

OPINION & FEATURES

The romance of rape

It is tempting to describe the decision of the Court of Appeals acquitting Lance Cpl. Daniel Smith of the crime of rape, promulgated by the all-female 11th special division, as the revenge of the *manangs*. The decision certainly seems to have been written by a conspiracy of spinsters, in vigorous denial of reality, and sustained by fantasies of chivalry (in favor of the American serviceman) and chastity (against the woman we all call "Nicole").

"This court finds [as] deceptively posturing Nicole's portrayal of herself as a demure provincial lass," the CA ruled, contrary to the unflattering characterization, sometimes using colors supplied by the victim herself, that the trial painted of flirtatious, hard-drinking Nicole. "On hindsight, we see this protestation of decency as a protective shield against her own indecorous behavior."

You can almost visualize the three (married) justices crinkling their noses, at the effrontery of an indecent woman protesting rape. After all, only decorously behaved women can be raped, right? And what happened in Subic was merely the "unfolding of a spontaneous, unplanned romantic episode."

It would be tempting to mock the justices, especially because this approach allows us to point to the ludicrousness of some of the assumptions that went into the decision. Can't a brazen city girl (to propose an alternative to the special division's unfair description) fall victim to rape too?

But the prudery behind the decision masks a deeper flaw. The ruling pushes the jurisprudence on rape back to the 20th century; after all this time, the special division still understands rape as essentially a private crime, as a crime against

chastity.

This, truly, is unfortunate. We assail the CA's reasoning, but we really have no quarrel with the judiciary's role in the resolution of the Subic rape case. By and large, it did its part in the administration of justice—which is far more than you could say about the Executive, which served as either lawyer to or co-dependent of the Americans. We are deeply disturbed, however, that the acquittal is based on grounds that overturn a decade's worth of gains in women's rights.

A key passage (crucial, but not the most offensive) in the CA's decision reads thus: "No evidence was introduced to show force, threat and intimidation applied by the accused [Smith] upon Nicole, even as the prosecution vainly tried to highlight her supposed intoxication and alleged unconsciousness at the time of the sexual act."

This finding suggests that only the presence of force, threat or intimidation can affect a woman's capacity to give consent to sex; it also intimates that women of "audacity and reckless abandon" (the language of the CA's special division, describing Nicole's behavior) cannot ever plead that their capacity for consent has been compromised.

The finding negates the breakthrough made in the original ruling of Makati Regional Trial Court



Photo courtesy of Inquirer.net

Judge Benjamin Pozon, which emphasized that intoxication can rob a woman of the capacity to give consent. Pozon's emphasis is in accord with the liberalizing tendency that led to the (hard-fought) victory in Congress redefining rape as a crime against persons—and is in keeping with the trend in law that grants greater recognition to the dignity of women.

The special division took issue with the RTC's assertion that Nicole was too drunk to give her consent—"When a woman is drunk, she can hardly rise, much more stand up and dance, or she would just drop. This is a common experi-

ence among Filipino girls." This blithe and top-pat assumption runs counter to the eyewitness accounts heard in the trial court, about Smith carrying a woman on his back to the van, and about an almost unconscious woman being dumped outside the van (after the "romantic" deed was done).

Worst of all, the decision trivializes the "No" of the drunk Nicole. "Resistance by words of mouth [sic] does not suffice to establish that she indeed did not give her consent to the sexual intercourse," the court said.

What did they expect? A memo? (*Inquirer.net*)

On transplanting a business

SOME Manila businessmen friends, visiting us in the San Francisco Bay Area, have expressed interest in expanding to the United States, targeting the Filipino market, for starters. In this connection, I have been asked for advice on how to avoid the pitfalls and how not to experience the horror stories that even the biggest and most successful Philippine companies have had to deal with in this market.



STREET TALK
Greg B. Macabenta

I recall one very successful fastfood chain asking for our advice on breaking into the US market a decade ago. Believing that they already had the Filipino consumer market "in their pockets," they wanted to go after the American mainstream.

Our suggestion was for them to first concentrate on their logical market base. They didn't listen and went ahead with their mainstream marketing foray. They lost millions.

The lesson they learned was that they could not simply transplant a business model that was successful in the Philippines, to the US and expect the same kind of success.

Like any organ transplant, certain preparatory steps need to be taken and certain conditions need to be met to ensure that the market will not reject the foreign business concept, the way a transplanted part is rejected by the body.

The most successful business in Manila will not necessarily succeed in America, even if the primary targets are exactly the same *Pinoys* market that used to patronize it back home—that is, unless due diligence is undertaken.

There are a number of factors that we take for granted in the Philippines that can be a problem in America. The labor factor is one.

Cost of labor, needless to say, is much higher in the US. Thus, a business that prides itself in serving the customers hand and foot and at lightning speed will have to cut back on that approach if it wants to keep its labor cost under control.

But labor cost is not the only critical issue. There is the problem of availability of personnel with the right kind of qualifications. Even in a market like California, where unemployment is at a record high, that can be a headache.

Several years ago, one of the most successful fastfood chains in the Philippines decided to establish a beachhead in Los Angeles. Its positioning—one that worked very well in its home territory—was "tasty, fresh-cooked, reasonably priced food in an instant."

That, of course, was possible because of the low cost of labor in the Philippines and the availability of ample space for a kitchen where several orders could be prepared at the same time, virtually from scratch.

Expectedly, the same operation transplanted to LA resulted in heavy overhead. But once the kitchen and counter crews were reduced to an affordable level, service slowed down and waiting time for customers increased. It was no longer "tasty, fresh-cooked food in an instant" because people had to wait a long time for their orders.

When management insisted that the crew had to speed up service, they did so by resorting to shortcuts that resulted in inconsistent food quality. Not surprisingly, the restaurant developed an image of "un-tasty food in an instant." Customers began to stay away. Repeat patronage dwindled. And the business fell to the brink of collapse.

Fortunately, a US-based group that understood

the market took over. After a year of reconfiguring operations and cost factors, the new group gave the business a fresh start. Today, it no longer promises "fresh-cooked food" but it does offer "tasty food in an instant." The servings, incidentally, look "freshly-cooked" and piping hot and, as far as customers are concerned, that is good enough.

Another problem that transplanted businesses often encounter is dealing with the psyche of the same customers who were once loyal patrons in the Philippines and who have, themselves, been transplanted to America. The mistake is in assuming that they are exactly the same in the US as they were back there. The harsh fact is that they often are not. They often undergo a subtle—or even a dramatic—transformation in terms of attitudes, tastes and lifestyle, as well as a change in buying power.

With more money, they can afford more choices and can also afford to be more demanding and more finicky about quality and service. Exposed to the American lifestyle, they begin to adapt to it and, in the process, tend to discard their former ways.

This is particularly true of young people. Aside from being more inclined to experiment with new things, they are also under greater peer pressure to assimilate in their new environment. That presents a challenge to the transplanted business. On the other hand, older people are less inclined to accept change. That presents a different kind of challenge for the transplanted business that has already had to make adjustments in its systems.

Over a decade ago, my ad agency conducted a focus group discussion among Filipino-Americans on their televising habits and preferences. An ethnic TV network needed insights to guide it in formulating its programming for the Fil-Am market.

Was it okay to simply import popular Manila programs to the US? Would the high-rating soap operas, musical variety shows, action serials and sportscasts be as acceptable? The results were just as we had theorized before conducting the FGD.

The older respondents were generally more receptive to the transplanted programming. In fact, many of the female panelists found the soap operas more appealing than they had been in the Philippines. The older male respondents, who used to avidly follow the year-long PBA tournaments in Manila were a bit more jaded, having been exposed to high-calibre NBA games. But they still appreciated Philippine-style basketball because they knew the players, almost like old friends.

On the other hand, the younger respondents were very critical of the Manila programs, describing the action as "cheesy," the soap operas as "corny" and the PBA as "a poor imitation of the NBA."

Said one college-age respondent who was a recent immigrant, "Funny, I used to like those shows back in the Philippines."

Another young man had a ready quip for that: "At five-foot-five, I used to be considered tall in Manila. But here, they call me Shortie." In other words, he said, the points of reference were different and so were the standards.

And yet, there were TV shows that did rate very well in Manila and which the young respondents found interesting and appealing. Among them were features that reinforced their self-esteem as a minority group in America.

In sum, transplanting an overseas business to America needs special marketing insights, the same way an organ transplant requires specialist skills. Without those skills, in either of the procedures, the business or the patient could die. ■

The writings of Joaquin

ON April 28, 2004, the greatest writer we have ever produced passed from the living to immortality. He was baptized Nico-medes Joaquin and given the name Onching; but he became known as Nick Joaquin. He has captured our Hispanic past as it was not captured even during the Spanish era. Sometimes he used the pen name Quijano de Manila.



ROSES & THORNS
Alejandro R. Roces

Quijano is an anagram of Joaquin but it was also the name of the Man from La Mancha before he took on the identity of Don Quixote. So his pen name stood for Don Quixote of Manila. And that is how he was known—our Quixote.

In his writing he immortalized little known practices—such as the Tadtarin of Paco in *The Summer Solstice*.

Tadtarin is a matriarchal cult celebrated in Paco for three days, beginning on the Feast of St. John. It is an echo of our pagan past, and demonstrates the unique combination of paganism and Christianity

that is Philippine Catholicism (a theme he repeatedly touched upon). His stories are characterized by haunting scenes, no more than the candle-lit image of a girl standing before a mirror in a darkened room whispering into the night: "Who will my love be?" This is found in the story *May Day Eve*. To know what she discovers, we recommend reading the story.

In his Mass of St. Sylvestre, the character Mateo del Maestro, who turns into stone for witnessing the Mass of St. Sylvestre, was obviously inspired by the stone image of the Frenchman Maitre Mathieu, who totally redesigned the Portico de la Gloria in the Spanish Cathedral of Santiago de Compostela. We have no classic Christmas story, but we do have a classic New Year's story and that is Nick Joaquin's Mass of St. Sylvestre. We have often wondered if we have a movie director great enough who could capture that story on film. It would be great to begin every New Year just watching such a film.

On April 1565, Don Miguel Lopez de Legazpi and Friar Andres de Urdaneta set foot in Cebu. In his book *Culture and History*, Nick Joaquin de-

scribed that moment: "On an April day in 1565, Legazpi's expedition arrived in Cebu. On seeing the Spanish ships, the natives burned their village and fled to the hills, fearing that the Spaniards had come to avenge Magellan's death. But the natives did not put one house to the torch. In that house, the Spaniards were astonished to find an image of the Christ Child enthroned... the little statue Pigafetta had given to King Humabon's wife.... When the soldiers brought him to the new found image, Urdaneta said, 'Let us build a church to house the Child...'"

Because of that moment of discovery, Nick Joaquin would poetically describe Christianity in the Philippines as "Urdaneta's dynamo." Last year, along with Don Antonio de Ychausti, we chaired some celebrations in honor of Friar Urdaneta's 500th birth anniversary. But well before these activities were planned, Nick Joaquin immortalized Friar Urdaneta in written word. We hope that Cebu is continuing activities to honor Friar Urdaneta and the discovery of the Santo Nino. As Joaquin wrote, "The Child didn't simply come and abruptly

cut us off from our past. It shared our past with us and served as the link between that past and our present, by becoming, from 1521 to 1565, the last and greatest of our pagan gods". There is no more important cultural icon in the Philippines than the Santo Nino de Cebu.

Nick Joaquin's play, *A Portrait of the Artist as Filipino*, ends with the La Naval de Manila procession in Intramuros. Now that procession is held outside Intramuros and it just is not the same at all. The truth is that old Intramuros no longer exists—except in the short stories and plays of Nick Joaquin. And that is his great contribution to Philippine literature.

He is undoubtedly the most gifted writer that we have ever produced. The best way to honor Nick Joaquin is to be familiar with his stories and to get other people, especially the young, to read them. We do not know of any other person who has regretted having read Nick Joaquin's writings. You know yourself and your country better after you have read his short stories, plays and histories. Through his pen, the Philippines' past lives. (*Philstar.com*)



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