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THIRD DIVISION

[G.R. Nos. 128159-62. July 14, 2003]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **HIPOLITO PASCUA,** *appellant.*

SYNOPSIS

Appellant Hipolito Pascua was convicted of four (4) counts of rape by the Regional Trial Court of Pangasinan and was sentenced to suffer the penalty of *reclusion perpetua* in each case. In his appeal before the Court, appellant insisted that he is innocent and claimed that he is not guilty of rape because private complainants voluntarily submitted to his sexual desires. He even postulated that if there should be any liability on his part, it should only be for simple seduction.

The Supreme Court affirmed his conviction. The Court found appellant's reasoning that the victims consented to his lascivious desires simply too preposterous to deserve consideration. The said reasoning, according to the Court, is not only revolting but goes against established norms. The Court gave full faith and credit to the testimonies of the two complainants because their declarations during the trial were simple, straightforward and unflawed by any inconsistency or contradiction. Appellant, on the other hand, had nothing to support his claim other than his self-serving assertions that private complainants were teenagers of loose morals and that the repeated acts of sexual intercourse were consensual.

SYLLABUS

1. CRIMINAL LAW; RAPE; APPELLANT'S DEFENSE THAT THE VICTIMS CONSENTED TO HIS LASCIVIOUS DESIRES IS SIMPLY TOO PREPOSTEROUS TO DESERVE SERIOUS CONSIDERATION; NO YOUNG CHILD IN HER RIGHT MIND WILL CONSENT TO HAVE SEXUAL INTERCOURSE WITH A 65-YEAR-OLD MAN, SPECIALLY ONE WHOM THE VICTIM CONSIDERS HER GRANDFATHER.— After an exhaustive review, we find ourselves unable to agree with

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appellant's reasoning. The appellant's defense that the victims consented to his lascivious desires is simply too preposterous to deserve serious consideration. The same is not only revolting but goes against established norms. No young child in her right mind will consent to have sexual intercourse with a 65-year-old man, specially one whom she considers her grandfather. The appellant desperately tries to portray private complainants as sex-starved maniacs who, at the tender age of 12, persistently demanded sex with him. Further, his story that private complainants would even go naked on top of him was nothing but a yarn that offends sensibilities and Filipino values. Indeed, after admitting that he had carnal knowledge of private complainants on several occasions, the appellant assumed the burden of proving his defense by substantial evidence. The record shows that, other than his self-serving assertions, the appellant had nothing to support his claim that private complainants were teenagers of loose morals and that the repeated acts of sexual intercourse were consensual.

2. ID.; ID.; **ELEMENT OF FORCE OR INTIMIDATION; PHYSICAL RESISTANCE NEED NOT BE ESTABLISHED WHEN INTIMIDATION WAS USED ON THE VICTIM AND SHE SUBMITTED TO THE RAPIST'S LUST FOR FEAR OF HER LIFE OR HER PERSONAL SAFETY.**— Private complainants tried to scream but the appellant prevented them by threatening to kill them. Also, after each rape incident, private complainants were warned by the appellant not to tell their mother what happened to them. It is settled that a rape victim is not required to resist her attacker unto death. Force, as an element of rape, need not be irresistible; it need only be present and so long as it brings about the desired result, all considerations of whether it was more or less irresistible is beside the point. Indeed, physical resistance need not be established in rape when, as in this case, intimidation was used on the victim and she submitted to the rapist's lust for fear of her life or her personal safety. Jurisprudence holds that even though a man lays no hand on a woman, yet, if by an array of physical forces, he so overpowers her mind that she does not resist or she ceases resistance through fear of greater harm, the consummation of unlawful intercourse by the man is rape. Without question, the prosecution was able to prove that force or intimidation was actually employed by the appellant on the two victims to satisfy his lust.

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3. ID.; SIMPLE SEDUCTION; THERE MUST BE A DECEITFUL PROMISE OR INDUCEMENT AND THE WOMAN SHOULD HAVE YIELDED BECAUSE OF THE SAID PROMISE OR INDUCEMENT.— Equally untenable is the argument of the appellant that, if he is at all liable for anything, it should only be for simple seduction. Under Article 338 of the Revised Penal Code, to constitute seduction, there must in all cases be some deceitful promise or inducement. The woman should have yielded because of this promise or inducement. In this case, the appellant claims that the acts of sexual intercourse with the private complainants were in exchange for money. He declared that, prior to every sexual intercourse with Liza and Anna, he would promise them ₱20. However, aside from his bare testimony, the appellant presented no proof that private complainants' consent was secured by means of such promise. As aptly opined by the trial court, the money given by the appellant to private complainants was not intended to lure them to have sex with him. Rather, it was for the purpose of buying their silence to ensure that nobody discovered his dastardly acts. The evidence for the prosecution was more than enough to show that the element of voluntariness on the part of private complainants was totally absent. Liza and Anna's respective testimonies established that the appellant had sexual intercourse with them without their consent and against their will. Considering that the victims' accounts of what the appellant did to them were absolutely credible and believable, the trial court correctly convicted the appellant of several crimes of rape against the 12-year-old twins, Liza and Anna Paragas.

4. REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; IT IS CULTURALLY INSTINCTIVE FOR YOUNG AND DECENT FILIPINAS TO PROTECT THEIR HONOR AND OBTAIN JUSTICE FOR THE WICKED ACTS COMMITTED ON THEM.— It is culturally instinctive for young and decent Filipinas to protect their honor and obtain justice for the wicked acts committed on them. Thus, it is difficult to believe that private complainants would fabricate a tale of defloration, allow the embarrassing examination of their private parts, reveal the shame to the small rural town where they grew up and permit themselves to be subjected to a humiliating public trial if they had not in fact been really ravished. When the offended parties are young and immature girls from 12 to 16, as in this case, courts are

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inclined to lend credence to their version of what transpired, considering not only their relative vulnerability but also the public humiliation to which they would be exposed by court trial if their accusation were not true.

5. ID.; ID.; ID.; DECLARATIONS OF COMPLAINANTS DURING THE TRIAL WERE SIMPLE, STRAIGHTFORWARD AND UNFLAWED BY ANY INCONSISTENCY OR CONTRADICTION.— We entertain no doubt that Liza and Anna told the truth. Their testimony was clear that they never consented to the rape. Their declarations during the trial were simple, straightforward and unflawed by any inconsistency or contradiction. A candid and honest narration by the victim of how she was abused must be given full faith and credit for they contain earmarks of credibility.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Public Attorney's Office for accused-appellant.

D E C I S I O N

CORONA, *J.*:

Before us is an appeal from the decision dated November 14, 1996 of the Regional Trial Court of Pangasinan, Branch 38, finding the appellant guilty beyond reasonable doubt of four counts of rape and sentencing him to suffer the penalty of *reclusion perpetua* in each case.

The appellant was charged with four counts of rape in separate informations which read:

"CRIM. CASE NO. L-5409

"That on or about the 27th day of January, 1996 in the evening, in barangay Calvo, municipality of Mangatarem, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with force, violence and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with said Liza Paragas, a 12-year old minor inside his house against her will and without her consent, to her damage and prejudice.

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"CONTRARY to Art. 335 of the Revised Penal Code as amended by R.A. 7659.

"CRIM. CASE NO. L-5410

"That on or about the 6th day of August 1995 in the evening, in barangay Calvo, municipality of Mangatarem, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with force, violence and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with said Liza Paragas, a 12-year old minor inside his house against her will and without her consent, to her damage and prejudice.

"CONTRARY to Art. 335 of the Revised Penal Code as amended by R.A. 7659.

"CRIM. CASE NO. L-5411

"That on or about the 20th day of January 1996 in the evening, in barangay Calvo, municipality of Mangatarem, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with force, violence and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with said Anna Paragas, a 12-year old minor inside his house against her will and without her consent, to her damage and prejudice.

"CONTRARY to Art. 335 of the Revised Penal Code as amended by R.A. 7659.

"CRIM. CASE NO. L-5412

"That on or about the month of August 1995 in the evening, in barangay Calvo, municipality of Mangatarem, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with force, violence and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with said Anna Paragas, a 12-year old minor inside his house against her will and without her consent, to her damage and prejudice.

"CONTRARY to Art. 335 of the Revised Penal Code as amended by R.A. 7659."[1]

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[1] *Rollo*, pp. 6-9.

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On arraignment, appellant pleaded "not guilty" to all charges. Thereupon, joint trial of the cases ensued.

The facts, as culled from the records, follow.

Private complainants Liza and Anna, both surnamed Paragas, are twins born on July 12, 1983. The appellant was their neighbor in Calvo, Mangatarem, Pangasinan. Liza and Anna considered appellant as their grandfather although he was not related to them.

On August 6, 1995, private complainants were playing near the house of the appellant when the latter called Liza and instructed her to buy juice at the store. Liza obeyed. After she returned from the store, the appellant ordered Liza to go inside his house and lie down on the floor. Appellant then removed Liza's pants and underwear, went on top of her, inserted his penis into her vagina and made push and pull movements. Liza tried to scream but appellant threatened to kill her.

After the sexual intercourse, the appellant gave Liza ₱10 and warned her not to reveal the incident to her mother. Liza then went home but did not tell her mother what happened for fear that her mother would punish her.

The same thing happened on January 27, 1996 when Liza was called by the appellant as she was passing by his house. Once Liza was inside, she was forced to lie down by the appellant who then removed her pants and underwear. Appellant went on top of Liza and inserted his penis into her vagina before making push and pull movements. Liza was not able to shout because appellant again threatened to kill her. After her ordeal, the appellant gave Liza ₱5 and reminded her not to tell her mother what happened. So Liza went home without telling her mother that she was sexually abused by the appellant.

Liza's twin sister, Anna, suffered the same fate at the hands of the appellant. Sometime in August 1995, while Anna was playing with her cousins, the appellant called her and asked her to go inside his house. As soon as Anna entered his house, the appellant closed the door, removed Anna's pants and

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underwear, and made her lie down on the floor. Thereafter, the appellant inserted his penis into Anna's vagina and ravished her. Anna felt pain but could not shout as appellant threatened to kill her. The appellant also warned her not to tell her mother about the incident. Thus, when Anna went home, she did not tell her mother what appellant had done to her.

On January 20, 1996, Anna was on her way home after buying charcoal from the store when the appellant called her anew. As soon as Anna was inside appellant's house, the latter told her to remove her pants and underwear but Anna refused. So appellant himself forcibly removed Anna's clothes and went on top of her before inserting his penis into her vagina. Again, Anna was not able to shout because she was afraid that the appellant would kill her. As in the prior incident, Anna did not tell her mother that the appellant molested her.

Private complainants' mother, Leticia Paragas, learned of her daughters' ordeal through her older daughter, Rosalina, who, in turn, came to know of the rape incidents from the appellant's granddaughter. Apparently the granddaughter witnessed the appellant as he was raping Liza and told Rosalina about it.

Upon learning what the appellant had done to her daughters, Leticia confronted them. Liza and Anna were initially reluctant to talk but upon further questioning, they finally revealed that the appellant had sexually abused them. Leticia wasted no time in reporting the matter to their *barangay* chairman and to the police before whom she filed criminal complaints against the appellant. Thereafter, they proceeded to the Mangatarem District Hospital where the victims were examined by Dr. Athena Merrera.

The medico-legal examination conducted on Liza disclosed that she had lacerations at the 3, 4, 5 and 9 o'clock positions which were caused by the insertion of a hard object like the erect penis of a man. On the other hand, the medical findings on Anna showed that she had lacerations at the 2, 3, 7, 8, 9 and 10 o'clock positions which were also caused by the insertion

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of a hard object such as an erect penis. These lacerations suffered by both victims were determined to have been inflicted several weeks or months before the examination on February 14, 1996.

At the trial, appellant Hipolito Pascua and his granddaughter, Joy Javier, testified for the defense. The appellant admitted having sexual intercourse with private complainants but insisted that Liza and Anna freely consented to the repeated sexual acts in exchange for money ranging from ₱5 to ₱10. On several occasions, Liza and Anna allegedly visited him at home asking for money and sexual satisfaction. In fact, it was private complainants' supposed persistence which drove him to accede to their demands to have sex, even if he was having difficulty achieving erection as he was suffering from hernia. Thus, there was never an instance when the appellant forced or threatened private complainants into having sexual intercourse with him.

Joy Javier declared that she often saw private complainants at the house of the appellant. At one time, she asked Anna if she had sexual intercourse with the appellant to which Anna nodded. She even warned both Liza and Anna that if they continued to go to appellant's house, their mother would know about it. However, despite said warning, she still saw private complainants at the house of the appellant almost everyday.

On November 14, 1996, the trial court rendered its assailed decision, the dispositive portion of which states:

> Wherefore, in the light of all the considerations discussed above, the court hereby renders judgment in the above-entitled cases as follows:
>
> In Criminal Case Nos. L-5409 and L-5410, the court hereby finds and holds the accused, Hipolito Pascua, guilty beyond reasonable doubt of the crime of Rape on two (2) counts as charged in the informations filed against him, defined and penalized under the provisions of Article 335 of the Revised Penal Code, as amended by RA 7659, and conformable thereto, pursuant to law, hereby sentences said accused in each case to suffer the penalty of *Reclusion Perpetua* and to pay the costs.
>
> The court further directs the accused to indemnify the offended party, Liza Paragas, the sum of Fifty Thousand (₱50,000.00) Pesos

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in each case or a total of One Hundred Thousand (₱100,000.00) Pesos, as moral damages without subsidiary imprisonment in case of insolvency.

In Criminal Cases Nos. L-5411 and L-5412, the court likewise finds and holds the accused Hipolito Pascua, guilty beyond reasonable doubt of the crime of Rape on two (2) counts as charged in the informations filed against him, defined and penalized under the provisions of Article 335 of the Revised Penal Code, as amended by RA 7659, and conformable thereto, pursuant to law, hereby sentences the said accused in each case to suffer the penalty of *Reclusion Perpetua* and to pay the costs.

The court likewise directs the accused to indemnify the offended party, Anna Paragas, the sum of Fifty Thousand (₱50,000.00) Pesos in each case or a total of One Hundred Thousand (₱100,000.00) Pesos, as moral damages without subsidiary imprisonment in case of insolvency.

SO ORDERED.[2]

Insisting on his innocence, the appellant claims in his appeal that he is not guilty of rape because private complainants voluntarily submitted to his sexual desires. The appellant even postulates that, if there should at all be any liability on his part, it should only be for simple seduction.

After an exhaustive review, we find ourselves unable to agree with appellant's reasoning. The appellant's defense that the victims consented to his lascivious desires is simply too preposterous to deserve serious consideration. The same is not only revolting but goes against established norms. No young child in her right mind will consent to have sexual intercourse with a 65-year-old man, specially one whom she considers her grandfather. The appellant desperately tries to portray private complainants as sex-starved maniacs who, at the tender age of 12, persistently demanded sex with him. Further, his story that private complainants would even go naked on top of him was nothing but a yarn that offends sensibilities and Filipino values. Indeed, after admitting that he had carnal knowledge

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[2] *Id.*, pp. 109-110.

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of private complainants on several occasions, the appellant assumed the burden of proving his defense by substantial evidence. The record shows that, other than his self-serving assertions, the appellant had nothing to support his claim that private complainants were teenagers of loose morals and that the repeated acts of sexual intercourse were consensual.

It is culturally instinctive for young and decent Filipinas to protect their honor and obtain justice for the wicked acts committed on them. Thus, it is difficult to believe that private complainants would fabricate a tale of defloration, allow the embarrassing examination of their private parts, reveal the shame to the small rural town where they grew up and permit themselves to be subjected to a humiliating public trial if they had not in fact been really ravished. When the offended parties are young and immature girls from 12 to 16, as in this case, courts are inclined to lend credence to their version of what transpired, considering not only their relative vulnerability but also the public humiliation to which they would be exposed by court trial if their accusation were not true.[3]

We entertain no doubt that Liza and Anna told the truth. Their testimony was clear that they never consented to the rape. Their declarations during the trial were simple, straightforward and unflawed by any inconsistency or contradiction. A candid and honest narration by the victim of how she was abused must be given full faith and credit for they contain earmarks of credibility.[4] In this case, the trial court found these badges of truth to be present in the following testimony of Liza Paragas:

FISCAL:

Q Where were you by that time when you were ordered by the accused to lie down on the flooring?

WITNESS:

A I was in his house, sir.

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[3] *People vs. Clopino*, 290 SCRA 432 [1998].

[4] *People vs. Umali*, 242 SCRA 17 [1995].

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Q Now, what transpired after you were ordered to lie down?
A He removed my pants and my underwear, sir. .

Q After removing your pants and underwear, what transpired next?
A Then, he went on top of me, sir.

Q What happened next after the accused went on top of you?
A Then, he made a (sic) push and pull movements, sir.

COURT:

Coitus movement.

FISCAL:

Q What did the accused do when he made this coitus movement?

WITNESS:

A He insert (sic) his penis on (sic) my vagina, sir.

Q When he insert (sic) his penis inside your vagina, can you tell if you shouted?
A He warned me not to shout or else he will kill me, sir.

Q At what point and time when the accused threaten (sic) you that he will kill you if you will shout, before he place (sic) his penis inside your vagina or after he placed already his penis inside your vagina?
A Before inserting his penis on (sic) my vagina, sir.

Q How long a time did the accused make this coitus movement as his penis was inside your vagina?
A For five (5) minutes, sir.[5]

It is clear from the foregoing testimony that private complainants tried to scream but the appellant prevented them by threatening to kill them. Also, after each rape incident, private complainants were warned by the appellant not to tell their mother what happened to them. It is settled that a rape victim is not required to resist her attacker unto death. Force, as an

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[5] TSN, May 22, 1996, pp. 8-9.

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element of rape, need not be irresistible; it need only be present and so long as it brings about the desired result, all considerations of whether it was more or less irresistible is beside the point.[6] Indeed, physical resistance need not be established in rape when, as in this case, intimidation was used on the victim and she submitted to the rapist's lust for fear of her life or her personal safety. Jurisprudence holds that even though a man lays no hand on a woman, yet, if by an array of physical forces, he so overpowers her mind that she does not resist or she ceases resistance through fear of greater harm, the consummation of unlawful intercourse by the man is rape.[7] Without question, the prosecution was able to prove that force or intimidation was actually employed by the appellant on the two victims to satisfy his lust.

Equally untenable is the argument of the appellant that, if he is at all liable for anything, it should only be for simple seduction. Under Article 338 of the Revised Penal Code, to constitute seduction, there must in all cases be some deceitful promise or inducement. The woman should have yielded because of this promise or inducement. In this case, the appellant claims that the acts of sexual intercourse with the private complainants were in exchange for money. He declared that, prior to every sexual intercourse with Liza and Anna, he would promise them ₱20. However, aside from his bare testimony, the appellant presented no proof that private complainants' consent was secured by means of such promise. As aptly opined by the trial court, the money given by the appellant to private complainants was not intended to lure them to have sex with him. Rather, it was for the purpose of buying their silence to ensure that nobody discovered his dastardly acts. The evidence for the prosecution was more than enough to show that the element of voluntariness on the part of private complainants was totally absent. Liza and Anna's respective testimonies established that the appellant had sexual intercourse with them without their

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[6] *People vs. Talo*, 344 SCRA 294 [2000].

[7] *People vs. Mostrales*, 294 SCRA 701 [1998].

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consent and against their will. Considering that the victims' accounts of what the appellant did to them were absolutely credible and believable, the trial court correctly convicted the appellant of several crimes of rape against the 12-year-old twins, Liza and Anna Paragas.

The Court finds the penalty of *reclusion perpetua* imposed on the appellant for each count of rape committed against private complainants to be in accord with law. The award of moral damages in the amount of ₱50,000 for each offense, or a total of ₱100,000 for each victim, is also correct because, under prevailing jurisprudence, moral damages are mandatory in rape cases involving young girls between 12 and 19 years of age, taking into account the immeasurable havoc wrought on their youthful psyche.[8] The trial court, however, failed to award civil indemnity which is automatically granted to the offended party without need of further evidence other than the commission of the rape. Hence, an additional ₱50,000 for each count of rape, or a total of ₱100,000, should be given each private complainant as civil indemnity.

WHEREFORE, except for the *MODIFICATION* awarding private complainants an additional amount of ₱100,000 each as civil indemnity, the appealed decision is hereby *AFFIRMED* in all other respects.

SO ORDERED.

Puno (Chairman), Panganiban, and *Carpio Morales, JJ.,* concur.

Sandoval-Gutierrez, J., on official leave.

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[8] *People vs. Erese*, 281 SCRA 316 [1997].