

FIRST DIVISION

[G.R. No. 124739, April 15, 1998]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DOMINADOR PILI Y ORTIZ, ACCUSED-APPELLANT.**

D E C I S I O N

PANGANIBAN, J.:

In view of the intrinsic nature of rape where only two persons are usually involved, courts are cautioned to minutely scrutinize the words and actions of the victim. In this case, we meticulously examined the testimony of the complainant, but we find no reason to disturb the trial court's finding which gave it full faith and credence.

The Case

This is an appeal from the Decision^[1] dated December 22, 1995 of the Regional Trial Court of Quezon City, Branch 219, in Criminal Case No. Q-94-55418 convicting Dominador Pili y Ortiz of rape.^[2]

In a Complaint dated March 9, 1994, Fe Dejucos Revilla accused Dominador Pili of rape. Assistant City Prosecutor Leonil G. Reas treated the said Complaint as the Information and filed it in the aforementioned Court, with a certification that the accused opted not "to avail himself of the right to preliminary investigation."^[3] The accusatory portion of the Information reads as follows:

"The undersigned accuses DOMINADOR PILI y CORTEZ [sic] of the crime of RAPE committed as follows:

That on or about the 6th day of March, 1994, in Quezon City, Philippines, the said accused by means of force and intimidation, to wit: by [sic] then and there wilfully, unlawfully and feloniously at knife point undress the undersigned and thereafter have carnal knowledge with the undersigned complainant against her will and without her consent.

CONTRARY TO LAW."^[4]

Upon arraignment, the accused, assisted by Counsel Henry B. Inting of the Public Attorney's Office,^[5] pleaded not guilty. After trial, the lower court rendered the assailed Decision, the dispositive portion of which reads:

"WHEREFORE, finding the accused DOMINADOR PILI guilty beyond reasonable doubt of the crime of [r]ape, defined and penalized under Article 335 of the Revised Penal Code, as amended by R.A. 7659, the Court hereby sentences him to suffer the penalty of [r]eclusion [p]erpetua, to pay the complainant the amount of P30,000.00 as moral damages, and to pay the costs."

Hence, this appeal.^[6]

The Facts

Version of the Prosecution

The prosecution's version of the facts, as summarized by the solicitor general in the Appellee's Brief, is as follows:^[7]

"At around 8:00 o'clock in the evening of 6 March 1994, private complainant Fe Revilla ['Fe,' for brevity] was in the company of long time friends Raquel Castaneda and Carlito Ocenas who came to visit her at her house in Freedom Park III, Batasan Hills, Quezon City (TSN, 7 June 1994, pp. 3-4).

While enjoying their tattle, appellant and his Muslim companion, Ashmad, unexpectedly arrived. The two joined in the conversation when suddenly, appellant pulled out a fan knife and jeered, 'Trip kong manggulo ngayon' [I feel like creating trouble] (*Ibid.*, p. 5).

Thereafter, Ashmad left the group. Meantime, Fe and her friends were immobilized with fear and apprehension over appellant's conduct (*Ibid.*).

Soon, appellant left the house (*Ibid.*). Feeling quite relieved, Fe rose from her seat to prepare coffee. Minutes later, however, appellant came back, still in his uncharacteristic mood, and reiterating that he wants to stir trouble (*Ibid.*, p. 6).

Since Raquel and Carlito became apprehensive of appellant's presence, they left without even tasting their coffee (*Ibid.*, p. 6).

Taking advantage of Fe's sudden isolation, appellant bodily seized her and told her to go to bed with him (*Ibid.*, p. 7). Initially, Fe resisted. When appellant, however, aimed his knife at Fe while the latter was already tangled in his embrace, Fe could only plead for mercy and entreat appellant about her children and the consequences of his act.

Ostensibly unmoved by her cry for mercy, appellant pushed Fe to the nearby bed, about five (5) steps away (*Ibid.*, p. 9). Thereafter, appellant pulled down his trousers and went on top of his victim. Appellant thereafter slid his victim's one-length dress up to her shoulders and removed her underwear. Then, appellant introduced his organ into hers and began to pump until apparently he realized that his victim was menstruating. (*Ibid.*, p. 11).

Appellant inquired from Fe if indeed she was menstruating and despite receiving an affirmation, appellant lit a lighter and checked on his victim's pudendum (*Ibid.*, p. 11). Although he already pulled out his organ from his victim, appellant now took time in kissing his victim all over her face (*Ibid.*, pp. 11-12).

Fe could now only cry. When a vehicle suddenly blew its horn, Fe distracted appellant by saying that a visitor just came (*Ibid.*, p. 12). Appellant said he could not care. When a car's horn again sounded, Fe reiterated that a cousin may have arrived (*Ibid.*, p. 13).

This time, appel[l]ant budged. Taking this as her cue, Fe pushed appellant and ran as fast as she could (*Ibid.*).

Fe scampered to the direction of the Barangay Lupon (*Ibid.*, p. 13). By chance, Rev. Reynaldo Cabangon ["Rev. Cabangon," for brevity], a pastor, happened to meet a

distressed Fe on the road who was crying and uttering that she was raped and molested by a certain "Domeng" (TSN, 7 June 1994, p. 14).

At around 10:40 o'clock that evening of the same date, Fe's sworn statement was taken (Exh. "C," Records, p. 85).

The following morning, or on 7 March 1994 at 11:00 o'clock a.m., a medical examination was conducted on private complainant.

Thus, Medico-Legal Report No. M-0429-94 states:

"SPECIMEN SUBMITTED:

Person of Fe D. Revilla, about 38 years old and a resident of Freedom Park 3, Batasan Hills, QC.

PURPOSE OF LABORATORY EXAMINATION:

To determine physical signs of sexual intercourse.

FINDINGS:

GENERAL AND EXTRAGENITAL:

Fairly developed, fairly nourished and coherent female subject. Breasts are pendulous with dark brown areola and nipples [sic] from which no secretion [sic] could be pressed out. Abdomen is flat and soft. There is an abrasion at the left scapular region, measuring 2 by 2 cm, 14 cm from the posterior midline.

GENITAL:

There is abundant growth of pubic hair. Labia majora are full, convex and gaping with the dark brown, hypertrophied labia minora presenting in between. On separating the same are disclosed carunculae myrtiliformis. External vaginal orifice offers slight resistance to the introduction of the examining index finger.

CONCLUSION:

Subject is in non-virgin state physically.

Barring unforeseen complication it is estimated that the above injury will resolve in 3 to 5 days."

At around 8:45 o'clock in the evening of 7 March 1994, police officers apprehended appellant at his residence in 98 Freedom Park, Batasan Hills, Quezon City, where appellant voluntarily came with the police officers to the precinct for investigation (TSN, 31 Aug. 1994, pp. 6-8).

On 9 March 1994, private complainant Fe Revilla signed a complaint for [r]ape against appellant."

Version of the Defense

Appellant interposes denial and alibi. In the Appellant's Brief, the defense adopted the trial court's narration as its version of the facts, which is reproduced as follows:^[8]

"The accused DOMINADOR PILI, 38 years old carpenter, married, and a resident of 98 Dama de Noche St., Freedom Park, Batasan Hills, Quezon City. His testimony was offered to deny the allegations stated in the Information and to prove that on March 6, 1994 at 8:00 o'clock in the evening, he was at the residence of Ricardo Malto at Freedom Park, Batasan Hills, Quezon City wathing [sic] TV with other persons; that the complainant's motive in filing the complaint against him was to seek revenge as he was against her relationship with his brother.

He declared, among others, that at around 7:00 o'clock in the evening of March 6, 1994, he went to the house of Johnny Corpuz also at Freedom Park to borrow a betamax tape; that he was not able to borrow the tape but he stayed there for less than an hour; that he left at about 10 minutes to 8:00 o'clock and then he preceeded [sic] to the house of Ricardo Malto about 120 meters away arriving there before 8:00 o'clock; that there he joined the brother, sister, mother of Ricardo Malto and Eric Absoler in watching a basketball game on TV staying there for less than an hour because he was already sleepy; that he left the residence of Ricardo Malto about 15 minutes to 9:00 o'clock; that during the time he was there, Johnny Corpuz came and asked him to look after his house, seven children, and their dog because he was going to the province; that at around 9:00 o'clock in the evening, he headed for home and Ricardo Malto even lighted his way with the use of a rechargeable lamp; that when he reached home, his wife prepared coffee and they talked about the preparation for her birthday the next day, March 7; that thereafter, he went to bed after telling his wife to wake him up at 10:00 o'clock the following morning because he would look after the children and the house of Johnny Corpuz who left for the province; that while he was asleep, his wife woke him up the following morning because there was a policeman looking for him; that the policeman had no warrant of arrest but at about 9:00 o'clock in the morning he went to the police precinct; that he talked to Major Collado who asked him to come back at 9:00 o'clock in the evening since the investigator was not around; that he then went home with his wife and b[r]ought home food for her birthday; that in the afternoon of same day, some policem[e]n arrived and arrested him although they had no warrant with them; that he was with his wife when he was brought to the precinct; that he did not rape the complainant; that he was familiar with the house of the complainant because it is very near his place and he was the one who made its window upon the order of his brother; and that the door of her house is that of a refrigerator.

He further told the Court that sometime in May, 1992, he was living with his brother Ricardo, his parents and his family at his present address; that at the time, Ricardo whose wife was then working in Saudi Arabia, was cohabiting with the complainant, whose husband in turn was in the Bahamas; that he and his mother, who was living with them in an extended room, did not approve of their relationship; that the relationship ended upon the arrival of Ricardo's wife in November 1993; that Ricardo and the complainant actually separated sometime in January, 1994, and he felt good about the separation but he had no ill feeling against her when she left; that he told the two to end their relationship because it was embarras[s]ing to her sister-in-law but the complainant told him that someday he and his brother would kneel before her; that the complainant had been harboring ill feelings against him because of his objection to their relationship; that the complainant testified in his favor in another criminal case which he filed against a certain Rex Lucero, before the rape incident happened; that she testified for him because of his brother; and that despite her favorable testimony, he still disapproved of their relatio[n]ship.

RICARDO PILI, 42 years old, member of the Philippine Marines, married, and a resident of No. 420 E. Mabini St., Sabang, Baliwag, Bulacan. His testimony was offered to (sic) that he lived with the private complainant without the benefit of marriage for at least two (2) years; that the complainant wrote him and the accused after their separation informing him that she would file a case against him but he was able to prevent it when he built a shanty for her.

He declared, among others, that in 1991, the accused, his brother, and his family was [sic] residing in his house at 98 Dama de Noche, Freedom Park, Batasan Hills, Q.C.; that he has two (2) children with his wife who is working as a domestic helper in Saudi Arabia; that the complainant, who has two children of her own, was his former live-in partner since May 21, 1991; that he had no children with her; that according to the complainant, prior to their relationship, she also had an affair with Manuel D. Laxima, the former barangay captain of Batasan Hills, bu (sic) they just went to motels and that they had a love child whom they sent to the United States; that the accused, who is married with 4 children, was against their relationship because he was ashamed of it; that when he proposed to end the relationship, the complainant told him, 'Magsisisi kayong dalawa'; that he severed his relationship with the complainant sometime in September, 1993; that because of the severance, the complainant told him that he and the accused would regret it later and one day they would kneel in front of her; that a week after the instant case was filed against the accused, he met her at Ever Emporium at Commonwealth Avenue and invited her for a talk; that when he asked her if his brother did rape her, she just laughed; and that the complainant was then a barangay secretary.

On cross-examination, he replied that on March 6, 1994 at round 8:00 o'clock in the morning, he went to the police station upon learning that the accused was detained for having allegedly abused Fe Revilla; that he was in Fort Bonifacio when the crime supposedly happened; that he never saw the accused before he went to the police station but he was of the impression that he was in Cavite where he was working; that he did not [sic] know the day to day activities of the accused although he knew for a fact that he went home on weekends; and that he never talked to the accused or his wife prior to his knowledge of the incidence [sic].

RICARDO MALTO, 30 years old, married, and a resident of Freedom Park III, Batasan Hills, Quezon City. His testimony was offered to prove that at the time of the incident, the accused was actually in his house watching a basketball game on television until 9:00 o'clock.

He declared among others, that the accused was a neighbor who used to watch TV in their house; that he also [sic] knows the complainant because she is also from Freedom Park III and a former adviser in the Kabataang Barangay; that the house of the accused is 10 meters away from his house while that of the complainant is approximately 15 meters away; that in the evening of March 6, 1994, he was at his house lying in a hammock and watching television with his brothers and sisters and one Eric Ansoler; that at around 8:00 o'clock in the evening of the said day, the accused arrived and joined them in watching basketball game on TV; that the accused stayed for an hour and left before 9:00 o'clock in the evening which could have been also 8:30 o'clock; that he lighted the was [sic] of the accused with an emergency lamp until the latter reached his own house; and that thereafter he did not know where else he went, if he ever did go anywhere.