

THIRD DIVISION

[G.R. Nos. 136894-96, February 07, 2001]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ASTERIO CORDERO
ALIAS "TERYO," APPELLANT.**

D E C I S I O N

PANGANIBAN, J.:

Old age, by itself, is not a defense in a rape case. To overcome the prosecution's evidence, the appellant must present convincing proof that he was physically unable to consummate carnal knowledge of the victim. He may also show that the trial court overlooked certain facts or circumstances of substance and value, which if considered would affect the result of the case.

The Case

Before the Court is an appeal by Asterio Cordero alias "Teryo," challenging the November 26, 1998 Decision^[1] of the Regional Trial Court (RTC) of Urdaneta City, Pangasinan (Branch 46), in Criminal Case Nos. U-9681, U-9682 and U-9683. The decretal portion of the Decision, which found him guilty on three counts of rape, reads as follows:

"WHEREFORE, JUDGMENT is hereby rendered in the following:

1. Under CRIM. CASE NO. U-9681, the Court sentences ASTERIO CORDERO to suffer the penalty of [r]eclusion [p]erpetua; [o]rdering Cordero to pay Teresa Nana the sum of P50,000.00 as moral damages, plus P20,000.00 as exemplary damages;
2. Under CRIM. CASE NO. U-9682, the Court sentences ASTERIO CORDERO to suffer the penalty of [r]eclusion [p]erpetua; [o]rdering Cordero to pay Mirasol Nana the sum of P50,000.00 as moral damages, plus P20,000.00 as exemplary damages;
3. Under CRIM. CASE NO. U-9683, the Court sentences ASTERIO CORDERO to suffer the penalty of [r]eclusion [p]erpetua; [o]rdering Cordero to pay Mirasol Nana the sum of P50,000.00 as moral damages, plus P20,000.00 as exemplary damages.

The Jail Warden, Bureau of Jail Management and Penology (BJMP), Urdaneta District Jail, Urdaneta City, Pangasinan, is hereby ordered to transmit the person of accused Asterio Cordero to the National Bilibid Prisons, Muntinlupa City, immediately.

The Branch Clerk of Court is hereby ordered to prepare the mittimus immediately."^[2]

Appellant was charged with three (3) separate Informations^[3] for rape. The first Information (Crim. Case No. U-9681) charged appellant as follows:

"That on or about June 2, 1998 at Sitio San Antonio, Brgy. Arzadon, San Manuel, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with Teresa Nana y Niduaza, a minor 13 years old[,] against her will and without her consent, to her damage and prejudice.

"CONTRARY to Article 335, Revised Penal Code, as amended by R.A. 7659 and R.A. 8353."^[4]

The second Information (Crim. Case No. U-9682) reads:

"That on or about January 22, 1998, at Sitio San Antonio, Brgy. Arzadon, San Manuel, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused by means of force and intimidation, did then and there wilfully, unlawfully and felon[i]ously have sexual intercourse with MIRASOL NANA y NIDUAZA, a minor 15 years old, against her will and without her consent, to her damage and prejudice.

"CONTRARY to Article 335, Revised Penal Code, as amended by R.A. 7659 and R.A. 8353."^[5]

Lastly, the third Information (Crim. Case No. U-9683) is worded thus:

"That on or about January 17, 1998, at Sitio San Antonio, Brgy. Arzadon, San Manuel, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused by means of force and intimidation, did then and there wilfully, unlawfully and felon[i]ously have sexual intercourse with MIRASOL NANA y NIDUAZA, a minor 15 years old, against her will and without her consent, to her damage and prejudice.

"CONTRARY to Article 335, Revised Penal Code, as amended by R.A. 7659 and R.A. 8353."^[6]

When arraigned on July 20, 1998, appellant pleaded^[7] Assisted by Atty. Pedrito B. Labarinto.⁷ not guilty.^[8] Joint hearings on the three Informations were conducted in due course. Thereafter, the court *a quo* promulgated its assailed Decision.

Hence, this appeal.^[9]

The Facts

Prosecution's Version

In its Brief,^[10] the Office of the Solicitor General presents the prosecution's version of the facts in this wise:

"Criminal Cases Nos. U-9682 and U-9683

"The families of Antonio Nana and Asterio Cordero alyas 'Teryo' were neighbors at Sitio Antonio, Barangay Arzadon, San Manuel, Pangasinan. Their houses were about 200 to 250 meters apart from each other, separated by a ricefield. Everyday, 'Teryo' would pass by Nana's house in going to the irrigation canal. 'Teryo' Cordero was close to the Nana family.

"Antonio Nana had 6 children. The eldest, Susan, was already married and living in La Union. His other children were Mirasol, Teresa, Loida, Antonio Jr., and Teddy.

"On January 17, 1998, around 12:00 high noon, Mirasol Nana and her 10-year old sister, Loida, were cooking inside their house. At the time, their father, Antonio, went out to fish while their mother, Teresita, was also out of the house looking for food. Suddenly, 'Teryo' arrived and told them, 'Come and get corn.' Accepting Cordero's invitation, Mirasol and Loida went with him and proceeded to his cornfield, about 250 to 300 meters from their house. At the time, 'Teryo' was bringing a bolo, placed in a scabbard hanging from his waist.

"When they arrived at the cornfield, 'Teryo' instructed Mirasol to hold a plastic bag while he got corn about 30 meters from where they stood. After 'Teryo' had picked corn, he went back to Mirasol and gave them to her. However, he suddenly held her hair and boxed her stomach twice. As a consequence, Mirasol fell down, facing up. At this juncture, 'Teryo' began to take off the girl's short pants and panty. After undressing Mirasol, 'Teryo' removed his bolo from the scabbard and thrust it on the ground near Mirasol.

Thereafter, 'Teryo' laid on top of the prostrate girl, inserted his penis into her sexual organ and then made push and pull movements. In the process, Mirasol tried to resist him but she could not fight back because 'Teryo' was too heavy for her. She felt pain [i]n her private parts. After he had finished, 'Teryo' told Mirasol that he would kill them all if she reported the matter.

"The 10 year-old Loida could only watch helplessly while her sister was violated by 'Teryo' who threatened her not to move.

"For fear that 'Teryo' would make good his threats, Mirasol and Loida did not tell anyone about Mirasol's harrowing experience.

"Five days later, or on January 22, 1998, around 10 o' clock in the morning, 'Teryo' again went to the Nana[s'] house and invited Mirasol and Loida to get young corn under the guava tree for *merienda*. At the time, Mirasol and Loida were cooking. Their father was again out, fishing, but their mother, Teresita, was inside the house. After telling them about the young corn, 'Teryo' left. However, he returned at 11:00 o'clock and repeated that they get the corn for he was going to the irrigation canal. After 'Teryo' left, Teresita advised Mirasol and Loida to do as 'Teryo' had told them and get the corn under the guava tree. Mirasol and Loida thus proceeded to the guava tree, south of their house.

"Cordero was waiting for them when they reached the guava tree, but he immediately left to get a plastic bag for the corn. Upon returning with a plastic bag, he placed the corn inside. In the meantime, Mirasol had already climbed up the tree to pick guavas. Her younger sister, Loida, was still under the tree. Suddenly, 'Teryo' pulled Loida towards another guava tree, about 30 meters away and left her there. When 'Teryo' returned to Mirasol, he told her to get down for he had something to tell her, but she refused.

"Unable to convince Mirasol to go down, 'Teryo' pretended to leave. Finally, Mirasol went down the tree when she saw 'Teryo' was gone. But, as soon as she was on the ground, 'Teryo' suddenly re-appeared and immediately held her hands and hair. Then, he loosened his hold on her hair and boxed her twice in the stomach; she fell down as a consequence.

"'Teryo' immediately undressed himself by removing his short pants and briefs. Soon, he also removed Mirasol's short pants and panty. Afterwards, he laid on top of her, inserted his penis into her vagina, and made push and pull movements. Mirasol tried to resist the sexual assault by moving her body from side to side, but to no avail.

"After 'Teryo' had satisfied his lust, he aimed his bolo at Mirasol and Loida warned them not to report the incident or he would kill them. Then he went home. Meanwhile, Mirasol put on her panty and short pants and, together with Loida, brought home Teryo's plastic bag containing the corn.

"Mirasol and Loida kept the incidents to themselves because of 'Teryo's' threat to kill them. However, Mirasol complained of dizziness on June 4, 1998, or six months after the rape incidents. The same day, her mother and older sister, Susan Patacsil, brought her to a hospital in Binalonan, Pangasinan; she was found pregnant.

"Since she was afraid to inform her father about her pregnancy, Mirasol did not go home to San Manuel, Pangasinan but went with Susan to Bauang, La Union. Only her mother went home. However, Antonio followed Mirasol to Bauang, La Union and inquired from Susan why she had to be brought to La Union. Susan then informed their father about Mirasol's condition. When queried by Antonio as to who caused her pregnancy, Mirasol pointed to Asterio Cordero.

"Even if he was mad at 'Teryo' for the latter's savagery [to] his daughter, Antonio resolved to bring the matter to justice. So, the following day, Antonio sought the help of the barangay captain of Brgy. Arzadon, Eusebio Cerdeña, and the latter brought the matter to the attention of the police of San Manuel, Pangasinan. Mirasol was thereafter subjected to medical examination by Dr. Gloria Liberato, Medico-Legal Officer III of the Asingan Medical Hospital. Dr. Liberato made the following findings:

NOI -- Alleged Rape

DOI -- 1st Incident -- January 17, 1998 at 12:00 noontime

2nd Incident -- January 22, 1998 at 11:00 A.M.

EXTERNAL FINDINGS:

1. No evident sign of extragenital physical injuries noted on the body of the subject at the time of examination.

INTERNAL FINDINGS:

1. Healed hymenal laceration at 7:00, 5:00 o'clock positions;
2. (+) Whitish discharge non-foul smelling;
3. Vagina admits 2 fingers with slight difficulty;
4. Cervix soft, close[d] uterus enlarged to 4 months size

LMP -- February 5, 1998

AOG -- 4 months & 1 week

EDC -- November 12

Pregnancy Test (+)

"Criminal Case No. U-9681

"But even before `Teryo' could be brought to justice for his lechery on Mirasol Nana, it turned out that Mirasol's younger sister, Teresa, was also a victim of his bestiality.

"On June 2, 1998, around 3 o'clock in the afternoon, 13-year old Teresa and her younger brother, Antonio Nana, Jr., 9 years old, were walking home after pasturing their four (4) goats at the ricefield of `Bernardino' when they met `Teryo.' `Teryo' came up to them and told Antonio, Jr. to go home ahead of his sister because he (`Teryo') had something to tell her. Antonio, Jr. went home.

"As soon as Antonio, Jr. had left, `Teryo' twisted the right arm of Teresa and dragged her for ten (10) meters up to the side of the irrigation canal. After pulling Teresa, `Teryo' boxed her twice in the stomach. As a result, Teresa lost consciousness.

"When she regained consciousness, Teresa found herself naked with `Teryo' on top of her; Teryo was inserting his penis into her vagina. He stayed on top of Teresa for ten minutes, at which time, he inserted his penis into her vagina twice. Then, after 5 minutes, `Teryo' again inserted his penis into her vagina the third time. Teresa's struggles to resist