

FIRST DIVISION

[G.R. No. 120235, September 30, 1999]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALEX DE LOS SANTOS Y SANTOS, DEFENDANT-APPELLANT.

D E C I S I O N

PARDO, J.:

The case is an appeal from the decision of the Regional Trial Court, National Capital Judicial Region, Branch 128, Kalookan City,^[1] convicting accused Alex de los Santos y Santos of the crime of rape committed against Rubilita Ganto y Fernandez, the dispositive portion of which reads:

"WHEREFORE, premises considered, the accused Alex de los Santos is hereby found guilty beyond reasonable doubt and is hereby sentenced to suffer the penalty of Reclusion Perpetua and to pay private complainant P50,000.00 as moral damages and P30,000.00 as exemplary damages."

On September 17, 1993, Assistant City Prosecutor Dioniso C. Sison of Kalookan City filed with Regional Trial Court, Branch 128, Kalookan City, an information charging the accused with rape, which reads:

"The undersigned Asst. City Prosecutor accuses ALEX DE LOS SANTOS Y SANTOS of the crime of RAPE, based on the duly subscribed Sworn Statement of RUBILITA GANTO y FERNANDEZ, copy of which is hereby attached as integral part of this Information, committed as follows:

"That on or about the 15th day of September 1993 in Kalookan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie with (sic) and have (sic) sexual intercourse with RUBILITA GANTO y FERNANDEZ, against her will and without her consent."

"CONTRARY TO LAW."^[2]

Upon arraignment on October 18, 1993, accused, assisted by counsel *de oficio*, pleaded not guilty.^[3] After due trial, on April 24, 1995, the trial court found accused guilty beyond reasonable doubt of the crime of rape, and sentenced him to the penalty of *reclusion perpetua*, and awarded damages, as quoted in the opening paragraph of this opinion.

Hence, this appeal.

The prosecution presented the following witnesses: the victim, Rubilita Ganto, her grandfather, Marvin Sumlin, Dr. Floresto Arisala, Jr., SPO1 Gaudencio Domingo and

Federico Velasco. Only accused Alex de los Santos testified in his own defense.

The facts are as follows:

On September 15, 1993, around 3:00 in the afternoon, Rubilita Ganto, a 15 year-old student, was preparing her school project at home. At that time, accused Alex de los Santos, a neighbor, barged into the former's house and pointed an icepick at her neck. Accused threatened her with death if she shouted. While continuously threatening her with the icepick, accused forced Rubilita to go to her bedroom. He repeatedly ordered her to undress. She initially resisted, crying and begging the former to have mercy. Instead of showing remorse and compassion, accused pressed the icepick deeper into Rubilita's neck, scrapping her skin. In fear of her life, Rubilita had no choice but to abide by accused's wishes. Upon his insistence, she removed her clothes and lay down. Thereafter, accused removed his clothes and lay on top of her. While pressing the icepick at Rubilita's neck, accused told her to open her thighs and inserted his penis inside her vagina. Accused stayed on top of her for about five (5) to ten (10) minutes, and she could not do anything but cry silently as accused continued the sexual assault. After consuming his lust, accused ordered her to dress up, and he hurriedly left the house.^[4]

Marvin Sumlin, Rubilita's grand uncle, arrived home at around 6:00 p.m. He saw Rubilita crying in the living room and trembling with fright. Upon repeated inquiry, Rubilita finally told him about the rape committed by the accused. Thereafter, Marvin Sumlin reported the incident to barangay officials, who immediately looked for accused and arrested him.^[5]

On September 16, 1993, Dr. Floresco Arisala, Jr. examined Rubilita, and issued a medico-legal report, with the following findings:

"GENITAL EXAMINATION:

"Pubic hair, fine, short, scanty. Labia Majora and labia minor, coaptated. Fourchette, tense. Vestibule, pinkish, smooth. Hymen, originally annular, moderately tall, thick, with a healing deep laceration at 6:00 o'clock position corresponding to the face of a watch, edges of which are congested and edematous. Hymenal orifice, admits a tube, 2.5 cm. in diameter with marked resistance. Vaginal walls, tight. Rugosities, prominent.

"CONCLUSIONS:

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

"2. Healing deep hymenal laceration, present, compatible with sexual intercourse with a man on or about the allegation of commission."^[6]

Dr. Arisala explained that the healing deep laceration meant that sexual intercourse occurred within one to three days from the date of examination.^[7]

Accused Alex delos Santos denied the charge of rape. He testified that on September 15, 1993, at about 2:30 p.m., he was drinking beer with some