

SECOND DIVISION

[G.R. No. 133694, February 29, 2000]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TOMAS CLAUDIO Y MENIJIE, ACCUSED-APPELLANT.

D E C I S I O N

BELLOSILLO, J.:

TOMAS CLAUDIO Y MENIJIE appeals to us the Decision of the court *a quo* finding him guilty of Forcible Abduction with Rape and imposing upon him a prison term of *reclusion perpetua*.^[1] His conviction was based on this narration of facts of the complaining witness, Cherry Joy Santiago:

According to Cherry Joy, on 23 February 1997 at about 7:00 o'clock in the evening she was on her way home from Ever Gotesco where she worked as a saleslady. While at the foot of the overpass which she had to traverse to take her to the other side of the street, she chanced upon the accused Tomas Claudio who invited her to join him for mass at the Quiapo Church. She declined the invitation because it was already late and she was afraid her parents might look for her. But Tomas insisted. He suddenly grabbed her left wrist and dragged her forcibly across the overpass and boarded an aircon bus with her bound for Quiapo. She did not attempt to free herself because she was afraid to create a scene inside the bus. Besides, he was not a total stranger to her, he being the former boyfriend of her mother's cousin whom she referred to as her Ate Neneng with whom he has a love child.

Cherry Joy and the accused alighted in front of the Quiapo Church. Soon after, he gave her a softdrink in a plastic or cellophane bag. She drank it, after which, instead of attending mass the accused took her around the Quiapo area which was unfamiliar to her. They roamed aimlessly through several sidestreets until they reached an alley leading towards a flight of stairs. They took the stairs which led to "many rooms."^[2] She was confused and had no definite idea where she was. He shoved her unceremoniously into one of the rooms. Then he started undressing himself. Sensing the lustful intent of the accused, she scurried towards the comfort room and locked herself. Her cries for help, perhaps muffled by the tightly-closed doors, were not heard from the outside. As she sat on the toilet bowl, she suddenly felt dizzy and lightheaded. She sensed somebody forcing himself in, so she pushed the door back to stop the intruder from getting in; unfortunately, she slipped into unconsciousness.

When she regained consciousness at around midnight, she found herself naked in bed and wrapped only with a blanket. She went to the comfort room and there noticed her vagina bleeding. She forthwith put on her clothes. Tomas warned her not to tell anything to her Ate Neneng. He suggested that she go home alone, but she adamantly refused as she was afraid to see her parents "after what happened."

^[3] Apparently, Tomas acceded to Cherry Joy's entreaties since he took her to his

sister Sheila's house in Bahawan, Masangbong, Quezon City. Cherry Joy could not sleep that night because she was apprehensive that her parents would learn about what happened to her.

The following day, 24 February 1997 at around 10:00 o'clock in the morning, she was surprised to see her mother in Sheila's house. Her mother asked her whether she wanted to marry Tomas but she said no because he was not even courting her. She stayed with an aunt for about four (4) days. Her mother only came to know about the incident through her aunt to whom she related her experience. Her mother accompanied Cherry Joy to the police station where she gave her statement and then to Camp Crame where she was physically examined by a doctor. They also went to the NBI where again she gave a narrative of her sexual encounter.

On 13 March 1997, an Information for the complex crime of forcible abduction with rape was filed before the Regional Trial Court of Manila against Tomas Claudio y Menijie.

Dr. Anthony Joselito R. Llamas presented his findings before the trial court: (a) there was a deep healing laceration at 4:00 o'clock and shallow healing laceration at 9:00 o'clock; (b) the healing lacerations on the genitals were consistent with the claim of the victim that the same were inflicted within the three (3) day-period prior to the medical examination; (c) the injury in the hymen showed that a hard blunt object had penetrated the organ although there was no certainty whether actual sexual intercourse occurred because of the absence of spermatozoa on the victim's genitalia; and, (d) that, under the facts, it was very possible that the sexual intercourse occurred on 23 February 1997.

Accused Tomas Claudio admitted having met Cherry Joy on 23 February 1997. In fact he went to see her at Ever Gotesco not for any sinister motive but to fetch her as they had a "relationship." He testified that while on his way to see her, she pulled his shirt to attract his attention. They then boarded a bus to Quiapo where they entered the Quiapo Church. Shortly after leaving the church, he asked her where she wanted to go next. She said she would go anywhere he pleased.

Tomas then brought Cherry Joy to a hotel and there they made love. Tomas said that never for a moment did she resist his sexual advances. On the contrary, she reciprocated and savored every single moment of their sexual congress. Cherry not only woke him up when they fell asleep after their lovemaking but even joined him in the shower. He recalled that all the while they were on board the bus going to his sister Shiela's place, the complainant was calm. When they knocked at Shiela's door, nobody answered, so they decided to drop by the house of *Mama Nancy*, a friend of his mother. *Mama Nancy* curiously asked what took him so late to come to her place and even asked Cherry Joy whether she was sure of what she was doing. But Cherry Joy curtly replied, "He loves me and something happened to us."^[4] *Mama Nancy* hurriedly phoned accused's sister Shiela who then came and brought them to her house where they stayed until the following morning.

Informed of the disturbing news, the mother of Cherry Joy arrived and sought Shiela's counsel on what to do with the errant lovers. When asked whether she knew what she was doing, Cherry resolutely professed her love for Tomas and signified her willingness to go with him.

Tomas disclosed that on several occasions prior to the incident, he and Cherry Joy met clandestinely, always careful never to let her parents know of their relationship. He theorized that perhaps the reason why Cherry Joy was anxious not to let her parents know about them was because of his child with a relative of theirs.

To fortify the testimony of the accused, the defense presented Nancy Floro, referred to by the accused as *Mama Nancy*, who testified that on 24 February 1997 at around 1:30 to 2:00 o'clock in the morning Tomas, with a girl in tow, came to her house. She noticed that the two (2) were holding hands. The three (3) of them passed the time conversing and exchanging jokes. She even served them coffee. There was no trace of anxiety on the face of the girl as she smiled a lot and positively responded to all her questions.^[5]

Taking the witness stand, Marivic Arais, a friend and neighbor of Cherry Joy, further reinforced the assertion by the accused that he and Cherry Joy were lovers and that their carnal union was but the act of two (2) consenting adults. She testified that Cherry Joy admitted to her her relationship with the accused; that they (private complainant and the accused) oftentimes trysted at some pre-arranged places, e.g., the Quezon Memorial Circle and Pantranco in Quezon City; and that she was trying hard to keep her relationship with the accused from her parents as they would subject her to severe tongue-lashing because he has a child with a relative.^[6]

The trial court lent absolute credence to the declarations of the private complainant. Accordingly, it convicted accused Tomas Claudio of the complex crime of forcible abduction with rape;^[7] hence, this appeal.

Accused-appellant assails the finding of the trial court that the evidence presented by the prosecution was sufficient to warrant his conviction. He vehemently argues that the facts of the case and the demeanor of the private complainant negate the contention that she did not consent to go with him.^[8] He further insists that her testimony is not only "at odds with knowledge and common experience" but her "deportment after the alleged rape renders her accusation incredible."^[9]

We agree. Placing the testimony of accused-appellant in juxtaposition with the narration of the private complainant, this Court cannot help rejecting the credibility of the latter's testimony for being obviously contrived, and ruling that the version of accused-appellant more approximates the real story. It is a truism that for a testimony to be accorded credence it must not only be believable but must spring from the mouth of a credible witness. Indeed, the obliquity of the complainant's account is so marked as to create the impression that the accusation was a mere concoction of a malicious mind. Etched in our jurisprudence is the rule that the onus is on the prosecution to prove the guilt of the accused beyond reasonable doubt. In this, the prosecution miserably failed.

First. Private complainant never objected or showed any resistance when accused-appellant allegedly dragged her forcibly across the pedestrian overpass and brought her to an undisclosed place at Quiapo. Although he was holding her wrist tightly, she could have easily extricated herself from him on several occasions: (a) while they were inside the bus bound for Quiapo; (b) when they alighted from the bus and roamed the sidestreets of Quiapo; and, especially so, (c) when they entered the hotel and finally the room where the alleged rape took place. Accused-appellant was