

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDUARDO BENITEZ Y VENTINILLA, ACCUSED-APPELLANT.

G.R. No. 108771. June 21, 1994

Ponente: MELO, J.

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MELO, J.:

In the appeal at bench, we are asked to assay the recollection of Ramona Benitez as the supposed victim of violacion de una mujer perpetrated since 1983 up to 1989, vis-a-vis her natural father's vehement denial thereof. The exculpation proffered by accused-appellant did not elicit the desired result since he was condemned to perdition by the trial court in this manner:

WHEREFORE, the Court finds accused EDUARDO BENITEZ y VENTINILLA GUILTY beyond reasonable doubt of the crime of rape, as defined and penalized under par. 1, Article 335 of the Revised Penal Code, sentencing him to suffer the penalty of reclusion perpetua with all the accessory penalties of the law, and ordering him to indemnify the offended party Ramona Benitez y Pastrana the sum of P40,000.00, and to pay costs.

SO ORDERED. (p. 77, Record.)

The house at Severino Street, Sta. Cruz, Manila reminded Ramona Benitez of her trauma for it was in that abode where she was first initiated to the bestial indulgences of her father in 1983 at the tender age of nine. Amidst the constant beatings she received for petty mistakes was the persistence of her father in pressing his prurient interests on Ramona who was subjected to abuse until 1989 (tsn, January 9, 1992, p. 2) continuing even after he was able to secure a job as a truck driver and after the family transferred residence to Baesa, Caloocan City (tsn, November 14, 1991, pp. 4-6). She recalled on the witness stand that sometime in June, 1987, her efforts to struggle and extricate from another sexual assault were futile on account of a knife poked at her (tsn, November 14, 1991, p. 5). After her father sated his lust, Ramona was cowed to silence by the ominous threats of her father (tsn, November 14, 1991, p. 8). Her mother was of no help for when Ramona tried to confide her predicament to her mother, the latter was nonchalant and told Ramona to leave everything to God (tsn, January 10, 1992, p. 5).

On August 8, 1991, Ramona finally mustered enough courage to denounce her father only because accused-appellant left the conjugal dwelling sometime in July, 1989 to live with another woman elsewhere (tsn, November 19, 1991, p. 11). She signed a sworn statement depicting the ordeal (p. 3, Record) which eventually served as concrete basis for the filing of the corresponding complaint (p. 4, Record).

As initially herein intimated, accused-appellant tried to parry the inculpatory thrusts against him by attempting to establish improbabilities of his having committed the offense. He maintains that the nature of his job as truck driver required him to be on the road most of the time, save on Saturdays when he would go home late at night to rest and to prepare for the next trip at dawn the following day (tsn, September 17, 1992, p. 4). Moreover, accused-appellant declared in open court that the only reason for the adverse reaction of his daughter is the fact that accused-appellant disliked the man with whom Ramona had lived with since February, 1991 (tsn, September

17, 1992, p. 5). Accused-appellant's bid to ward off the charge was earlier corroborated by his wife and the mother of the victim who was presented as a hostile witness (tsn, August 14, 1992, p. 5).

Nonetheless, on November 13, 1992, accused-appellant was adjudged culpable for the misdeed due to considerations which were articulated by the Honorable B.A. Adefuin-De La Fuente, thusly:

Being raped is the cruelest, saddest and most humiliating experience a woman can ever have. It is an irreversible event, a most horrendous incident and considered the most heinous crime against a woman. These superlatives are further compounded in intensity when the woman's rapist is no other than her father. A father who is supposed to even die for the welfare and interest of his children, who instead, "ate his own flesh" numerous times. What can be more abominable and despicable than this? This is likewise anathema to the Lord. (People v. Herico, 192 SCRA 655).

Records bear out the convincing manner in which the complainant Ramona testified on the repeated rapes committed against her by her own father Eduardo with the use of force and intimidation from June 1987 up to July 16, 1989 while they were residing at No. 31 Rose Reparo St., Baesa, Caloocan City, which rapes even started in 1983 when they were still residing at their former address at 296 Severino St., Sta. Cruz, Manila. Ramona gave clear and straight forward answers and at times could not help herself from crying, out of righteous anger as she was not able to defend herself for so long, and of bitterness and sorrow as the rapist is her father who was supposed to be the one to protect her from harm like these rapes, and of her own mother's unconcerned attitude when complainant Ramona twice reported to her said mother the rapes committed against her by her own father.

Accused's denials of the charges filed against him by his own daughter Ramona failed to convince this Court of his innocence.

It is a established rule that in prosecution for rape, the accused may be convicted even on complainant's testimony if credible and positive and if it satisfied the court beyond reasonable doubt. When the offender is the father of the girl who was yet of tender age, it is not necessary that there be sign that she put up a determined resistance. A sexual act between father and daughter is so revolting that it would be hard to believe that complainant would have submitted thereto if her will to resist had not been overpowered. The kind of force or violence, threat or intimidation as between father and daughter need not be of such nature and degree as would be required in other cases, for the father in this instance exercise strong, moral and physical influence and control over his daughter.

It is hard to believe that a daughter would publicly disclose that she had been raped, practically foreclosing the probability of a blissful married life, exposing herself to the ordeal and embarrassment of a public trial, subjecting her private parts to examination, heaving upon herself untold humiliation in the long days of public trial, unless, she is motivated by a strong desire to bring to justice the culprit who had grievously wronged her (People v. Gargoles, 83 SCRA 282 and People v. Avila 192 SCRA 635).

Further accused Eduardo was not even satisfied with her wife Gloria and her other woman Erlinda Paragas, but still included her only daughter Ramona in satisfying his bestial lust. The accused Eduardo is even so fortunate that only one count of rape was filed against him.

The gravity of moral depravity of the father, the accused herein, is given another chance to shine when he even had the thickness of skin and unbelievable temerity to use as an excuse, a lame excuse at that, that the reason Ramona filed the case against him was because he mauled Ramona and Jerry Nunez when they came home in their house in 1991.

The Court saw in Gloria, while testifying on the witness stand trying to save her husband Eduardo whom she so loves, the great pain she was suffering for her daughter Ramona whom she is supposed to equally love, but she has to testify against her, despite her daughter's claim that she was a victim of her own father's devilish

acts. It was a pitiful sight for the Court to behold the agony of Gloria as reflected in her distorting face and shown by her demeanor, her trembling body, testifying against the victim Ramona her own daughter, who was wronged by her own father, the accused herein.

The Court finds that prosecution has established the guilt of the accused beyond reasonable doubt.

Rape is indeed a heinous crime. More so, when the offense is committed by the father of the victim. He deserves the supreme penalty. Unfortunately, under the present Constitution, the penalty of death cannot be imposed. (pp. 76-77, Record.)

Accused-appellant pins his hopes for exoneration in the recourse before us by submitting two propositions, to wit, that the lower court misconstrued certain relevant facts and that his accountability for the felony was not sufficiently demonstrated by the requisite quantum of evidence (p. 31, Rollo).

It is the initial suggestion of accused-appellant that he could not have committed the rape since he came home only on weekends at which time all the family members were present, and that the absence of a partition in their house at Baesa renders impossible the commission of the crime (p. 6, Brief for Appellant; p. 36, Rollo). Yet, we are not perturbed by inferences of this character, premised as they are, on mere verisimilitude. Accused-appellant's absence during the working days of the week would not entirely foreclose the idea that the many acts of rape were perpetuated on Saturdays or Sundays. Indeed, accused-appellant's flat denial crumbles when juxtaposed with the categorical, nay, positive statements of the victim that the rape which occurred sometime in June, 1987 was consummated in the absence of her mother and three brothers (tsn, November 14, 1991, p. 4). Verily, rape is a crime not normally committed in the presence of witnesses (People vs. Adlawan, Jr., 217 SCRA 489; 498 [1993]). As a result of this open court declaration, it follows that the alleged absence of any partition in the house does not pose legal significance as to how the felony was perpetrated.

Accused-appellant next shifts his discussion to the findings of the NBI report (p. 35, Record) which he claims to be inconclusive inasmuch as the old-healed hymenal lacerations specified therein could have been caused by sexual intercourse between Ramona and her live-in partner, Jerry Nunez. Even on the assumption that indeed, the victim's live-in partner is responsible for the old healed hymenal lacerations prior to the date of examination on August 6, 1991, still, this hypothesis does not negate the commission of rape by accused-appellant which, as aforesaid, has been demonstrated in vivid detail by complainant herself (People vs. Ravanes, 208 SCRA 768; 777 [1992]).

It is accused-appellant's perception that Ramona's version is well-nigh impossible from the mere happenstance that Ramona, together with her common-law spouse, continued to live together with accused-appellant at the Baesa residence even after the so-called sexual molestation. He also tries to make much capital of Ramona's procrastination in reporting the crime. The arguments of accused-appellant along this line hardly inspire belief inasmuch as the victim's testimony that she and Jerry Nunez lived in the same house but in a separate room as they could not find any other place to stay (tsn, January 10, 1992, p. 7) obliterates the notion that there was only one room in the house. Moreover, it was established below that accused-appellant lived with another woman elsewhere after the last rape on July 16, 1989 (tsn, November 14, 1991, p. 11) while the daughter started living with Jerry Nunez on February 28, 1991 (tsn, January 10, 1992, p. 6) and, therefore, accused-appellant could not have possibly stayed with her daughter and the latter's common-law spouses in the interim periods. Even as it may be conceded that accused-appellant returned to the Baesa residence when he got sick after February 28, 1991 (tsn, January 10, 1992, p. 6) nevertheless, this sole circumstance will not engender a reasonable ground of suspicion towards possible destruction of the daughter's revelations for the simple reason that such transient stay of accused-appellant has no practical worth to the charge of rape which he perpetuated between 1987 up to July 16, 1989.

The victim's reluctance to immediately make a public outcry of her father's lechery was of course understandable on account of accused-appellant's constant ominous threats and the beatings she received (tsn, January 9, 1992, pp. 2--3). And absent any cogent motive on the part of Ramona to prevaricate, apart from the resentment she harbored towards her father's strict discipline, her testimony must be accepted as it was related below (People vs. Cabilao, 210 SCRA 326 [1992]).

WHEREFORE, the decision appealed from is hereby affirmed in toto with costs against accused-appellant.

SO ORDERED.

Feliciano, (Chairman), Bidin, Romero, and Vitug, JJ., concur.

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