PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MANUEL “BOY” HERMOCILLA, ACCUSED-APPELLANT.

Ponente: VILLON, J.

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VILLON, J.:

This is an appeal interposed by accused-appellant Manuel “Boy” Hermocilla from the Decision dated June 30, 2005 of Branch 31, Regional Trial Court[1] of Agoo, La Union, finding him guilty beyond reasonable doubt of the crime of Rape as defined and penalized under Article 335 of the Revised Penal Code as amended by RA 7659, and further amended by RA 8353 in relation to RA 7610, otherwise known as “Special Protection of Children against Child Abuse, Exploitation and Discrimination Act.”

Appellant stands charged with the crime of rape in two (2) separate criminal informations, committed as follows:

> “Family Court Case No. A-435
>
> The undersigned prosecutor upon sworn criminal complaint signed by the offended party MARYLYN UNOS accuses MANUEL “BOY” HERMOCILLA of the crime of RAPE, committed as follows:
>
> That on or about the year 1999, in the Municipality of Rosario, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously, have sexual intercourse with his stepdaughter Marylyn Unos, a eleven (11) year old minor, against her will, to her damage and prejudice.
>
> CONTRARY TO LAW.[2]
>
> “Family Court Case No. A-436
>
> The undersigned Prosecutor upon sworn criminal complaint signed by the offended party MARYLYN UNOS accuses MANUEL “BOY” HERMOCILLA of the crime of RAPE, committed as follows:
>
> That on or about the year 2002, in the Municipality of Rosario, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously, have sexual intercourse with his stepdaughter Marylyn Unos, a eleven (11) year old minor, against her will, to her damage and prejudice.
>
> CONTRARY TO LAW”.[3]

The facts upon which the finding of guilt was based are summarized by the Solicitor General and are hereby adopted as follows:

> “Sometime in the year 1999 when she was in her third grade, private complainant Marylyn Unos was watching television in the house of her grandmother. Appellant Manuel Hermocilla, who is the common law spouse of Marylyn's mother, then arrived and called for her. Appellant ordered Marylyn to come home to cook as her mother was set to arrive. Marylyn immediately went home.[4]
>
> When Marylyn was about to start cooking, appellant suddenly pulled her towards her room. Thereat, appellant

> removed her shorts as well as her underwear. Marylyn was ordered to lie down in the bed while appellant started removing his short pants and brief.[5]
>
> Thereafter, appellant inserted his finger into the victim's vagina, who was crying in bed while appellant was performing this beastly act. Subsequently, appellant inserted his penis to Marylyn's vagina. Marylyn immediately felt pain and begged appellant to stop, which the latter did.[6]
>
> After said incident, appellant did not make any more attempts to insert his penis to Marylyn's private part. However, Marylyn's ordeal at the hands of appellant did not end there. On several occasions thereafter, appellant repeatedly molested Marylyn by forcibly inserting his finger into her genitals. The last time appellant sexually abused Marylyn was when the latter was already in her sixth grade, sometime in 2001 to 2002. At that time, Marylyn was in their house cleaning when appellant suddenly pulled her again towards her room. Appellant immediately removed her short pants and her panty. Thereafter, he proceeded in inserting his finger into her vagina.[7]
>
> The series of sexual abuses finally reached its end when Marylyn's father arrived and took her to Baguio where she studied for a year. She latter went back to La Union to live again with her mother and appellant after finishing her second year in high school.[8] Shortly after her return to their house in La Union, appellant embraced Marylyn in an apparent attempt to molest her again. This time however, Marylyn immediately resisted and shouted at him. Appellant became angry and hit her with his hand. Thereafter, he threatened to stab Marylyn with a bolo and yelled at her to get out of the house. Marylyn went out of the house crying but was chased by appellant. When she refused to go home, appellant held her and brought her inside the house where she was ordered to go to sleep.[9]
>
> She went to school the next day and was seen crying by her cousin Anton. When the latter asked her why she was crying, she narrated the incident the day before when appellant threatened her with a bolo. Suspecting that Marylyn was hiding something, Anton convinced her to open up to him. She told Anton everything about her ordeal in the hands of appellant, how the latter sexually molested her from the start up to the last incident. Eventually, the series of events that followed led to appellant's arrest and prosecution for the crime of rape".[10]

Professing innocence, appellant testified as follows:

From January until March of 1999, appellant resided in Manila and transferred only sometime in November of the same year, to Rosario, La Union. Appellant lived in the house of his brother-in-law (Orlando Barao) together with his common-law wife, the latter's siblings and herein complainant Marylyn Unos.

Sometime in 2004, appellant was summoned by their barangay captain to answer questions regarding a complaint lodged against him by complainant. Appellant was asked by the barangay captain if complainant's accusations were true. He vehemently denied the same after which, he was mauled by the persons present thereat, namely, Jose Laroya, Lewelyn Barao, Camilo Parrocha, Anthony Tan and Egmy Molina. Appellant likewise heard that the barangay captain asked for a gun which was later poked against him. Then appellant was forcibly taken to the Police Station of Rosario, La Union.[11]

Appellant insisted on his innocence and claimed that he treated complainant as his own daughter and that he maintained such treatment even until he was incarcerated in December of 2004. He also stated that he bought her clothes, shoes and attended to her other needs.[12]

After trial, the prosecution moved to amend the Information in Family Court Case No. A-436 to prove that the crime was committed by appellant by means of inserting his finger into complainant's genital.[13] Finding such amendment unnecessary, the trial court denied the prosecution's Motion[14] in its Order[15] dated June 23. 2005.

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After the prosecution and defense rested their respective cases, the court a quo rendered its Decision dated June 30, 2005, the dispositive portion of which reads:

> "WHEREFORE, upon the foregoing circumstances, the Court finds accused MANUEL "Boy" HERMOCILLA guilty beyond reasonable doubt of the crime of RAPE committed by him upon Marylyn Unos in Criminal Case No. FC-435 and is hereby sentenced to DEATH in accordance with the legal provision that provides that when the victim is under eighteen (18) years of age and the offender is a stepparent or the common-law spouse of the mother the penalty is death. With respect to the other charge of rape[^], which was the subject of an aborted attempt to amend the wording of the criminal Information as the motion to amend the Information was denied (already explained supra), the Court finds accused MANUEL "Boy" HERMOCILLA guilty of RAPE again beyond reasonable doubt committed by him upon Marylyn Unos as the phrase "instrument or object" includes a human finger or any part of a human body. He is sentenced again to DEATH.
>
> SO ORDERED."[16]

Aggrieved, the accused interposed this appeal, ascribing to the court a quo the following assignment of errors, to wit:

> "I
>
> THE COURT a quo GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF RAPE DESPITE THE PROSECUTOR'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.
>
> II
>
> THE COURT a quo GRAVELY ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH DESPITE THE FACT THAT RELATIONSHIP WAS INACCURATELY ALLEGED IN THE INFORMATION".[17]

The pivotal issue presented before Us is one of credibility. Conclusions as to the credibility of witnesses in rape cases lie heavily on the sound judgment of the trial court. The reason for this is that the trial judge enjoys the peculiar advantage of observing directly and at first-hand the witness's deportment and manner of testifying and is, therefore, in a better position to form accurate impressions and conclusions on the basis thereof.[18] The High Court more eloquently stated this rule in People vs. De Guzman, thus:

> "In the resolution of the factual issues, the Court relies heavily on the trial court for its evaluation of the witnesses and their credibility. Having the opportunity to observe them on the stand, the trial judge is able to detect that sometimes thin line between fact and prevarication that will determine the guilt or innocence of the accused. That line may not be discernible from a mere reading of the impersonal record by the reviewing court. The record will not reveal those telltale signs that will affirm the truth or expose the contrivance, like the angry flush of an insisted assertion or the sudden pallor of a discovered lie or the tremulous mutter of a reluctant answer or the forthright tone of a ready reply.... Only the judge trying the case can see all these and on the basis of his observations arrive at an informed and reasoned verdict."[19]

In this case, complainant's testimony was given in a candid and straightforward manner and there appears no record of some fact or circumstance of weight and influence which has been overlooked or its significance misinterpreted by the court a quo. Thus, we quote complainant's testimony as follows:

"Q: Miss Unos, do you know the accused in this case Manuel Boy Hermocilla?
A: Yes, sir.
Q: And why do you know this person?
A: Because he is my step-father, sir.

Q: And could you tell us the name of your mother?
A: Luzviminda Barao, sir.
Q: And you (sic) natural father, what is the name of your natural father?
A: Saturnino Unos, sir.
Q: And where are you residing right now?
A: At the house of my uncle, sir.
Q: What is the name of your uncle?
A: Lewelyn Barao, sir.
Q: And for how long have you been staying at the house of your uncle?
A: Last December 2004, sir.
Q: Before that, where have you been staying?
A: At Inabaan, sir.
Q: And with whom you have been staying at Inabaan?
A: My mother, my step-father and my sibling with abnormalities, sir.
Q: And do you recall how long have you been staying with your mother and your step-father at Inabaan?
A: When I was a child, I was living with them. I was in Grade 3 when they came, sir.
Q: And why did you file a case against your step-father Manuel Hermocilla?
A: Because he fingers me, sir.
Q: Aside from fingering you, what else he do (sic) to you?
A: He threatened me, sir. He said that he will kill us if ever I will report.
Q: Why, what did he do to you, your step-father?
A: He fingers me, sir.
Q: When was the first time that he finger you?
A: Because when I was in Grade 3, we were sleeping together in 1 bed, my step-father, my mother at the center and me at the other side. During nighttime everytime he embraced my mother he also extend his arm to me and he placed his hand inside my shorts, sir.
Q: And when you said fingering, what exactly do you mean by that?
A: He inserted his finger to my vagina, sir.
Q. After that inserting of that finger in your vagina, do you recall of other incident that happened between you and your step-father?
ATTY. SEGUNDO: May we know the span of time, Your Honor.
APP TADE:After.
Yes, sir.
APP TADE:
Q. What is that incident?
A. When my mother is not around that's it he did something to me, sir.
Q. And what is that something that your step-father do to you?
A. That's the time he fingers me and also up to the time to the place where we were planting vegetables, sir.
Q. And aside from inserting his finger in your vagina, what else did your step-father do to you?
A. Before he tried to insert his penis to my vagina but then he could not insert because it is painful, sir.
APP TADE:
May we make it of record, Your Honor, that at this juncture the witness is crying."[20]

The aforequoted testimony of the complainant reveals that the same was marked by spontaneity, honesty and sincerity. It is a cardinal rule that when the testimony of the victim is simple and straightforward, the same must be given full faith and credit. We reiterate the rule that the accused could be convicted solely on the basis of the

victim's testimony if credible.[21] Here, We see no reason to deviate from the trial court's determination as to the credibility of complainant's testimony.

Appellant, as stated in his Brief,[22] argues that the alleged sexual molestations should have been discovered by her mother, the same being allegedly perpetrated by appellant in their small room where the three (appellant, appellant's common-law wife and complainant) of them usually sleep. We hold that said argument deserves scant consideration. The Supreme Court held in a number of cases[23], that lust is no respecter of time and place. It is not impossible to perpetrate a rape even in a small room. In this case, records disclose that during nighttime, everytime appellant would embrace his common-law wife, he also extended his arms to private complainant and would place his hand inside her shorts and eventually inserted his fingers into her vagina.[24]

Appellant likewise contends that complainant's failure to report the alleged rape despite several opportunities to do so renders the accusation against him doubtful.[25] We are not impressed. A cursory reading of the testimony of complainant which was given in a categorical manner negate appellant's claim. Then too, it is an oft-repeated ruling that it is not uncommon for young girls to conceal for sometime the assaults on their virtue because of the rapist's threats on their lives. We have also stated before that the workings of a human mind placed under emotional stress are unpredictable and people react differently-- some may shout, some may faint, and some may be shocked into insensibility while others may openly welcome the intrusion.[26] Further, in the case of People vs. Flores,[27] it was held that “no woman in her right senses would concoct a tale so repugnant to her virtue and undergo the rigors of a public trial concerning her very honor.” Thus, We hold complainant's testimony, upon a thorough scrutiny of the same, to be worthy of belief.

We agree however, with the Solicitor General that the court a quo erred when it imposed the supreme penalty of death on appellant. As aptly discussed in the People's Brief[28], the prosecution, while having established the victim's minority during the trial, however, failed to produce evidence that appellant and complainant's mother were actually married so as to make appellant fall within the ambit of the term “stepfather”. Verily, the relationship of stepfather presupposes a legitimate relationship. A stepfather is the husband of one's mother by virtue of a marriage subsequent to that of which the person spoken of is the offspring.[29] Appellant testified both during his direct and cross examinations that he was not married tothe mother of complainant. Thus, having failed to establish with particularity the appellant's relationship with complainant, death penalty cannot be applied to appellant in this case. Be that as it may, this issue has become moot and academic considering the prohibition of the imposition of death penalty pursuant to Republic Act 9346, otherwise known as “An Act Prohibiting the Imposition of Death Penalty in the Philippines.”

A final point. We note that the trial court did not award any damages to the private complainant pursuant to Art. 345 of the Revised Penal Code and the latest case law. In rape cases, moral damages may be awarded without need of proof or pleading since it is assumed that the victim suffered moral injuries. Likewise, jurisprudence holds that the payment of civil indemnity is mandatory upon a finding of rape; it is distinct from any award for moral damages as the latter is based on a different jural foundation and is assessed at the trial court's sound discretion.[30]

WHEREFORE, in view of the foregoing, the assailed judgment dated June 30, 2005 of the Regional Trial Court of Agoo, La Union, Branch 31, is AFFIRMED with MODIFICATIONS, that in each of the the two (2) appealed cases, the penalty is reduced to reclusion perpetua and in addition, the appellant is further ordered to indeminfy the complainant the amount of Fifty Thousand Pesos (P50,000.00) as moral damages and the additional amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity for the offense.

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SO ORDERED.

Sabio, Jr., and Asuncion-Vicente, JJ., concur.

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[1] Hon. Clifton U. Ganay, Presiding Judge

[2] Records, pp.53-54

[3] Records, pp.54-55

[4] TSN dated June 8, 2005, p. 3

[5] p.4, Ibid

[6] p.5, Ibid

[7] pp. 8-9, Ibid

[8] pp. 9-10, Ibid

[9] pp. 12-14, Ibid

[10] pp. 14-15, Ibid

[11] TSN dated June 28, 2005, pp. 3-14

[12] Ibid. pp. 12-13

[13] Records, p. 55

[14] Records, pp. 44-45

[15] Records, p. 46

[^] These are two (2) charges of rape (FC Case No. A-435 and FC Case No. A-436)

[16] Rollo, pp. 64-65

[17] Rollo, p. 29

[18] People vs, Bravo, 180 SCRA 694 [1989]; People vs. Umali, 193 SCRA 493 [1991]; People vs. Pascual, 208 SCRA 393 [1992]; People vs. Matrimonio, 215 SCRA 613 [1992]; People vs. De Paz, 224 SCRA 468 [1993]; People vs. Gornes, 230 SCRA 270 [1994]; People vs. Maguikay, 237 SCRA 587 [1994].

[19] 188 SCRA 407 [1990]. See also People vs. De Leon, G.R. No. 110558, 3 July 1995.

[20] TSN dated June 7, 2005, pp. 3-6

[21] People vs. Serna, G.R. No. 78530, March 6, 1990

[22] Rollo, Brief for the Accused-Appellant, pp. 27-45

[23] For example, People vs. Agbayani, 284 SCRA 315; People vs. Manuel, 236 SCRA 545

[24] TSN dated June 7, 2005, pp. 4-5

[25] Rollo, pp. 38-39

[26] People vs. Abner Malunes, G. R. No. 114692, August 14, 1995

[27] Citing 23 SCRA 309

[28] Rollo, pp. 86-89

[29] People vs. Dimapilis, G.R. Nos. 128619-21, December 17, 1998; People vs. Abundio Tolentino, G.R. No. 130514, June 1999

[30] People vs. Colisao, 372 SCRA 20

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