

FIRST DIVISION

[G.R. No. 126402, September 13, 2000]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
LITO ROSALES, ACCUSED-APPELLANT.**

DECISION

PUNO, J.:

This is an appeal from the decision of the Regional Trial Court, Branch 21, Bansalan, Davao del Sur finding accused-appellant Lito Rosales guilty of the crime of rape and sentencing him to reclusion perpetua as follows:

"WHEREFORE, in view of the foregoing premises, this court finds accused Lito Rosales guilty beyond reasonable doubt of the crime of rape and hereby sentences said accused to a penalty of reclusion perpetua. Accused is further ordered to indemnify the victim in the amount of P50,000.00 as damages in line with latest jurisprudence.

Accused is entitled to full credit of the preventive imprisonment he had undergone if he has abided by the rules and regulations imposed upon inmates by the authorities of the Provincial Jail of Davao del Sur, otherwise, he shall be entitled only to four-fifths of the preventive imprisonment he had undergone.

SO ORDERED."^[1]

In an Information dated March 3, 1993, accused-appellant was charged with the crime of rape committed as follows:

"That a little past 10:00 or thereabout, in the evening of December 20, 1992 along riverside Villa Alde St., Bansalan, Davao del Sur, within the jurisdiction of this court, the said accused with deliberate intent, did then and there wilfully, unlawfully and feloniously hold forcibly, pull and drag to the bank of the river one Helen V. Villaflor, a 17-year old, feeble-minded female retardate, and against the will and despite the resistance of the latter, push and steady her against a rock, cover her mouth, remove her panty and ultimately have carnal knowledge with the victim, to her damage and prejudice.

CONTRARY TO LAW."^[2]

The prosecution established that on December 20, 1992, at 10:00 in the evening, Helen Villaflor was in the store of her sister Vilma at the public market in Bansalan, Davao del Sur. With her was her mother and another sister, Nena. Nena requested Helen to buy some sheets of cellophane at another store nearby. There were three other customers at the store. It was very dark that night as there was a brown-out

and the only light was provided by a "mitsa"^[3] lamp. Helen bought the cellophane. As she left the store, accused-appellant suddenly appeared and pulled the girl towards him. He covered her mouth with one hand and with the other, held her hands behind her.

Accused-appellant dragged Helen towards the river some 120 meters away. Beside the river, accused-appellant released his hand on Helen's mouth prompting the latter to shout for help. Accused-appellant clamped the girl's mouth and slapped her. He threatened that he would slap her again should she shout. Accused-appellant made Helen lie down on a big rock and took off her panty. He took off his brief and had carnal knowledge of the girl. Accused-appellant entered Helen twice. Helen was frightened; all parts of her body felt different and very weak. After accused-appellant satisfied his lust, he got up and left the girl on the rock.

Helen got up and dragged herself to her sister's store at the public market. There, she told her sister of what happened to her. That same night, her sister and mother took her to the police station. Helen informed the police of what accused-appellant did to her. The following day, Helen's father took her to the Davao Provincial Hospital for a physical examination.

The examination was conducted by Dr. Annabelle Yumang, Municipal Health Officer of Bansalan, Davao del Sur. Dr. Yumang found:

"P.E. findings:

- + swollen, erythematous labia majora
- + complete fresh laceration of hymen with slight bleeding
- + admits 3 cm diameter vaginal speculum with ease

Other findings:

- + erythema over L face
- + contusions over L forearm mid-anterior and lower lip

Laboratory examination--- + for presence of sperm cells^[4]

Remarks: physical virginity is lost."^[5]

Accused-appellant denied having raped Helen. He said that they were sweethearts and that they had sexual intercourse because Helen consented to it. Accused-appellant alleged that they became sweethearts on December 6, 1992, a week after he arrived from Southern Leyte. He was employed as a baker at the La Suerte Bakery which was adjacent to Helen's house. On December 20, 1992, at 7:00 P.M., he was sitting in front of the bakery when Helen and a companion whom he did not know passed by. Helen called him and asked him to accompany her to buy bread at Leynes' Bake Shoppe. He went with them. After buying bread, Helen proceeded to her sister's store at the public market while he returned to the bakery.

At 8:30 in the evening, Helen, alone this time, passed by the La Suerte Bakery and called accused-appellant. She told him she was going to buy cellophane. Accused-appellant accompanied Helen. They stopped at a store barely 20 meters away and saw people milling around. Helen bought the cellophane. Thereafter, Helen led appellant towards the public market. As they walked, Helen told appellant that she was going to Manila with her sister. Accused-appellant, however, replied that he could not leave Bansalan because of his work. By this time, they had reached the

public market and they went inside. The market was well-lighted; there was no brown-out.

The couple went out of the market and walked on the road for some fifteen minutes. They reached the side of the river and sat on a rock nearby. Five meters from where they sat were two houses whose occupants were then still awake. Accused-appellant saw one of the occupants watching a video tape while the others were drinking.

As they sat, Helen placed her right elbow on accused-appellant's lap and embraced him. Responding, accused-appellant wrapped his arms around her and they kissed. Accused-appellant asked Helen if he could have sex with her. In reply, she said it was for him to decide as long as he would marry her. Then Helen herself removed her panty while he removed his pants and brief. They laid down on the rock. Helen held his penis and inserted it into her vagina. The girl then embraced him and said that the sensation pained but at the same time tingled her.

Thereafter, accused-appellant got up, put on his brief and pants as Helen dressed herself. They sat down and Helen told him again that she was leaving Bansalan with her elder sister. They conversed for some ten minutes and afterwards got up together. Helen proceeded to her sister's store while appellant returned to the bakery to bake pan de sal for the morning. After baking, accused-appellant heard some noise coming from Helen's house. He heard thudding sounds and someone crying and shouting. He tried to listen further but fell asleep.

Half an hour later, accused-appellant was awakened by three policemen who took him to the municipal hall. That night, he was arrested and imprisoned.^[6]

The trial court upheld the prosecution evidence and found accused-appellant guilty of the crime charged. Hence, this appeal.

Accused-appellant claims that:

"THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY OF RAPE BEYOND REASONABLE DOUBT DESPITE THE FACT THAT THE TESTIMONY OF COMPLAINANT HELEN VILLAFLORES IS DOUBTFUL AND CONTRARY TO HUMAN EXPERIENCE."^[7]

The only issue accused-appellant raises is the credibility of Helen Villaflores's testimony.

The general rule in criminal cases is that conclusions as to the credibility of witnesses in rape lie heavily on the sound judgment of the trial court which is accorded great weight and respect, if not conclusive effect.^[8] In this case, there is nothing that would warrant a deviation from the general rule. Helen's testimony on direct examination is as follows:

"PROSECUTOR QUIÑONES

Q: Can you recall Miss Witness where were you on December 20, 1992 at around 10:00?

HELEN VILLAFLORES

A: I was in our store.

Q: Where is your store located?

A: It is in the place where Benito's Bakery is situated.

Q: You are pointing to the public market of Bansalan?

A: Yes, sir.

Q: Bansalan, Davao del Sur?

A: Yes, sir.

Q: Who was with you last December 20, 1992 at around 10:00 in the evening?

A: I was with my mother and older sister.

Q: Now, do you recall if there was an unusual incident that transpired last December 20, 1992?

A: There was.

Q: What was that unusual incident that took place Miss Witness?

A: A rape.

Q: Who was raped?

A: Me.

Q: How did it happen Miss Witness?

A: My older sister ordered me to buy cellophane.

Q: What is the name of your older sister who ordered you to buy cellophane?

A: Nena Villaflor.

Q: Now did you proceed to buy cellophane?

A: Yes, sir.

Q: Where if you can recall?

A: I bought cellophane in the store which is beside the store of my sister.

Q: Were you able to buy cellophane?

A: Yes, sir.

Q: Were you able to come back after buying?

A: No more.

Q: Tell the Honorable Court why you failed to come back?

A: He suddenly pulled me.

Q: What else happened after he pulled you?

A: He covered my mouth with his hand and brought me towards the public market.

Q: Did you arrive at the public market?