

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO WEDING ALIAS "OMING", ACCUSED-APPELLANT.

G.R. No. 106769. July 13, 1995

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Succumbing to his bestial instinct to satisfy his lust, accused Romeo Weding preyed upon Primitiva Salcor, a married woman with six children and sexually assaulted her. And for that he was charged on September 13, 1989 with rape in an information^[1] filed with the Regional Trial Court of Davao del Sur, Branch 20, and docketed therein as Criminal Case No. 852. The indictment reads as follows:

That on or about March 19, 1989, in the Municipality of Sarangani, Province of Davao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused by means of violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the complainant, Primitiva Salcor, against her will and in her own house and immediately thereafter by means of violence and intimidation on the person, did then and there willfully, unlawfully and feloniously with intent of gain and without her consent take from the said Primitiva Salcor the sum of Five Hundred (P500.00) Pesos, Philippines Currency, to her damage and prejudice in the sum aforesaid.

Contrary to law.^[2]

Upon arraignment, the accused entered a plea of "not guilty" to the offense charged.^[3]

Thereafter, trial ensued.

On July 14, 1992, the trial court rendered judgment, the decretal portion of which reads:

CONFORMABLY WITH THE FOREGOING, this Court finds the accused Romeo Weding 'Guilty' beyond reasonable doubt of the crime of Rape, as defined and penalized under Article 335, Paragraph (1) of the Revised Penal Code, and hereby sentences him to suffer the penalty of Reclusion Perpetua; to indemnify the private complainant Primitiva Salcor in the sum of Thirty Thousand (P30,000.00) Pesos as moral damages; and, to pay the costs.

SO ORDERED.^[4]

Aggrieved by the ruling, accused interposed the present appeal and ascribed to the court a quo the following errors, to wit:

I

THE TRIAL COURT ERRED IN GIVING WEIGHT AND CREDENCE TO THE THEORY OF THE PROSECUTION AND IN DISREGARDING THAT OF THE DEFENSE.

II

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME OF RAPE DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[5]

Finding the People's recital of the facts of this case, as summarized by the Solicitor General, to be complete and duly substantiated by the evidence on record which we have carefully examined, we quote the same with approval, thus:

On March 19, 1989 at about 1:00 o'clock in the morning, private complainant Primitiva Salcor and her three young children were sleeping in their house in Sitio Nabul, Camahual, North Sarangani, Davao del Sur (tsn, May 23, 1990, p. 8). Salcor was suddenly awakened when she felt the hand of someone holding her right shoulder (Id., p. 9). She then noticed that the same person was kneeling beside her and was trying to lie on top of her (Id.). Salcor tried to extricate herself from the man's hold on her but could not do so as the man was bigger than her (Id.). The man then told her: 'Ayaw pagsada, kay kon magsaba ka, patyon ta kamong tansa,' which in English means: 'Do not make any noise because if you will make any noise, I will kill all of you (Id.).' Salcor then saw the man holding something on his left hand which appeared to be a weapon (Id., pp. 9-10). The man then held her two hands and dragged her to the other room where he undressed her (Id.). After undressing her, the man then asked her for money and she denied having any money (Id., p. 11). At the man's insistence, Salcor pointed to him where the money was kept whereupon she lighted a match (Id.). She then recognized the man to be the accused, Romeo Weding (Id.). The accused was able to take Five Hundred Pesos (P500.00) from her (Id., p. 12). The accused then raped her (Id.). She was not able to resist as the accused was holding the weapon in his left hand (Id., p. 14). After abusing her, the accused dragged Salcor towards the kitchen and asked her to help him open the door (Id.). She was not able to open the door because it was nailed and was blocked with two pieces of wood (Id.). The accused then pushed her with force and then climbed above the door where he made his way out (Id.).

On that same morning, Salcor, together with her three children immediately proceeded to Laker and reported the incident to PC/Sgt. Marciano Lagodas and a certain Borja (Id., p. 15).

After receiving the report PC/Sgt. Lagodas went to Sitio Laker and conducted an investigation (tsn, July 11, 1990, p. 10). The accused immediately admitted that he was the perpetrator (Id.). Barangay Captain Hernando Handok assisted the police in bringing the accused to the Municipal Building where he was investigated by Roelo Oyong (tsn, May 23, 1990, pp. 26-27). The accused was asked whether it was he who raped Primitiva Salcor (Id.). The accused did not answer but merely shook his head (Id.).

On March 21, 1989, Primitiva Salcor also reported the incident to the police authorities in the Municipal Building of Sarangani (Id., p. 16).

On the same day, Salcor submitted herself to medical examination (Id., p. 17). Dr. Jouvenal C. Delgado conducted the said examination and found that Salcor had a fever (tsn, January 5, 1990, p. 8). There was a 2 cm. diameter hematoma on her right shoulder (Id., p. 9) and a 2.5 cm. diameter hematoma on her right thigh (Id., p. 12). She was also found to have a one-inch scratch on her left back thoracic cavity (Id.) and multiple superficial scratch wounds at the lower extremities, 2 cm. in length (Id., p. 10). Dr. Delgado also observed that Salcor was staring blankly when questioned (Id., p. 13).

On March 25, 1989, the accused voluntarily surrendered to the Philippine National Police (PNP) and requested that he be kept under the PNP's custody (tsn, August 20, 1991, p. 11). However, on March 27, 1989, he escaped from jail (Id.).

On May 9, 1989, the accused was recaptured in Margus, Glan, South Cotobato (Id., pp. 28-29). When the pumpboat bearing the accused docked in Camahual, Felomino Salcor, the husband of the victim was present and

the accused approached him and asked him for forgiveness saying: 'Pasayloa ko Noy kay nakasala ko sa imong pamilya, kay high koadtong higayona,' meaning: 'Forgive me Noy because I have offended your family and I was high at that time' (Id., p. 29).[6]

Appellant raises the issue of credibility, that is, whether or not the trial court erred in convicting him based on the evidence adduced by the prosecution.

After a circumspect evaluation of the records, we are compelled to reject the appellant's claim that his guilt was not proven beyond reasonable doubt by the prosecution. The court a quo's findings and conclusion are founded on the positive, direct and categorical declarations made by the witnesses for the prosecution.

First. The victim, Primitiva Salcor, clearly testified that she had indeed been raped by Romeo Weding. She elucidated how the despicable offense was committed in her direct examination as narrated in the foregoing antecedents. Moreover, she remained firm and resolute during cross-examination, unwavering in her declaration that she never consented to the sexual violation by appellant. The court a quo's assessment of the victim's and appellant's testimony and demeanor deserve credit:

This brings us to consider the truth of his allegations based on his credibility as a witness determined largely by the veracity of his own testimony.

The accused is twenty-two (22) years old, single, and admitted to be illiterate. It was not shown whether he had a job before his incarceration. Notably, however, accused did not dispute complainant's testimony that he was a known thief and has in fact stolen copras from them on two (2) occasions.

On the other hand, the complainant is a thirty-three (33) year-old mother of six (6) children. Her husband worked as a revenue clerk, who often goes out of town leaving only her and her children, at home. Their house is far from neighbors being situated on a mountain side, inaccessible by ordinary transportation. Such a situation made her an easy prey to sexual adventurers, such as the accused.

While the version of the accused may not be considered impossible, the same has been seriously impaired by his inconsistent, unbelievable, and unsubstantiated statements. His failure to rebut matters of vital importance had lent considerable credence to the assertions of the complainant.

For instance, the love affair which accused claims to exist between him and the complainant, if true, would have been carried on in utmost secrecy and discretion, considering that complainant is a married woman with children. We cannot, therefore, see our way clear why complainant would engage in sexual intercourse and even slept with the accused, together with her children. Likewise, there could be no plausible explanation why as alleged by the accused, the complainant after their sexual intercourse, tried and told him she would file a case against him, then advised him to flee and even gave him money for that purpose. It should be noted that complainant reported to the PC on the same morning after the incident and this is borne by the records of the case. None of the persons allegedly present when the complainant visited him on March 19, was presented by the accused to corroborate his testimony that he was seduced by the complainant.

Likewise, why did accused insist that he never knew why he was apprehended until he was re-arrested on May 9, 1989, when in fact he was investigated together with the complainant on March 26, 1989, even as the Police Blotter made a report thereon. He claims to have been allowed to leave by a policeman, whom he could not however pinpoint.

Although the accused presented surrebuttal evidence, he failed to rebut the testimony of his own uncle, Barangay Captain Hernando Handok, that upon his re-arrest, he asked for forgiveness from complainant's husband for what

he did to the latter's wife, neither did he deny the testimony of Elias dela Alas and the allegation made by complainant that he was a jobless thief. The complainant's injuries consisting of multiple scratch wounds on her back, thighs, and the contusion on her shoulders, are tell-tale signs of struggle, which could not possibly be self-inflicted. This is highly consistent with the theory that the copulative act had been performed with force upon her. [7]

In his brief, appellant likewise tries to make an issue of the following circumstances to discredit Primitiva Salcor's testimony and to bolster his own theory that the former gave her consent to the sexual congress. Appellant argues that (a) the incident occurred in total darkness such that complainant could not have seen appellant holding a weapon on his left hand; (b) he could not have sexually assaulted complainant who was then sleeping beside her three (3) children; and (c) he was allowed entrance into complainant's house, that is why there is no evidence of forcible entry.[8]

We are not persuaded.

While it may be admitted that the incident occurred in the early morning of March 19, 1989, the testimony of complainant on cross-examination clearly explains how she saw appellant holding a weapon on his left hand despite the darkness. Thus:

Q:

There was no light whatsoever during that time when the incident took place, correct?

A:

The moon was bright at that time. In fact, the rays of the moon would reflect inside our house because our walling is made of bamboo.[9]

Evidently, the bright moon could have illumined the house, thus, enabling Primitiva to see and figure out the weapon held by appellant on his left hand.

Appellant also assails the possibility of sexually assaulting complainant who was then sleeping beside her three children.

As stated earlier, records clearly established that appellant dragged Primitiva to another room after threatening to kill all of them if she made any noise.[10] It was in that other room where appellant violently defiled complainant.[11]

Anent the allegation of appellant that he was allowed entrance into complainant's house because there was no evidence of forcible entry, it would suffice to state that the non-existence of broken doors or windows does not necessarily mean that complainant voluntarily let the appellant inside the house. As pointed out by appellant himself, he had to climb on the kitchen door to make his way out, hence, it would seem logical that he might have used the same as ingress. For if he were allowed entrance into the house as he contends, what reason could there be for him not to use the main door for his way out?

Finally, it is worthy to observe that Primitiva Salcor's story inspires belief as it is highly improbable for her, a married woman with six children, to expose herself to humiliation and embarrassment, if her accusations were not true.[12]

Second. The testimony of prosecution witness Elias delas Alas, a friend of the accused-appellant, merits some serious consideration. In his testimony, delas Alas declared that at around seven o'clock in the morning of March 19, 1989, he met the accused-appellant at Patuco, Sarangani Norte and the latter invited him for a drink. When the

accused-appellant paid for a gallon of tuba, delas Alas noticed that the former had some money with him. Knowing that he was not gainfully employed, delas Alas even commented to him in their dialect "kuartahan man lagi ka Bay", meaning "you've got a lot of money, Bay." And to this, the accused-appellant replied, "Naka-iyot na, naka-kuarta pa", meaning, "Not only did I have sex, I even had money." Immediately, delas Alas suspected that accused-appellant had something to do with the robbery and rape committed against Primitiva Salcor. Delas Alas hastened to add that accused-appellant was also involved in theft before the incident in question.[13]

The foregoing declaration deserves credit not only because it is clear, convincing and credible but also because it was not shown that delas Alas had any improper or evil motive to falsely incriminate the accused-appellant who is a friend of his.[14]

Third. In an attempt to exculpate himself of liability, appellant would discredit the prosecution witnesses by saying that he had an amorous relationship with complainant Primitiva Salcor who was the manager of the local basketball team.[15]

This contention, however, was rebutted by the spouses Felomino and Primitiva Salcor on rebuttal examination. Complainant Primitiva vigorously denied that she had any relationship with the accused and that she voluntarily succumbed to appellant's carnal desires.[16] Complainant's husband, Felomino Salcor, who was himself a member of the local basketball team testified that his wife was not the manager of the said team.[17]

Stubbornly reiterating the foregoing allegations on sur-rebuttal examination, appellant further contended that the basketball team was named after the spouses Salcor's son, "Ariel." This allegation however was quickly struck down by the prosecution when it presented the birth certificates[18] of the Salcor's six (6) children, none of whom was named "Ariel". It was likewise established that the name "Ariel" actually pertained to Ariel Balanay,[19] son of Dominador Salcor who was the manager of the local basketball team.[20]

Consequently, we find no reason to depart from the well-settled rule in our jurisprudence that when the issue of credibility of witnesses is concerned, appellate courts will generally not disturb the findings of the trial court considering that the latter is in a better position to determine the question, having had the peculiar privilege of hearing the witnesses and observing their deportment and manner of testifying during the trial.[21] Absent any proper and cogent reason to deviate from the said rule, as in the case at bench, the findings of fact of the trial court must be accorded the highest degree of respect.

WHEREFORE, premises considered the judgment appealed from is hereby **AFFIRMED** in toto.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Quason, JJ., concur.

[1] Original Records, p. 1.

[2] Ibid.

[3] Id., at 20.

[4] Id., at 102-103.

[5] Appellant's Brief, p. 1; Rollo, p. 100.

[6] Id., at 2-6; Id., at 133.

[7] Decision, pp. 10-13; Original Records, pp. 99-102.

[8] Appellant's Brief, pp. 10-11; Rollo, pp. 109-110.

[9] TSN, May 23, 1990, pp. 19-20.

[10] Id., at 9-12.

[11] Ibid.

[12] People v. Dio, 226 SCRA 176, 181 [1993]; People v. Avila, 192 SCRA 635 [1990].

[13] TSN, November 27, 1990, pp. 9-12.

[14] People v. Daen, G.R. No. 112015; May 26, 1995; People v. Reception, 198 SCRA 670 [1991].

[15] TSN, January 17, 1991, pp. 10; 14-18.

[16] TSN, April 25, 1991, p. 6.

[17] Id., at 11.

[18] Exhibits "D" to "I".

[19] Exhibit "J".

[20] TSN, January 17, 1991, pp. 10; 14-18.

[21] People v. Dupali, 230 SCRA 62 [1994]; People v. Lakibul, 217 SCRA 575 [1993]; People v. Barcelona, 191 SCRA 100 [1990]; People v. Tongson, 194 SCRA 257 [1991].

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