

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEOPOLDO SANTOS, JR. Y GARBIN, ACCUSED-APPELLANT.

Ponente: BUESER, J.

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BUESER, J.:

Before the Court is an Appeal from the Decision rendered by the Regional Trial Court, Branch 72 of Antipolo City finding the accused-appellant guilty of three (3) counts of rape in Criminal Case Nos. 02-23620-22 entitled “People of the Philippines vs. Leopoldo Santos, Jr. y Garbin”.

As culled from the records[1], the antecedent facts of this case are as follows:

Accused-appellant Leopoldo Santos, Jr. (Nonoy, for brevity) was eighteen years old and a sophomore high school student in Antipolo City. He lived with AAA's[**] family and was being sent to school by her parents. AAA's mother, BBB, is his aunt and godmother. CCC, AAA's father is BBB's husband.

In the year 2001, AAA was twelve years old, having been born on August 16, 1989. AAA and her parents shared a bedroom located at the basement. Their beds, AAA's and that of her parents', were separated merely by a divider.

AAA testified that on August 15, 2001, she went home from school at around 12 noon. After having lunch, she went inside the bedroom to sleep.[2] She was half asleep when she felt someone touching her breast and holding her left leg[3]. Thereafter, she felt her vagina aching. She opened her eyes and saw Nonoy seated near the edge of the bed facing her[4]. Nonoy's left hand was inside AAA's short pants, with his finger touching her vagina. He inserted his finger into AAA's vagina. She resisted by pushing his left forearm for about four times, however, Nonoy merely pressed his finger harder.[5]

AAA parried Nonoy's left hand. He stood, warned her not to tell her parents what took place and left the room. AAA sat on the bed and cried.[6] The following day, at about 3:30 in the afternoon of August 16, 2001, the family prepared for AAA's birthday celebration. AAA told CCC that she felt pain in her genitals.[7] Nonoy placed an index finger against his mouth to stop AAA from talking. AAA acquiesced.

Thereafter at around 4:30 in the afternoon of September 26, 2001, AAA was having a nap when she felt someone spreading her legs and placing himself on top. She also remembered smelling a pungent odor and feeling pain in her vagina.[8] Albeit sleepy, AAA opened her eyes and saw Nonoy on top of her. She struggled, Nonoy's hands held hers to overcome her resistance. He inserted his penis inside AAA's vagina, and did movements as if having a horse ride[9]. She continued her resistance, however he merely pressed harder.[10] AAA kicked Nonoy and hit his buttock, but he stayed on top. She kicked him again. He stood up, warned her not to tell her parents and went out of the room.[11] AAA went to the comfort room and tried to urinate[12].

The Halloween party at AAA's school ended at 12 noon of October 26, 2001. Her Tito Dante brought her home. AAA changed clothes, entered her room and went to sleep.[13] Later, she felt someone touching and spreading her legs. She smelled a “masangsang na amoy”[14] and sensed something lying on top of her. She felt pain in her

vagina and when she opened her eyes, AAA saw Nonoy moving as if on horseback on top of her[15]. When he noticed that AAA's eyes are open, he held her hands upward. She started struggling by moving her lower body from left to right, while trying to free her hands from his hold. AAA was uncertain whether Nonoy's penis was able to penetrate her vagina, however she felt a hot liquid in her vagina.[16] He stayed on top, thereafter he stood up. After putting on his pants and brief, Nonoy told AAA not to tell her parents. That evening, AAA had a fever[17].

In the afternoon of December 19, 2001, CCC, AAA's father arrived home at about 3:20. CCC was descending the staircase to go to the comfort room when he noticed that their bedroom door was open. He was about to proceed to the comfort room, however he sensed that someone was on AAA's bed. When CCC turned, he saw Nonoy squatting, holding AAA's legs open and pulling her to the edge of the bed. The position, CCC described, is like someone with a wheelbarrow. While Nonoy was doing this, he was unaware of CCC's presence inside the room.

When Nonoy was about to lie on top of AAA, CCC demanded "Anong ginagawa mo dito sa kuwarto?". Nonoy replied that he was fixing the electric fan. CCC noticed that Nonoy's pants was loosened, which made the former suspect that something wrong was going on. CCC told AAA to get up, however the latter remained silent, feigned sleep and covered her head with a pillow. This enraged CCC, he grabbed AAA by the left arm and demanded "Ano ang ginawa sa iyo ni Nonoy?". She was silent.

CCC turned to Nonoy and saw the latter pulling up his pants and fastening his belt. CCC asked Nonoy "Anong ginawa mo sa anak ko?". CCC turned to AAA and yelled, "Ano ang ginawa sa iyo ni Nonoy?". CCC shook AAA's shoulders. She started crying and said "Daddy palayasin mo na si Nonoy!! Daddy palayasin mo na si Nonoy!! Kaya siya sumisenyas sa akin na huwag ako magsalita dahil tinatakot niya ako!! Gusto niyang ipasok ang kanyang titi sa aking ari, dumating ka lang kaya di natuloy". AAA wept, while Nonoy was able to leave the house and escape.

On December 21, 2001, CCC brought AAA to the PNP Crime Laboratory for physical examination. The initial medico-legal report revealed that AAA was "in virgin state physically"[18]. On the witness stand, AAA testified that aside from the incident on December 19, 2001, Nonoy took advantage of her and had carnal knowledge with her previously.

Three separate information were filed against Nonoy for the crime of rape, viz:

CRIM. CASE NO. 02-23620

"That on or about the 26[th] day of September 2001, in the City of Antipolo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force and intimidation, did, then and there willfully, unlawfully and feloniously have sexual intercourse with one AAA, a twelve (12) year old minor, against the latter's will and consent.

CONTRARY TO LAW."

CRIM. CASE NO. 02-23621

"That on or about the 26[th] day of October 2001, in the City of Antipolo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one AAA, a twelve (12) year old minor, against the latter's will and consent.

CONTRARY TO LAW."

CRIM. CASE NO. 02-23622

“That on or about the 15[th] day of August 2001, in the City of Antipolo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force and intimidation, did, then and there willfully, unlawfully and feloniously have sexual intercourse with one AAA, a twelve (12) year old minor, against the latter's will and consent.

CONTRARY TO LAW.”

Upon arraignment on July 23, 2002, accused-appellant plead not guilty. Thereafter, trial on the merits ensued.

On January 14, 2013, the court a quo rendered the assailed Decision[19] finding the accused-appellant guilty beyond reasonable doubt of three (3) counts of rape, viz:

“WHEREFORE, premises considered, judgment is hereby rendered finding the accused LEOPOLDO SANTOS, JR. y GARBIN GUILTY BEYOND REASONABLE DOUBT of three (3) counts of rape. However, in Criminal Case No. 02-23622 wherein the accused inserted his finger into the vagina of the minor victim, the accused is sentenced to suffer the indeterminate penalty of one (1) year, one (1) month and ten (10) days of prision correccional as minimum to eight (8) years and one (1) day of prision mayor as maximum. In Criminal Case Nos. 02-23620 and 02-23621, the accused is sentenced to suffer the penalty of reclusion perpetua for each count. The accused is ordered to pay the victim P50,000.00 as civil indemnity and P30,000.00 as exemplary damages for every rape committed as well as P50,000.00 as moral damages and to pay the cost.

SO ORDERED.”[20]

Aggrieved, the accused-appellant filed this appeal raising the lone error:

WHETHER OR NOT THE COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF RAPE ALTHOUGH HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

ISSUE

The pivotal issue in the instant case is whether or not the court a quo erred when it found the accused-appellant guilty beyond reasonable doubt for three (3) counts of rape against AAA.

OUR RULING

In questioning his conviction, the accused-appellant claimed that his carnal knowledge with AAA was not proven beyond reasonable doubt. The medico-legal report itself belies carnal knowledge as it was stated that AAA was physically in “virgin state”. The doctor who examined AAA found her hymen intact and that there were no signs of application of trauma. Thus, “when the physical evidence runs counter to testimonial evidence, conclusions as to physical evidence must prevail. Physical evidence is that mute but eloquent manifestation of truth which rates high in our hierarchy of trustworthy evidence”[21].

The accused-appellant also contends that if he was able to successfully penetrate AAA's vagina, there would have been vaginal bleeding and hematoma on her pudendum as well as presence of spermatozoa[22] which should have been found by the doctor. Moreover, her hymen should have been lacerated. Thus, AAA is not a credible witness in testifying against the accused-appellant for having committed the crime of rape against her.[23]

We disagree.

We find no reason to doubt AAA's credibility as a witness and deviate from the court a quo's finding that credible testimony of the victim deserved greater weight than the denial of the accused-appellant. His claim that AAA lied about the rape because she likes him is simply too flimsy[24]. “This is especially true in the light of our consistent pronouncement that no decent and sensible woman will publicly admit being a rape victim and thus run the risk of

public contempt - the dire consequence of a rape charge - unless she is, in fact, a rape victim.”[25]

Verily, it is well settled that it is unthinkable that a young girl like AAA would submit herself to physical examination of her private parts, subject herself and her family to public scrutiny or even ridicule if her accusation of rape were not true[26]. Thus as between the denial of the accused-appellant and the testimony of AAA, the latter deserves greater weight.

Moreover, “the unbroken line of jurisprudence is that this Court will not disturb the findings of the trial court as to the credibility of witnesses, considering that it is in a better position to observe their candor and behavior on the witness stand. Evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court, because of its unique opportunity to observe the witnesses and their demeanor, conduct, and attitude, especially under cross-examination. Its assessment is respected unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case.”[27]

The fact that there is no laceration of the hymen does not diminish AAA's credibility nor negate the findings of rape. It has been held by the Supreme Court in the case of *People vs. Ombreso*[28] that:

And, in *People vs. Palicte*, in which although the victim's hymen was found intact and she claimed that during the attack she felt pain in her genitalia, it was held:

"In the case before us, (private complainant) repeatedly testified that the accused inserted his penis into her vagina x x x, as a consequence of which she felt pain. This, at least, could be nothing but the result of the penile penetration sufficient to constitute rape. Being a virgin, as found by the examining physician, her hymenal resistance could be strong as to prevent full penetration. But just the same, penetration there was, which caused the pain. For, rape is committed even with the slightest penetration of the woman's sex organ. Mere entry of the labia of lips of the female organ without rupture of the hymen or laceration of the vagina, as in this case x x x is sufficient to warrant conviction for consummated rape."

At any rate, it is settled that the absence of hymenal lacerations or abrasions as well as of seminal fluid, spermatozoa, or hematoma around the genital area does not negate the commission of rape. As observed in a recent case:

"There is no gainsaying that medical evidence is merely corroborative, and is even dispensable, in proving the crime of rape. In child sexual abuse cases particularly, normal physical findings are common due to several factors, such as delay in seeking medical examination, the rapid healing of injuries, washing, urinating or defecating after the sexual assault, the elasticity of the hymen, changes in the hymenal tissue due to estrogen effect when the victim is at the pubertal stage, or the type of sexual molestation involved, such as fondling, oral sodomy, or cunnilingus, which leaves no physical marks. The child's disclosure is the most important evidence of the sexual abuse she has gone through."

In sum, We find nothing in the records that would compel Us to reverse the findings of the court a quo with respect to AAA's credibility. AAA testified in a categorical, straightforward and consistent manner and when “a woman, more so if she is a minor, says she has been raped, she says, in effect, all that is necessary to prove that rape was committed and if her testimony meets the test of credibility, that is sufficient to convict the accused”.[29]

With respect, however, to the proper penalty in Criminal Case No. 02-23622, We find no reason to modify the penalty imposed by the court a quo over the accused-appellant. The information in the aforementioned criminal case reads:

“That on or about the 15[th] day of August, 2001, in the City of Antipolo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and

intimidation, did, then and there willfully, unlawfully and feloniously insert his finger into the vagina of one AAA, a twelve (12) year old minor, against the latter's will and consent" (emphasis, ours)

The case *People vs. Valdez*[30] is instructive, thus:

It cannot be otherwise, for, indeed, the real nature of the criminal charge is determined not from the caption or preamble of the information, or from the specification of the provision of law alleged to have been violated, which are mere conclusions of law, but by the actual recital of the facts in the complaint or information. In *People v. Dimaano*, the Court elaborated:

For complaint or information to be sufficient, it must state the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate time of the commission of the offense, and the place wherein the offense was committed. What is controlling is not the title of the complaint, nor the designation of the offense charged or the particular law or part thereof allegedly violated, these being mere conclusions of law made by the prosecutor, but the description of the crime charged and the particular facts therein recited. The acts or omissions complained of must be alleged in such form as is sufficient to enable a person of common understanding to know what offense is intended to be charged, and enable the court to pronounce proper judgment. No information for a crime will be sufficient if it does not accurately and clearly allege the elements of the crime charged. Every element of the offense must be stated in the information. What facts and circumstances are necessary to be included therein must be determined by reference to the definitions and essentials of the specified crimes. The requirement of alleging the elements of a crime in the information is to inform the accused of the nature of the accusation against him so as to enable him to suitably prepare his defense. The presumption is that the accused has no independent knowledge of the facts that constitute the offense. [emphasis supplied]

Hence, to sufficiently discharge the burden of informing the accused-appellant of the crime charged against him, the State must be specific with respect to the details of the crime and any circumstance that will aggravate his liability or subject him to greater penalty for the crime.[31] This is to enable the accused-appellant prepare for his defense. The "non-allegation of a detail that aggravates his liability is to prohibit the introduction or consideration against the accused of evidence that tends to establish that detail. The allegations in the information are controlling in the ultimate analysis"[32].

In the instant case, it was clearly averred in the information that AAA was already twelve (12) years old on August 15, 2001, and nothing therein would suggest that she is in fact below twelve (12) years old.

WHEREFORE, premises considered, the Decision of the Regional Trial Court , Branch 72 of Antipolo City dated January 14, 2013 in Criminal Cases No. 02-23620-22 is hereby MODIFIED in conformity with current jurisprudence on all monetary awards for damages shall be subject to an interest at the legal rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.[33]

The rest are AFFIRMED in toto.

IT IS SO ORDERED.

Bueser, D.Q. and [*]Paredes, V.I., A., JJ., concur.

[*] Acting Junior Member for 15 working days only from February 24, 2015 per Office Order No. 55-15-ABR dated February 23, 2015. 1Rollo, pp. 1-102.

[**] The identity of the victim or any information to 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"; 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; and *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[2] TSN of AAA, November 17, 2003, pp. 18-20.

[3] *Ibid*, pp. 21-22.

[4] *Ibid*, 23-26.

[5] *Ibid*, pp. 27-30.

[6] TSN of AAA, February 8, 2005, pp. 8-9.

[7] *Ibid*, pp. 10-13.

[8] TSN of AAA, May 31, 2005, pp. 8-9.

[9] TSN of AAA, August 9, 2005, pp. 15-16.

[10] TSN of AAA, May 31, 2005, pp. 10-11.

[11] *Ibid*, pp. 12-14.

[12] *Ibid*, p. 14.

[13] TSN of AAA, April 25, 2206, pp. 20-22.

[14] *Ibid*, p. 23.

[15] *Ibid*, pp. 24-25.

[16] *Ibid*, pp. 26-27.

[17] *Ibid*, pp. 28-29.

[18] Volume II of Records, p. 7.

[19] Rollo, pp. 70-74.

[20] Roll, p. 74.

[21] *People vs. Arnel Asuncion*, GR. No. 136779, September 7, 2001 citing *People vs. Aguinaldo* 316 SCRA 819.

[22] Brief for the Accused-Appellant, pp. 53-68.

[23] Brief for the Accused-Appellant, pp. 53-68.

[24] Decision, Rollo, p. 73.

[25] *People vs. Dominguez*, GR. No. 180914, November 24, 2010, citing *People vs. Mendoza*, 490 Phil 737(2005).

[26] *People vs. Dominguez*, GR. No. 180914, November 24, 2010 27*People vs. Tormis*, GR. No. 183456, December 18, 2008 citing *People v. Dizon*, 453 Phil. 858, 867 (2003).

[28] GR. No. 142861, December 19, 2001.

[29] People vs. Tormis, GR. No. 183456, December 18, 2008, citing People v. Ancheta, 464 Phil. 360, 371 (2004) and People v. Luceriano, 467 Phil. 91, 99 (2004).

[30] Gr. No. 175602, January 18, 2012.

[31] People vs. Valdez, Gr. No. 175602, January 18, 2012.

[32] Ibid.

[33] People vs. Natalio Hilarion, G.R. No. 201105, November 25, 2013.

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