

## THIRD DIVISION

[ G.R. No. 132368, January 20, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PACITO GARCES JR., ACCUSED-APPELLANT.**

### DECISION

**PANGANIBAN, J.:**

The credible testimony of a rape victim is a sufficient basis for conviction, especially when it is corroborated by other witnesses and supported by medicolegal findings. A "sweetheart defense" should be substantiated by some documentary and/or other evidence of the relationship like mementos, love letters, notes, pictures and the like. Such relationship, if proven, would not necessarily establish consent, for love is not a license for lust.

#### The Case

Pacito Garces Jr., also known as "Bolingot," appeals the Decision of the Regional Trial Court (RTC) of Dumaguete City (Branch 32), which convicted him of rape and sentenced him to *reclusion perpetua*.

In a Complaint dated May 16, 1995, Rosalie Ganaganag charged herein appellant with rape. During the preliminary investigation, he failed to appear or to adduce any evidence for his defense. Finding sufficient ground to establish a well-founded belief that he had committed the crime, Circuit Trial Judge Tirso F. Banquerigo subsequently forwarded the records to the Office of the Provincial Prosecutor. Because appellant had escaped from the Municipal Jail of Jimalalud, Negros Oriental, warrants<sup>[1]</sup> for his re-arrest were also issued.

The Information<sup>[2]</sup> dated August 18, 1995, was filed by Second Assistant Provincial Prosecutor Juditho J. Agan, charging appellant as follows:

"That on or about 11:30 o'clock in the morning of May 14, 1995, at Barangay Bangcal, Jimalalud, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with the use of a deadly weapon and by using force and intimidation, did then and there wil[ly], unlawfully and feloniously have carnal knowledge of one Rosalie<sup>[3]</sup> Ganaganag, against her will, to the damage and prejudice of herein offended party.

An [a]ct defined and penalized by Article 335 of the Revised Penal Code.

Attached herewith to form an integral part hereof is the Criminal Complaint dated May 16, 1995, signed by complainant Rosalie Ganaganag.

The commission of the crime is attended by the aggravating circumstance of [d]welling."<sup>[4]</sup>

Appellant was eventually arrested and detained at the Ozamis City Reformatory on December 19, 1996. With the assistance of Atty. Ernesto Valencia,<sup>[5]</sup> he entered a plea of not guilty during the arraignment on March 13, 1997. After trial in due course, Judge Eleuterio E. Chiu rendered the assailed Decision, the dispositive part of which reads:

"WHEREFORE, premised considered, the court finds accused PACITO GARCES JR., A.K.A. 'BOLINGOT' GUILTY beyond reasonable doubt of RAPE penalized under Art. 335 of the Revised Penal Code in relation to R.A. 7659 and hereby sentences him to the penalty of *reclusion perpetua* together with all the accessory penalties provided for by law, to pay offended party Rosalie Ganaganag the sum of ₱200,000.00 as moral damages, and to pay the costs.

The jailer is ordered to make the proper reduction of the period during which the accused was under preventive custody by reason of this case in accordance with law."<sup>[6]</sup>

Hence, this appeal.<sup>[7]</sup>

### **The Facts** **Version of the Prosecution**

In its Brief,<sup>[8]</sup> the Office of the Solicitor General presents the facts in this wise:

"At about 11:30 o'clock in the morning of May 14, 1995, private complainant Rosalie Ganaganag was left alone in their house while her parents Santiago and Amparo Ganaganag went to the market in the poblacion of Jimalalud, Negros Oriental. Appellant Pacito Garces, Jr., also known as Bolingot, barged into the house of private complainant and embraced her. Suddenly, he poked a knife at her chest and forced her to lie on the ground. Appellant then went on top of private complainant, raised her skirt and removed her underwear. After appellant succeeded in having sexual intercourse with private complainant, he threatened to kill her and her family if she would report the incident to anyone.

"Thereafter, private complainant proceeded to the house of their neighbor Pacita Garces. Private complainant approached Pacita, hugged her and cried after telling that she was raped by appellant. Pacita noticed that the hair of private complainant was disheveled. She also noted a scratch caused by two fingernails at the lower part of the cheek of private complainant.

"Pacita and private complainant went to the house of Barangay Councilor Wilson Garces to whom private complainant reported in tears that she was raped by appellant. Wilson Garces noted that 'at the time her hair [was] disheveled.' He also 'saw some hematoma around her mouth.' Wilson accompanied Pacita and private complainant to Barangay Captain

Felicitito Torres.

"Meanwhile, while Santiago and Amparo were in the market, Felix Talido approached and informed them of the rape incident. Santiago and Amparo immediately proceeded to the house of the barangay captain where they met private complainant.

"On the same day, Wilson accompanied private complainant and her parents to the police station to report the rape incident. Around 3:00 o'clock in the afternoon, they proceeded to Guihulngan District Hospital where private complainant was examined by Dr. Precy Paguntalan Ung.<sup>[9]</sup> The internal examination revealed the following findings:

For the     No hematoma

Pubis:

For the     Positive laceration at 3:00 o'clock and 6:00 o'clock

Hymen:

For the     No contusion, no lacerations, no erythema

Vulva:

For the     There was negative fresh blood at the vaginal canal.

vagina:     Positive lacerations at 3:00 o'clock and 6:00 o'clock

Admits two (2) fingers

For the     There [were] no lacerations

Cervix:

"Aside from noting the abrasion at the right cheek of private complainant, Dr. Ung also found that after examining the vaginal smear, the same was positive for spermatozoa."<sup>[10]</sup> (citations omitted)

### **Version of the Defense**

Maintaining that he and Rosalie Ganaganag were lovers, Appellant Garces submits in his Brief the following version of the facts of the case:<sup>[11]</sup>

"Porferio Paculang claimed that Pacito Garces, Jr. and Rosalie Ganagan[a]g were sweethearts. On May 14, 1995 at 12:00 o'clock noon, he was driving his motorcycle when he saw Pacito Garces, Jr. and Rosalie Ganagan[a]g walking towards the house of the latter. He had always seen Rosalie riding on the motorcycle driven by Pacito. One time he asked Pacito: 'how are you now with Rosalie?' The latter replied: 'We are now engaged with each other.'

"Pacito Garces, Jr. claimed that he and Rosalie Ganagan[a]g are sweethearts and had made love several times. In the morning of May 14, 1995, he was at Rosalie's residence and had sex with the latter. The sexual act was mutual because they are sweethearts. After their love making, Rosalie warned him that if he will not marry her, she would file a rape case against him. He told Rosalie not to worry because I will marry you. He likewise told Rosalie that he would be coming back in the evening to meet her parents. Rosalie told him: 'let[']s go now because I know that you still have to go back driving.' So he proceeded towards Jimalalud town proper on his motorcycle. In the afternoon of May 14, 1995, he was informed by Porferio Paculang that Rosalie filed a rape case

against him, so he stayed at the Poblacion of Jimalalud. Thereat, he was detained for more than a week as a living out prisoner. While under detention, he was sent to buy fish at the market where he met Rosalie. She told him to escape because she will elope with him. He asked Rosalie why she filed a rape case against him even though they agreed to get married. The latter replied that her parents don't agree to their proposal. They agreed to meet later at Pulupantaw, so he escaped from the Municipal Jail of Jimalalud. He failed to meet Rosalie at Pulupantaw because he was nearly caught by the police authorities." (citations omitted)

### **The Trial Court's Ruling**

The trial court rejected the sweetheart theory and ruled that Appellant Garces raped the 14-year-old Rosalie Ganaganag. It held:

"To bite the story of the accused is to believe that Rosalie was madly in love with Pacito. If Rosalie has been a sweetheart of Pacito, if she has had several passionate trysts with him, and if both of them agreed to marry each other, why did she charge him with the heinous crime of rape? Putting Pacito behind bars solely on the strength of her supposed false accusation of rape is rather odd and diametrically inconsistent with the feeling of love towards him. No girl in her right mind would ever hurt her boyfriend, more so, a person whom she wants to be her husband. There was no strong and overwhelming reason or even just any slight reason for her to invent a false story of being raped by the accused. It was only a matter of minutes, after being sexually abused by the accused that Rosalie reported the harrowing experience to a close family friend. There was no appreciable length of time for her to fabricate so serious a crime as rape which necessarily means exposing herself to shame. Rosalie's swift revelations of the outrage committed against her person shows that her feeling at that time was to immediately avenge her honor and have the sex molester arrested. This can hardly be an act of a woman who wants to be the wife of the accused. In a similar case, the Supreme Court held:

'The actuations of the complainant subsequent to the commission of the crime are likewise consistent with her allegations of rape. Her immediate revelation of the incident to her uncle upon arrival as well as her swift recourse to the barangay captain and the police authorities are not acts of a woman savoring an illicit tryst but that of a maiden seeking retribution for the outrage committed against her.'

"Hence, after a painstaking study of the entire evidence on record along with the law and jurisprudence on rape, the Court brushes aside the defendant's 'sweetheart' theory. There was no consent on the part of the victim. The accused has therefore violated Art. 335 of the Revised Penal Code, as amended by R.A. 7659, which 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;

x x x   x x x   x x x'

"Moreover, the accused escaped from the Municipal Jail of Jimalalud while being detained thereat by reason of this case. He successfully remained a fugitive from justice for over one (1) year and six (6) months. He was only re-arrested on December 28, 1996 in Ozamis City pursuant to the warrant of arrest issued by this Court. This constitutes additional evidence of Pacito's guilt, for flight is evidence of guilt."<sup>[12]</sup> (citations omitted)

### **The Issues**

The appellant presents before us this lone assignment of error:

"THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT OF RAPE DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT."<sup>[13]</sup>

In disposing of this case against the appellant, we shall consider the following issues: the sufficiency of the prosecution evidence and the proper damages.

### **The Court's Ruling**

We find no merit in this appeal.

#### **First Issue:**

#### ***Sufficiency of Prosecution Evidence***

In reviewing rape cases, the Court is guided by the following three principles: (1) to accuse a man of rape is easy, but to disprove it is difficult though the accused may be innocent; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merit and not be allowed to draw strength from the weakness of the evidence for the defense. Corollary to these is the dictum that when a victim of rape says that she has been defiled, she says in effect all that is necessary to show that rape has been inflicted on her, and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof.<sup>[14]</sup>

In the light of these principles, we have scrutinized the testimony of the victim and we find no reason to overturn the trial court's assessment of her credibility. Rosalie Ganaganag narrated in the following manner how Pacito Garces Jr. raped her:

"FISCAL BUSTAMANTE:

Q      Now, on May 14, 1995 , at about 11:00 o'clock in the morning, can you please tell us where you were on that date and time?