

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANGEL SUNGA, DEFENDANT-APPELLANT.

G.R. No. L-45083. June 24, 1985

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

Angel Sunga was charged with the crime of rape in the Court of First Instance of Camarines Norte in an information, committed as follows:

"That on or about 5:00 o'clock in the afternoon of March 13 to 5:00 o'clock the following morning, March 14, 1974, at Mantagbac III, municipality of Daet, province of Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there, by means of force and intimidation willfully, unlawfully and feloniously, have carnal knowledge with one ESTRELLA ARELLANO, a woman of abnormal mental faculty, against her will, and to her damage and prejudice in the amount that the Honorable Court may assess."[1]

After due trial, the court a quo, rendered a decision, the dispositive portion of which reads:

"WHEREFORE, the Court hereby finds the accused Angel Sunga guilty beyond reasonable doubt of the crime of Rape defined and penalized under Article 335 of the Revised Penal Code, and he is hereby sentenced to suffer the penalty of Reclusion Perpetua or life imprisonment, with the accessory penalties provided for by law; to indemnify the offended girl Estrella Arellano in the sum of P6,000.00 as moral damages; and to pay the costs."[2]

The facts of the case as narrated in the People's Brief are as follows:

"Estrella Arellano was in March, 1974, 23 years old and lived with her mother, Dominga Arellano, at Daet, Camarines Norte, As testified to by her mother, Estrella had been, since childhood, abnormal. She had poor mentality, could not comprehend any work assigned to her, was deaf and stutterer (utal) and often fell sick (tsn, pp. 20-31, September 5, 1974).

"Estrella Arellano always stayed with her mother at the store maintained by the latter at the Daet Market Tienda. Estrella was not permitted to leave without a companion. She had stopped studying after passing Grade VI. While she was studying, she was taken to school and after class hours fetched by her mother. Her mother made it a point to ask her (Estrella's) teachers to watch over her because she was retarded. At more than 7 years, when she was enrolled in Kindergarten, Estrella could not talk yet. She was able to finish Grade VI because her mother had entreated her (Estrella's) teachers to pass her, so that she would be removed from their care. (tsn, pp. 38, 44-47, September 5, 1974).

"Before March, 1974, Estrella Arellano and her mother had known appellant Angel Sunga for many years. He used to go to the store of Dominga Arellano and talk to her (tsn, pp. 28-29, September 5, 1974).

"Between 10:00 A.M. and 2:00 P.M. on March 13, 1974, Dominga Arellano noticed that Estrella was missing from her store at Daet Market Tienda. Dominga Arellano reported the disappearance of her daughter to the PC

and police authorities. She herself tried to locate her daughter at several places in Daet (tsn, pp. 31-33, September 5, 1974).

"At about 5:00 P.M. on March 13, 1974, appellant brought Estrella Arellano to the house of Noel Ferrer at Mantagbac III, Daet, Camarines Norte. Appellant introduced Estrella to Ferrer as his (Sunga's) wife. Appellant and Estrella spent the night at that house, in the course of which they had sexual intercourse for three times (tsn, pp. 50-52, September 5, 1974; p. 17, September 4, 1974; p. 159, December 10, 1974).

"Before appellant and Estrella left the house of Noel Ferrer in the morning of March 14, 1974, appellant dictated a letter to Ferrer, the tenor of which is as follows: that Estrella eloped with appellant on May 13, 1974, that her elopement was made with the knowledge of her parents, and that appellant was in no way accountable at law for what had happened (Exhibit C). Thereafter, appellant, in a harsh tone of voice, told Estrella to copy the letter, which she did (Exhibit D). In the same morning, at the prodding of appellant, Estrella withdrew P80.00 from the Rural Bank of Daet, where her mother had an account. Estrella was able to make the withdrawal because the management of that bank had been instructed by Dominga Arellano to allow her daughter to do so as long as the withdrawal did not exceed P100.00. Out of Estrella's withdrawal on March 14, 1974, P40.00 went to appellant (tsn, p. 111, October 8, 1974; pp. 53-56, September 5, 1974; pp. 2-11, November 10, 1975).

"Dominga Arellano found her daughter at the police station at about 5:00 P.M. on March 14, 1974. At the police station, Estrella, in tears, told her mother that 'it was Angel Sunga who did it.' At the request of Dominga, the case was investigated by the PC. M/Sgt. Pedro Belardo, Chief Section, Investigation and Intelligence Operation of the 242 PC Company, investigated appellant on the same day. In a statement (Exhibit B) given to M/Sgt. Belardo, appellant said that it was Estrella who had insisted on being with him, that he knew Estrella 'x x x ay may diferencia at mahina ang pag-iisip', and that he had sexual intercourse with her several times in the evening of March 13, 1974 (tsn, pp. 16-20, 33, September 5, 1974).

"Estrella Arellano was also investigated by M/Sgt. Belardo on March 14, 1974 (Exhibit 1). He found her to be mentally deficient in that when he asked her to relate the incident 'x x x she could not narrate immediately and give a full detail. She even asked time to recall, and until she was able to recall what really transpired that is the time and place.' (tsn, p. 137, December 10, 1974).

"On March 14, 1974, Estrella Arellano was physically examined by Dr. Blancaflor Naron, Resident Physician of the Camarines Norte Provincial Hospital. Dr. Naron issued a Medical Certificate (Exhibit A) stating the following:

'Hymenal laceration at 5:00 o'clock recent; Vaginal introitus admits one finger; Vaginal Smear positive for sperm cells; Abrasions, knee, bilateral.'

"She testified that findings 1 to 3 indicated sexual intercourse within 36 to 48 hours before the time she examined Estrella, and that the abrasions on the left knee of Estrella was caused by contact against a rough surface (tsn, pp. 2-9, September 4, 1974).

"On March 20, 1974, Estrella Arellano appeared for preliminary examination before Judge Gil P. Fernandez, Municipal Judge of Daet, Camarines Norte (Exhibit 3). Judge Fernandez testified: 'That time I asked her questions in the preliminary investigation, she sometimes could not answer the questions because she only murmuring so I told her to demonstrate and she will just bowed her head so I stopped and after three or four minutes I believe she was already revived, I propounded the questions and she answered.' (tsn, pp. 177-178, May 9, 1975).

"Estrella repeated in substance to Judge Fernandez what she had stated to PC M/Sgt. Pedro Belardo on March 14, 1974, viz., that about 2:00 P.M. on March 13, 1974, while on her way to see a certain Ate Lily, appellant blocked her way, held her hand, and took her to the Vimar Theater. Thereat, appellant touched her private parts and kissed her. She was then taken to the house of a certain 'kuba' at Mantagbac where, after eating her supper, she was taken

by appellant to a room. Inside that room, she was told to, and took off her clothes and panty against her will. Appellant kissed her, touched her private parts, and had sexual intercourse with her. She did not shout for fear of being killed (Exhibit 3).

"From June 3, 1974 to July 17, 1974, Estrella Arellano was admitted to the National Mental Hospital and treated there by Dr. Brigida Buenaseda, specialist in psychiatry, a fellow of the Philippine Society in Neurology, and had been conferred a diplomate in psychiatry by the Philippine Board of Psychiatry (tsn, pp. 74--75, October 8, 1974).

"Dr. Buenaseda found Estrella to be suffering from mental retardation with psychosis (insanity). Estrella had a dull emotional reaction and was blunted at times. She was irrelevant in some of her speech and had some degree of hallucination in which she would be kidnapped and taken advantage of. She could see the spirit of appellant Angel Sunga. She was childish and presented an intellectual functioning and I.Q. of 51 equivalent to a normal child of about 8 to 9 years old. She had some degree of squinting (cross-eyed) and her hearing was impaired (tsn., pp. 76-77, October 8, 1974).

"Dr. Buenaseda testified that Estrella was retarded from birth and that her affliction was permanent in nature. As to Estrella's insanity, Dr. Buenaseda testified that it began from and after March 13, 1974, and was probably caused by the former's experience with appellant. She reiterated, however, that Estrella having been mentally retarded on March 13, 1974, her capacity for decision making or perception of right and wrong was then impaired. In the words of Dr. Buenaseda:

'A Under this condition, we will just picture a child of 8 to 9 years old; she might know which is right or wrong but she might not know whether to do the right or the wrong. She does not know which to decide, the right or the wrong.

Q

There is impairment in decision making?

'A

Decision making or judgment.' (tsn., pp. 78-89, October 8, 1974).

"Estrella Arellano did not testify in the lower court because as she was presented to testify, she cried like a baby and behaved abnormally (Dec.)."[3]

Appellant Angel Sunga admitted having sexual intercourse three times with the complainant Estrella Arellano in the evening of March 13, 1974. He claimed that the sexual act was done voluntarily and with the consent of the offended party.

The records conclusively show that Estrella Arellano is mentally retarded. Prosecution witnesses Dominga Peria Arellano and Dra. Brigida Buenaseda testified to that effect. Even the witnesses of the defense and the accused himself stated that the complainant is mentally retarded. Witness Pedro Belardo, chief investigator of the 242nd PC Company declared in Court that he investigated the offended party who was able to answer his questions without assistance but after several repetitions. Another witness, Gil P. Fernandez, Municipal Judge of Daet, Camarines Norte, also testified that he conducted the preliminary examination of the present case and that his questions were answered by the offended party but he had a very hard time eliciting facts from the said complainant.

Appellant in his affidavit answered to the question propounded to him by the investigating officer in the following manner:

"6. T:

Alam mo ang kalagayan ni Estrella Arellano?

S:

Alam ko na siya utal at siya ay may diferencia at mahina ang pag-iisip."[4]

In fact, Estrella Arellano did not testify in court because as she was presented to testify, she cried like a baby and behaved abnormally.

The court a quo in its decision also said:

"x x x Secondly, this Court observed this offended girl to be abnormal and by the nature of her appearance and behavior she could not possibly know and comprehend what love is and what it purports to be. It is not possible for the offended girl, in her past and present mental condition, considering that her mental retardation is congenital and permanent, to give voluntary and intelligent consent to the consummation of the aforestated carnal acts. To believe otherwise, is contrary to human nature and taxes human credulity."[5]

It has been conclusively established by the prosecution that Estrella Arellano is suffering from mental abnormalities since birth. The offended party, although already 23 years old has the mentality of a child about 8 to 9 years of age.

Because of her mental condition, complainant is incapable of giving consent to the sexual intercourse.[6] She is in the same class as a woman deprived of reason or otherwise unconscious. Appellant therefore committed rape in having sexual intercourse with her.

WHEREFORE, with the modification that the indemnity to be paid to the offended party is increased to P30,000.00, the judgment appealed from should be, as it is hereby, AFFIRMED. With cost against the appellant.

SO ORDERED.

Makasiar, (Chairman), Abad Santos, Escolin, and Cuevas, JJ., concur.

Aquino, J., concur. The case is similar to *People vs. Manlapaz*, 88 SCRA 704.

[1] Rollo, p. 2.

[2] Decision, pp. 15-16.

[3] Appellee's Brief, pp. 3-9.

[4] Original Records, p. 2.

[5] Decision, p. 12.

[6] *People vs. Daing, et al.*, G.R. No. L-40574, Nov. 29, 1984; *People vs. Manlapaz*, G.R. No. L-41819, Feb. 28, 1979, 88 SCRA 704.

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