

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CHARLES ANGCAP, DEFENDANT-APPELLANT.***G.R. No. L-28748. February 29, 1972*

Ponente: FERNANDO, J.

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The principal point stressed in this appeal from a judgment of conviction for the crime of rape is the alleged partiality of the lower court resulting in its "giving vent to its bias and prejudices against appellant by making findings of facts not established by the evidence." [1] Implicit in such an approach is the reminder that one can only constitutionally be deprived of liberty if the requirements of due process were satisfied. [2] It could very well be that he would thus stake his claim to an acquittal precisely because of the realization that one cannot be unduly optimistic if he were to rely on the other principal error assigned as to the weight to be accorded the evidence. For well-settled is the rule that on such an issue, the conclusion arrived at by the lower court is ordinarily entitled to the highest respect. Nonetheless, he would urge on this Court the most careful re-examination of the evidence. That was done as is the case in all other litigations where the facts have to be inquired into. After a careful study of the record, it is the conclusion of this Court that there is no basis for imputing to the trial judge such alleged bias or prejudice and that, moreover, the version given by the prosecution witnesses did not depart from the truth. Accordingly the judgment of conviction is affirmed, with the only modification that the indemnification to which the offended party is entitled should be increased to the amount of P5,000.00, not merely P1,000.00 as granted by the lower court. [3]

It is noteworthy that from the very statement of facts submitted by appellant, there was not even a denial that the offended party was in fact the victim of rape. What was stated therein was merely that appellant, Charles Angcap, could not have been guilty thereof as at the time of its commission he was already in his house asleep. Thus: "On November 25, 1966, Charles Angcap was plowing his farm from early morning before the sun was up until dusk. He had been tilling the farm for sometime, taking the place of his father who has been ailing and bedridden for years. Being the eldest among his brothers and sisters, Charles Angcap had to stop schooling while in high school in order to help his mother make both ends meet and keep body and soul together. And so, as usual, after the day's hard work on November 25, 1966, Charles Angcap ate his supper and not long thereafter at about 7:00 in the evening he went to sleep. The foregoing was the pattern of appellant's day-to-day existence ever since the time his father became too weak from a lingering illness to work." [4]

On the other hand, with appropriate reference to the stenographic notes, the brief for the People of the Philippines narrated what did happen according to the testimony as testified to by the prosecution. Thus: "The offended party in this case of rape committed on the 25th day of November 1966 is Ludivica Dullin, who at the time of trial in August, 1967, was only fourteen years old * * *. A second year student of St. Michael High School at Tangub, Misamis Occidental, she had to walk some eight kilometers to her home in the barrio of Tagiti every weekend, while she stayed in the town of Tangub during school days * * *. Leaving Tangub at about 4 [in the afternoon] on November 25, 1966, the young girl was caught by night some four kilometers away at about 7 [o'clock] in front of

the house of accused-appellant Charles Angcap. Stopping at the house, she asked appellant's mother for a light and was given a torch made out of a bottle containing kerosene and a wick. Saying that he would be going to the Barrio of Bintana to attend a prayer, Charles Angcap who was at the house at the time left the house ahead of Ludivica Dullin. When the girl proceeded on her way home, having four more kilometers to walk, she was accosted by appellant Charles Angcap at a mango tree about a kilometer away on the pretext that he wanted a light for his cigarette from her torch, and then followed her as she continued walking home. Some twenty-five meters more, he again asked her to stop in order to light his cigarette once more. As the girl did so, appellant Charles Angcap put out the torch and held the girl by her shoulders. She struggled * * * and ran but stumbled and fell to the ground some ten meters away, whereupon appellant lifted her up bodily and carried her to a cogon patch where she was raped by him three times with a threat that she would be killed if she resisted, * * *." [5] Then came this portion: "Having been abandoned by appellant after being [ravished] the despoiled girl walked the rest of the way home, too shy, embarrassed or fearful to tell her father about what happened. Not until the next morning did she tell her father, having no mother, about her sordid experience the night before. * * * Because the Dullin's residence was very far from the town of Tangub and there was no one that would be left home, the girl's father could not even go to the town with the girl that day but had to wait till Monday, November 28, to report the case to the authorities * * *. When father and daughter did get to Tangub on November 28, 1966, Lt. Andres M. Enguito took down the sworn statement of the girl in which she narrated what happened to her on the night of November 25, 1966 * * *"[6]

With such testimony coming from the prosecution witnesses being given credence by the lower court which at the same time was unable to give its assent to the weak and inconclusive alibi of appellant, the outcome was predictable. In the appealed decision of November 28, 1967 the accused was found "guilty beyond reasonable doubt of the crime of rape." [7] He was therefore sentenced "to suffer the penalty of reclusion perpetua, with the accessory penalties of the law; to indemnify Ludivica in the sum of P1,000.00, without subsidiary imprisonment in case of insolvency and to pay the costs." [8] As noted earlier the two principal errors assigned would indict the lower court for "giving vent to its bias and prejudices against appellant" as well as for "giving more weight and credence to the testimony of the complaining witness than to that of appellant." [9] As will now be shown, no such errors could be imputed to the lower court. Hence, as noted at the outset, the conviction should stand. However, the indemnification is increased to P5,000.00.

1. It is a fundamental right enshrined in the Constitution that no one is to be deprived of his liberty without due process of law. [10] Moreover, there is a specific reference to its indispensability in a criminal prosecution. [11] Thus is emphasized its importance for an accused. He can rely on the guarantee of fairness according to the fundamental law, which, moreover, provides additional safeguards at the stage of trial. [12] Our Constitution does indeed go far in throwing the mantle of its protection on one who is unfortunate enough to be caught in the meshes of criminal law. The proceeding must neither be arbitrary nor unjust. It is to underscore the importance of a trial judge being detached and objective, free from bias either for or against the prosecution or for the person indicted. As was so aptly put by Justice Dizon: "It has been said, in fact, that due process of law requires a hearing before an impartial and disinterested tribunal, and that every litigant is entitled to nothing less than the cold neutrality of an impartial judge * * *." [13] Earlier in *People vs. Castañeda*, Justice Laurel made clear the necessity for a "trial before an impartial judge." [14] If, it were otherwise, the pledge of due process becomes a myth. The trial is reduced to nothing but a useless formality, an idle ceremony. If a judge had made up his mind to convict, even innocence would not suffice as a defense.

Had appellant then made out a case of the trial court "giving vent to its bias and prejudices against appellant" resulting in his making "findings of facts" unsupported by the evidence, then his conviction should be set aside and the judgment reversed. It is pertinent to inquire then how such alleged bias and prejudice did take shape. The

answer to such an inquiry would be found in the transcript of the stenographic notes. It turned out that what was considered objectionable by the appellant was the trial judge asking questions during the cross-examination of the offended party conducted by the defense counsel. At the most, the trial judge wanted to ascertain as to whether or not she did feel pain as a result of the criminal act imputed to the appellant, for in her first answer the impression she gave was she did not feel anything at all. In the course of the queries of the trial judge, she was cabled to lend more accuracy to such testimony.[15]

That was the basis for this alleged error which, as implied by the appellant, was of a constitutional magnitude. He is sadly mistaken. To paraphrase Nabokov, he would lend significance, even attach an indelible character, to a line of inquiry devoid of such sinister overtones. At the most, there was the effort of the trial judge to arrive at the truth and do justice to the parties. It would be a distorted concept of due process if in pursuance of such a valid objective the trial judge is to be stigmatized as being guilty of an act of unfairness. A citation from Justice Perfecto would make clear to the appellant that such an imputation is without basis. Thus: "There is nothing on record to show that anyone of the judges of the trial court attempted to help the prosecution. The questions propounded by the judge, subject of appellant's complaint, appeared to have been intended to elicit the truth from the witnesses. The inquisitiveness complained of by appellant's counsel did not have the purpose of unduly harming the substantial rights of the accused. It was only to be expected from judges who, with full consciousness of their responsibilities, could not easily be satisfied with incompleteness and obscurities in the testimonies." [16] This assignment of error is therefore unfounded.

2. Appellant would raise a question of credibility in the second error assigned. He would charge the trial court of "giving more weight and credence to the testimony of the complaining witness than to that of the appellant." He should realize that his plea for reversal does rest on a weak and infirm foundation. There is need to stress anew that this Court has long been committed to the principle that the determination by a trial judge who could weigh and appraise the testimony as to the facts duly proved is entitled to the highest respect, unless it could be shown that he ignored or disregarded circumstances of weight or influence sufficient to call for a different finding.[17] So it was announced by Justice Moreland in 1915 in the first case of consequence enunciating such a doctrine. As he pointed out, in the event of a conflict in the testimony of the witnesses, "the peculiar province of the trial court is to resolve the question of credibility, and, unless there is something in the record impeaching by fair interpretation the resolution of the trial court in relation to that question, this court will assume that he acted fairly, justly, and legally in the exercise of that function." [18] So it has been since then.[19] In a case reported in the latest volume of the Philippine Reports, Justice Paredes, speaking for this Court succinctly stated "that with respect to the credibility of witnesses, the trial court's findings and conclusions, command great respect and weight." [20] Its more usual formulation was also set forth by Justice Malcolm in these words: "After everything is said and done, we come back, as we invariably do in cases of this nature, to a recognition of the rule that the Supreme Court will not interfere with the judgment of the trial court in passing on the credibility of the opposing witnesses, unless there appears in the record some fact or circumstances of weight and influence, which has been overlooked or the significance of which has been misinterpreted." [21] The three-page discussion in the brief for appellant could hardly make a dent in the appraisal made by the trial court of the competent and credible evidence of record. There could be no other conclusion then except to declare as bereft of merit this second assignment of error.

3. No time need be spent in the third error allegedly committed by the trial court in absolving the appellant from the crime of which he was charged on the ground that his guilt was not shown beyond reasonable doubt. It is merely a formal consequence of the first two errors assigned which, as demonstrated, were lacking in factual and legal basis.

WHEREFORE, with the exception of the modification that appellant should indemnify Ludivica Dullin in the amount of P5,000.00, the decision of the trial court of November 28, 1967 convicting appellant of rape and sentencing him to suffer the penalty of reclusion perpetua with the accessory penalties of the law without subsidiary Imprisonment in case of insolvency and to pay the costs, is hereby affirmed.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Castro, Teehankee, Villamor, and Makasiar, JJ., concur.

Barredo, J., did not take part.

[1] Appellant's Brief, First Assignment of Error, p. 3.

[2] According to the Constitution: "No person shall be deprived of life, liberty, or property without due process of law, * * *." Article III, Section 1, par. 1. More specifically: "No person shall be held to answer for a criminal offense without due process of law." Ibid, par. 15.

[3] As is specifically provided for in the Civil Code: "Moral damages may be recovered" in cases of "seduction, abduction, rape or who lascivious acts; * * *." Art. 2219, par. 3.

[4] Appellant's Brief, p. 2.

[5] Brief for the Appellee, pp. 1 and 2, pars. 1 and 2.

[6] Ibid, p. 2 and 3, par. 3 and 4.

[7] Appendix, Appellant's Brief, p. VIII.

[8] Ibid.

[9] Appellant's Brief, pp. 3 and 8.

[10] According to the Constitution: "No person shall be deprived of life, liberty, or property without due process of law, * * *." Article III, Section 1, par. 1.

[11] According to the Constitution: "No person shall be held to answer for a criminal offense without the process of law." Ibid, par. 15.

[12] According to the Constitution: "In all criminal prosecutions the accused shall be presumed to be innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses in his behalf." Ibid, par. 17.

[13] Gutierrez vs. Santos. L-15824, May 30, 1961, 2 SCRA 249, 254. Cf. Del Castillo vs. Javelona, L-16742, Sept. 29, 1962, 6 SCRA 146, People vs. Gomez, L-22345, May 29, 1967, 20 SCRA 293; Austria vs. Macaque!, L-22536, Aug. 31, 1967, 20 SCRA 1247; Pimentel. vs. Salanga, L-27934, Sept. 18, 1967, 21 SCRA 160; Luque vs. Kayanan. L-26826, Aug. 29, 1969, 29 SCRA 165; Paredes vs. Gopengco, Ang L-23710, Sept. 30, 1969, 29 SCRA 688; Geotina vs. Gonzalez, L-26310, Sept. 30, 1971; 41 SCRA 66.

[14] 63 Phil. 480, 486 (1936). Cf. People vs. Salon, 79 Phil. 214 (1947); People vs. Labra, 81 Phil 377 (1948); People vs. Racaza, 82 Phil. 623 (1949), Perfecto J., concurring; People vs. Bedia, 83 Phil. 909 (1949).

[15] According to the t.s.n. of Aug. 24, 1967: "Q: You did not feel anything? A: I felt the par. Q: You told us you did not feel anything, which is true? A: I felt the pain the tird time. Q: So your statement that you did not feel anything is not correct? A: Yes. Q: What did you feel after the first penetration? A: I feel the pain. Q: About in the

second penetration? A: The same I felt the pain. Q: So you are now trying to correct the previous answer you made that you did not feel anything? A: Yes." Pp. 39-40.

[16] *People vs. Moreno*, 83 Phil. 286, 294-295 (1949). Reference is made to "judges of the trial court" as under the People's Court Act Com. Act No. 682, (1945), a division of such tribunal trying treason cases is composed of three members.

[17] *People vs. Dramayo*, L-25325, Oct. 29, 1971.

[18] *United States vs. Pico*, 15 Phil. 549, 551 (1910).

[19] Cf. *United States vs. Ambrosio*, 17 Phil. 295 (1910); *United States vs. Benitez*, 18 Phil. 513 (1911); *United States vs. Soriano*, 25 Phil. 624 (1913); *United States vs. Rice*, 27 Phil. 641 (1913); *United States vs. Melad*, 27 Phil. 488 (1914); *United States vs. Briones*, 28 Phil. 367 (1915); *United States vs. Claro*, 32 Phil. 367 (1914); *United States vs. Agoncillo*, 33 Phil. 242 (1916); *United States vs. Lazaro*, 34 Phil. 871 (1916); *United States vs. Maralit*, 36 Phil. 155 (1917); *United States vs. Remigio*, 37 Phil. 599 (1918); *People vs. Cabrera*, 43 Phil. 64 (1922); *People vs. Otero*, 51 Phil. 201 (1927); *People vs. Istoris*, 53 Phil. 91 (1929); *People vs. de Asis*, 61 Phil. 384 (1935); *People vs. Iris*, 62 Phil. 262 (1935); *People vs. Duran*, 62 Phil. 485 (1935); *People vs. Garcia*, 63 Phil. 296 (1936); *People vs. Masin*, 64 Phil. 757 (1937); *People vs. Pena*, 90 Phil. 649 (1951); *People vs. Binsol*, 100 Phil. 713 (1957); *People vs. Sespene*, 102 Phil. 199 (1957); *People vs. Alfiler*, 104 Phil. 410 (1958); *People vs. Rodriguez*, 108 Phil. 118 (1960); *People vs. Manigbas*, 109 Phil. 469 (1960); *People vs. Delnas*, 110 Phil. 132 (1960); *People vs. Cristobal*, 110 Phil. 741 (1961); *People vs. Gumahin*, L-22357, Oct. 31, 1967, 21 SCRA 729; *People vs. Veraces*, L-25016, March 27, 1971, 38 SCRA 127; *People vs. Sabandal*, L-31129, Sept. 30, 1971, 41 SCRA 179; *People vs. Gramayo*, L-25325, Oct. 29, 1971.

[20] *People vs. Cristobal*, 110 Phil. 741, 745 (1961).

[21] *People vs. De Otero*, 51 Phil. 201, 209 (1927).

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