

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GEORGE SANTILLAN Y VELEZ, ACCUSED-APPELLANT.

Ponente: LLOREN, J.

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LLOREN, J.:

This is an appeal from the Decision[1] dated August 17, 2012 of the Regional Trial Court of Cagayan de Oro City, 10[th] Judicial Region, Branch 22, convicting the accused-appellant George Santillan y Velez of the crime of Rape, the dispositive portion of which is quoted as follows:

“WHEREFORE, the foregoing premises considered judgment is hereby rendered finding the accused GEORGE SANTILLAN y VELEZ GUILTY beyond reasonable doubt for the crime of rape, and accordingly, he is hereby sentenced to suffer the penalty of reclusion perpetua, and he is also ordered to pay “AAA”, P75,000.00 as civil indemnity, P75,000.00 as moral damages and P30,000.00 as exemplary damages.

SO ORDERED.”[2]

The facts as culled from the records:

In an Information[3] dated January 6, 2003, the appellant was charged of the crime of rape committed as follows:

“That on January 01, 2004 at more or less 2:00 o’clock dawn at Parola, Macabalan, Cagayan de Oro City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, step-father of the victim by means of force and intimidation did then and there willfully, unlawfully and feloniously have carnal knowledge of the offended party “AAA”, [4] eight (8) year old minor, his step-daughter without her consent and against her will.

Contrary to and in violation of Article 266-A (formerly Article 335) of the Revised Penal Code as amended by R.A 8353 otherwise known as the Anti-Rape Law of 1997.”

When arraigned, the appellant, duly assisted by counsel, pleaded “Not Guilty” to the charges. Thereafter, trial on the merits ensued.

Version of the Prosecution

The version of the prosecution is summarized by the Office of the Solicitor General⁵ as follows:

“At around 2:00 o’clock in the early morning of January 1, 2004, private complainant was outside of their house at Parola, Macabalan, Cagayan de Oro City as her father, appellant in the instant case, and her mother were having a quarrel. Consequently, her mother also went outside of their house.

After her mother went outside, private complainant went inside their house to drink water. Unfortunately, appellant suddenly grabbed her and pulled her into the bed. Appellant then removed private complainant’s panty and touched the latter’s vagina. Afterwards, appellant removed his pants and inserted his finger into the private complainant’s vagina. Appellant also inserted his penis into private complainant’s private part. Appellant then made a rapid pumping motion as private complainant felt excruciating pain. All the while, private complainant could not resist appellant’s sexual advances because appellant was so strong and the latter

held her tightly. Private complainant could not also shout for help because appellant covered her mouth.

After doing the pumping motion, semen came out from the penis of appellant. Appellant then warned private complainant not to tell her mother about the incident or else he will cut off their heads and throw them to the sea. Despite said threat, however, private complainant told her mother about the incident. Consequently, they proceeded to the police station to report what just happened.

[Citations omitted]

Version of the Defense

In his defense, the appellant denied the accusation against him and testified that he did not rape AAA. At about 6:00 in the evening of December 31, 2003, he and his wife BBB went to Floramae's house for the new year's party. As it was a party, they had their drinking session. At about past 7:00 in the evening he asked his wife BBB to fetch AAA but she was not able to return until the next day. After the party, he went to the seashore where his pump boat was and slept there. At past 10:00 in the morning, he was awakened by BBB and AAA for him to take his breakfast but he just told them to go ahead because he was still sleepy. He woke up at around 3:00 in the afternoon and then went to eat in Floramae's house. After eating, he went back to the seashore to paint the boat of his companion and while doing that, around five (5) policemen approached him. With their guns pointed at him, they asked if he was Mr. Santillan, to which he answered "Yes". He was then invited to the police station. The following day, he came to know that he was charged of rape, and it was not BBB who filed the case, but rather her sibling CCC.[7]

After trial, the court a quo rendered the assailed [8]. On appeal, the appellant assigns the following as lone error:

THE COURT A QUO ERRED WHEN IT CONVICTED THE APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO PROVE THE GUILT OF THE ACCUSED-APPELLANT BEYOND REASONABLE DOUBT.[9]

The Ruling of this Court

We sustain the conviction.

Art. 266-A of the Revised Penal Code, states to wit: Rape: When and how committed

Rape is committed:

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

- a) Through force, threat, or intimidation;
- b) When the offended party is deprived of reason or otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority; and
- d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

Based on the foregoing, all elements of rape were duly alleged and proved during the trial.

The appellant claims that AAA's testimony failed to meet the test of credibility.[10] However, We have meticulously examined the records as well as the transcripts of stenographic notes and find no cause to overturn the findings of fact of the trial court. The relevant portion of AAA's testimony[11] is as follows:

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Q:

Do you still remember where are you on January 1, 2004, at more or less, 2:00 o'clock dawn?

A:

Yes.

Q:

Where are you at that time?

A:

I was outside.

Q:

Outside of what?

A:

Outside at the back portion of our house.

Q:

At Parola, Macabalan?

A:

Yes.

Q:

What happened when you were there outside at the back portion of your house at Parola, Macabalan?

A:

My mother and my father were having a quarrel at that time.

Q:

And what else happened, if you can remember?

A:

My mother were (sic) outside also.

Q:

Outside your house?

A:

Yes.

Q:

After your mother went outside your house, what did you do?

A:

I went inside our house.

Q:

Why did you go inside your house?

A:

I went inside to drink water.

Q:

Were you able to drink water at that time?

A:

No.

Q:

Why?

A:

Because my father grabbed me.

Q:

What else did your father do to you after that?

A:

He removed my panty.

Q:

Your father according to you grabbed you and pulled you to what place?

A:

To the bed.

Q:

And what happened when you were already in the bed?

A:

He mashed my vagina.

Q:

Before your father mashed and touched your vagina, what happened to your panty you were wearing at that time?

A:

He removed by panty.

Q:

And after your father removed your panty, what did he do to his pants?

A:

He also removed his pants.

Q:

You said that your vagina was touched and mashed by your father, what did he do to your vagina?

A:

He inserted his finger into my vagina.

Q:

After he inserted his finger into your vagina, what else did he do to you?

A:

He inserted his penis into my vagina.

Q:

What else did he do to you?

A:

His penis was not able to penetrate into my vagina.

Q:

What else did he do to you because according to you his penis does not able to penetrate your vagina?

A:

He made a pumping motion rapidly.

Q:

Now, what did you feel as far as your vagina is concerned when you step father made that rapid pumping motion in you?

A:

I felt pain.

Q:

You said that the penis of your step father was not able to penetrate your vagina? Do you know what part of your vagina was penetrated?

A: No.[12]

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Q: Assuming if this is your vagina, what part of your vagina was hit by the penis of your step father?

A: (Witness is pointing to the hymenal orifice)[13]

xxx

xxx

xxx

Q:

Now, you told the honorable court that your step-father make a rapid pumping motion by push and pull movement in your genitalia, what happened after that?

A:

Something came out from his penis.

Q:

What is that something, if you can describe?

A:

Semen.

Q:

After that, what happened?

A:

He told me.

Q: What did he tell you?

A: He told me that if I will tell my mother about the incident, he will cut our heads.

Q: Whom is she referring as the head, your head or what?

A: My head and my mother's head.[14]

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Q: What else did he tell you after he told you to cut your head?

A: He told me that our head will be thrown to the sea of Punta Gorda.[15]

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xxx

xxx

Q: On January 1, 2004, please tell the honorable court how old are you then?

A: I am seven years of age.[16]

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Based on the foregoing, AAA narrated vividly and unequivocally how appellant sexually assaulted her. AAA's testimony was corroborated by the findings of Dr. Agnes Cagadas[17] who examined AAA.

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Q: Will you please tell us how you examined the person AAA?

A: I did the physical examination and also examined her genitalia.

Q: And what did you find in your examination?

A: The only remarkable finding is the healed laceration at six o'clock.

Q: What was the age of the child at that time?

A: She was eight (8) years old.

Q: Is it possible that when she was sexually abused at 8 years old and up to the time she was examined, it was healed?

A: Possibly.

Q: What did you ask her the first time?

A: I asked her, "What happened?"

Q: What did she tell you?

A: She answered in the vernacular that the suspect brought her to "ilaya" and he "intercourse me." (sic)

Q: Did she reveal the name of the suspect?

A: Yes sir. She said Boy Santillan.[18]

xxx

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xxx

Q:

What could be the possible instance of healed hymenal laceration?

A: It is caused by penetrating injury.

Q: Could it be a penis of a man?

A: Yes. It could be.[19]

In *People v. Bagos*, [20] when a rape victim's account is straightforward and candid, and is corroborated by the medical findings of the examining physician, the same is sufficient to support a conviction for rape.[21] Also, when the testimony of a rape victim is consistent with the medical findings, sufficient basis exists to warrant a conclusion that the essential requisite of carnal knowledge has thereby been established.[22]

In *People v. Bonaagua*, [23] the Supreme Court explained that testimonies coming from young rape victims are given full weight, to wit:

"It is well entrenched in this jurisdiction that when the offended parties are young and immature girls, 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 shame and embarrassment to which they would be exposed if the matter about which they testified were not true. A young girl would not usually concoct a tale of defloration; publicly admit having been ravished and her honor tainted; allow the examination of her private parts; and undergo all the trouble and inconvenience, not to mention the trauma and scandal of a public trial, had she not in fact been raped and been truly moved to protect and preserve her honor, and motivated by the desire to obtain justice for the wicked acts committed against her. Moreover, the Court has repeatedly held that the lone testimony of the victim in a rape case, if credible, is enough to sustain a conviction."

The appellant also argues that the judge who penned the assailed decision was not the one who heard and observed the demeanor and behavior of the complainant.[24]

The argument is bereft of merit. The fact that the trial judge who rendered judgment was not the one who had the

occasion to observe the demeanor of the witnesses during trial, but merely relied on the records of the case, does not render the judgment erroneous, especially where the evidence on record is sufficient to support its conclusion.[25] In *People v. Competente*,[26] the Supreme Court ruled:

“The circumstance that the Judge who rendered the judgment was not the one who heard the witnesses, does not detract from the validity of the verdict of conviction. Even a cursory perusal of the Decision would show that it was based on the evidence presented during trial and that it was carefully studied, with testimonies on direct and cross examination as well as questions from the Court carefully passed upon.”

In this case, the “inheriting” judge’s evaluation of the testimony of AAA and other witnesses are supported by the evidence on record. The transcripts of stenographic notes taken during the trial were extant and complete. Thus, there was no impediment for him to decide the case of his predecessor.

Also, appellant argues that it would be impossible for him to commit the said rape because “there were people who could have seen the rape if it really happened. xxx. Had there been rape that was committed, and then the people around could have easily noticed the same, but, apparently, none of them did.”[27]

Again, the argument is bereft of merit. Time and again, the Supreme Court has ruled that lust is no respecter of time and place.[28] Neither the crampedness of the room, nor the presence of other people therein, nor the high risk of being caught, has been held sufficient and effective obstacle to deter the commission of rape.[29] Rape can be committed even in places where people congregate, in parks, along the roadside, within school premises, inside a house where there are other occupants, and even in the same room where other members of the family are also sleeping.[30] It is not impossible or incredible for the members of the victim’s family to be in deep slumber and not to be awakened while a sexual assault is being committed.[31]

Also, in a last ditch effort to plead his case, appellant advances the inconsistency in the medical report submitted by the prosecution, wherein the date of the examination therein states that the examination was conducted a year earlier on January 1, 2003.[32]

Just the same, the argument is bereft of merit. The date of the examination indicated in the medical report[33] is clearly a mere typographical error which does not affect the merits of the instant case.

Appellant failed to sufficiently show that the court a quo committed any reversible error in its assailed Decision. Appellant could only but proffer the defenses of denial and alibi in this case. Time and time again, the Supreme Court has ruled that denial and alibi are the weakest of all defenses, because they are easy to concoct and fabricate.[34] Furthermore, said defenses cannot prevail over the positive and unequivocal identification of the appellant by the prosecution witnesses particularly AAA. Suffice it to say that denial and alibi are practically worthless against the positive identification made by the prosecution witnesses, especially by the rape victim.[35] As aptly put by the court a quo, to wit:

“The accused would insist that the charge against him is not true, rather, the case was filed at the instance of his wife’s siblings Romeo Paalisbo because he wants something out from him. The court is not about to take a bite from such bare statement.

Aside from the fact that the said allegation was not proved, it must be emphasized that no member of a rape victim’s family would dare encourage the victim to publicly expose the dishonor of the family unless the crime was in fact committed, especially in this case where the victim and the offender are relatives. It is unnatural for a mother to use her daughter as an engine of malice, especially if it will subject her child to embarrassment and lifelong stigma.

Our justice system is replete with jurisprudence discarding that notion and giving preference instead to the victim’s direct, positive and categorical assertion. More so if it would not be physically impossible for the

accused to be at the crime scene. Neither such defense forecloses the commission of the felony by the accused.

It has been uniformly held, time and again that denial is worthless and cannot prevail over positive identification, that is categorical, consistent and without any showing of ill-motive on the part of the eye-witness. Bare denial of the crime charged is mere negative, self-serving evidence and cannot prevail over the testimony of the prosecution witnesses.

Essential to a valid defense of alibi is the physical impossibility of presence at the scene of the crime at the time of commission thereof. Moreover, alibi cannot prevail over positive identification.”[36]

As to the award of damages, the amounts of Seventy Five Thousand Pesos (Php75,000.00) as civil indemnity and moral damages, respectively, and Thirty Thousand Pesos (Php30,000.00) as exemplary damages are in order. It is to Our observation that a rate of 6% per annum interest shall be imposed on all damages awarded to be computed from the date of finality of the judgment until fully paid.[37]

WHEREFORE, the assailed Decision dated August 17, 2012 of the Regional Trial Court of Cagayan de Oro City, 10[th] Judicial Region, Branch 22, convicting the accused-appellant George Santillan y Velez of the crime of Rape is AFFIRMED. Plus, a rate of 6% per annum interest shall be imposed on all damages awarded to be computed from the date of finality of the judgment until fully paid.[38]

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Jacob and Contreras, JJ., concur.

[1] Decision penned by Judge Richard D. Mordeno, Rollo, pp. 24-30.

[2] Id., p. 30.

[3] Records, p. 4.

[4] The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence Against Women and Their Children, effective November 5, 2004.

[5] Rollo, pp. 54-55.

[6] See footnote no. 4.

[7] Direct testimony of George V. Santillan, TSN dated August 13, 2010, pp. 4-8.

[8] See footnote no. 1.

[9] Rollo, p. 15.

- [10] Rollo, p. 17.
- [11] Direct Testimony of AAA, TSN dated June 9, 2006, pp. 6-12.
- [12] Id. pp. 6-8.
- [13] Id., p. 9.
- [14] Id., p. 10.
- [15] Id.
- [16] Id., p. 12.
- [17] Direct Testimony of Dr. Agnes Cagadas, TSN dated July 19, 2004, pp. 6-7.
- [18] TSN dated July 19, 2004, p. 6.
- [19] Id., p. 7.
- [20] People v. Bagos, G.R. No. 177152, January 6, 2010.
- [21] Id.
- [22] People v. Laboa, G.R. No. 185711, August 24, 2009.
- [23] G.R. No. 188897, June 6, 2011.
- [24] Rollo, p. 17.
- [25] People v. Alfredo, G.R. No. 188560, December 15, 2010.
- [26] G.R. No. 96697, March 26, 1992.
- [27] Rollo, p. 19.
- [28] People v. Laurino, G.R. No. 199264, October 24, 2012.
- [29] Id.
- [30] People v. Cabral, G.R. No. 179946, December 23, 2009.
- [31] Id.
- [32] Rollo, p. 20.
- [33] Folder of Exhibits, p. 1.
- [34] People v. Ayade, G.R. No. 188561, January 15, 2010.
- [35] Id.
- [36] Rollo, p. 29.
- [37] People v. Tubat, G.R. No. 183093, February 1, 2012.
- [38] Id.

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