was no longer in her pant's pocket. She admitted though that she was not aware who among the accused carried away the aforementioned personal belongings while she was being assaulted by them.

The prosecution presented two other witnesses who corroborated Juliet's testimony. Michael Balantucas confirmed that the seven accused indeed illegally entered their house and took turns in sexually defiling Juliet. The rapes were committed right before his eyes. He observed how one by one each of them was able to impose his own bestial will against the lady. He very much wanted to help his visitor whom he only invited that night. But as much as he wanted to, he could not do anything,

since all the while that the rape was going on, somebody was pointing a knife at his throat. He was practically rendered impotent by the threat that something bad might happen to him or his siblings.

For her part, Lilibeth Balantucas recounted, among other things, that she woke up at around midnight to answer a call of nature. She went to the kitchen to urinate when five men suddenly entered the bedroom. She identified them to be the accused Elmer Canico, Lolong Doquila, Loloy Gibertas and Berfel dela Cruz. However, she did not know the fifth person. Tagging along were Adriano Seguis and Rosalito Estebe who pulled and dragged her out of the house. She was able to recognize them because of the light coming from an electric bulb located in the kitchen. Outside, Seguis and Estebe ordered her to keep quiet, or else they would kill her. Out of extreme fear, she did not make any sound. After about one hour, they also went inside the room. Lilibeth remained where she was as they told her not to move.

Going back to Juliet's testimony, it appears that later in the morning of August 19, 1995, someone fetched Francisco Pecante, a member of the local CVO, who initially investigated the incident. Then he sought Perfecto Pagas, the barangay captain of Togbongon. Together, they brought the victim to the Surigao Provincial Hospital where she was physically examined and medically treated.

The attending physician, Dr. Panfilo Jorge Tremedal III, testified that on August 19, 1995, he was a resident doctor of the hospital. He checked up the person of Juliet Magamayo who complained that she has been raped. Among his findings was an abrasion of the labia majora. In his expert opinion, the injury could have probably been caused by a blunt object like an erect human penis. Another member of the medical staff was also presented by the prosecution: Elsa Adlawan who was employed as a medical technologist by the hospital. She declared that on the same date, she received a vaginal specimen taken from Juliet for a laboratory evaluation for the presence of spermatozoa. After conducting the required tests, she determined the said specimen to be positive for spermatozoa.

With the prosecution resting its case, the defense made its counter-presentation of the facts. It first offered Nilda Cabug-os, who, per her own declaration, is a friend of the victim but not related to her. She recalled that Juliet arrived at her house in Togbongon at about four o'clock in the afternoon of August 18, 1995, purportedly to collect a sum of money Michael Balantucas owed her. They have only conversed for a brief moment when Juliet went her way, returning after about two hours in the company of a male escort, one Jeffrey Lerio. Later, Juliet would again leave the house with Jeffrey for an undisclosed destination. By the time the clock struck eight, Juliet came back to the house. As a matter of hospitality, Nilda extended an invitation to her guest to spend the night in their abode, which invitation Juliet readily accepted. The latter was already sleeping when some young men came to drop by. She rose to entertain her visitors. More than that, she went out with them. And although she asked Nilda's permission, she did not say where they were going. It was the last time she saw her that night.

The next morning greeted Nilda with a neighbor's story that Juliet allowed herself to have sexual intercourse with several men in the house of Michael Balantucas. She replied that she and her husband cautioned her about going out so late in the night but Juliet's persistence made them yield. She remembered that Juliet was wearing

maong pants and a blouse on the day of the incident. She also wore a cheap wristwatch worth about P35.00, a small belt worth approximately P30.00, a headband and shoes made of cloth. She did not notice any fancy jewelry.

Another witness, Perfecto Pagas, gave evidence that he is a barangay kagawad of Togbongon for three years, although a tricycle driver by vocation. He came to know of Juliet not only because she is a frequent passenger but allegedly due to her reputation in the locality of associating herself with different men. According to Pagas, sometime in March 1995, Juliet complained to him in the office of the barangay council that she was raped by five men. She did not identify any names. The complaint was not pursued as he heard later on that she has been paid. He admitted too that he failed to enter the complaint in the official records on the excuse that Juliet anyway did not return anymore.

In his defense, the accused Adriano Seguis testified that on March 9, 1995, Juliet approached him and made a request for him to bear witness in a rape case she was about to file. It was not clear whether this is the same incident of the alleged rape that she complained to Kagawad Pagas. He claimed that it was the first time that they met, although they became acquaintances after. At any rate this is not the reason why he refused her. He simply had no knowledge of the incident.

Seguis must have felt history repeating itself right before his very eyes. On the morning of August 19, 1995, at 6 a.m., he arrived at the residence of Michael Balantucas. He went there together with his co-accused Rosalito Estebe pursuant to a prior agreement that they would help Michael in harvesting his crop of palay. In the uncanniest of coincidences, Juliet, who was already there when he arrived, again was apparently involved in another case of rape which happened the previous night, and once more asked him to testify for her. This time the request was coupled with a threat that she would implicate him in the legal action if he refused to cooperate. For the second time in as many instance, he rejected her plea. For scorning her twice, he incurred her fury. She made good her threat and implicated him.

In an unexpected turn of events, the defense called to the witness stand Michael Balantucas who previously testified for the prosecution. He was this time singing a different tune. He claimed that his conscience was bothering him, and he could not suffer the burden of seeing two innocent men go to jail. That is why he elected to testify even though he was aware that he was courting criminal prosecution in changing his testimony. Michael recanted his former testimony by declaring that in the evening of August 18, 1995, he was staying at his house with Juliet and his siblings, Rolando and Lilibeth, when at around ten o'clock, five men arrived. These five were the accused Lolong Doquila, Elmer Canico, Loloy Gibertas, Berfel dela Cruz, and a certain Rolando Ezperanza. They had a talk with Juliet wherein it was agreed that they would "rent"^[2] her (i.e., have sex with her) that night for a fee of one thousand pesos. While the lady supposedly kept her part of the bargain, the men did not. Instead they even had the audacity to take her bracelet and wristwatch when they left at about two o'clock dawn. Juliet was enraged. She wanted to bring her "customers"^[3] to court not to collect the bill but to charge them with rape. When Seguis and Estebe arrived the next day, she asked the three of them (including Michael) to testify in her behalf, otherwise she would implicate them. As far as Michael knows, he was the only one who acceded to the lady's demand.