PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO SABAN AND NORMELITA SABAN, ACCUSED-APPELLANTS.

G.R. No. 110559. November 24, 1999

Ponente: PURISIMA, J.

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PURISIMA, J.:

Sexual relations are not a pixyish play for those couples outside the marriage bond. Neither one is allowed to bring in a third person just to satisfy the insatiable greed of another.

At bar is an appeal interposed by the spouses, Rolando Saban and Normelita Saban, from the judgment rendered by Branch XXIV of the Regional Trial Court of Laguna, finding them guilty of rape and sentencing them accordingly in Criminal Case No. 3118-B.

On July 19, 1982, Normita Elomina lodged her complaint[1] for rape before the municipal circuit court of Sta. Rosa, Laguna.

On April 18, 1983, Provincial Fiscal Ronaldo M. Banzuela, after finding a prima facie case, presented the corresponding Information, alleging:

"That on or about July 17, 1982, in the municipality of Sta. Rosa, Province of Laguna, Republic of the Philippines, and within the jurisdiction of this Honorable Court, said accused in conspiracy with each other, and mutually helping one another, did then and there wilfully, unlawfully and feloniously, by the use of force, have carnal knowledge of the complainant NORMITA ELOMINA Y LAPLANA, against her will."[2]

On August 9, 1983, upon arraignment with the assistance of their counsel de parte, Atty. Apolinar Fojas, the two accused-appellants pleaded Not Guilty to the charge. Thereafter, trial ensued with Dr. Solita Panganiban Plastina (Municipal Health Officer of Calamba, Laguna), Jovita Elomina and the complainant, Normita Elomina, taking the witness stand for the prosecution.

The defense presented as witnesses Florentino Satsatin (Barangay Captain of Balibago, Sta. Rosa, Laguna), Bienvenido Molina Tan, Fermina Creo and the two accused-appellants, Rolando Saban and Normelita Saban.

As can be gathered from the records on hand, the version of the People runs as follows:

Normita Elomina, daughter of Fernando Elomina and Jovita Elomina, is an epileptic. She faints and drools (nangingisay, nangingitim at hinihimatay kung sumusumpong ang kanyang atake).[3] She was unable to finish grade one because she suffered from seizures during class hours. Three physicians, namely; Dr. Roman Lipumano of Olongapo General Hospital, Dr. Alicia Gonzales of the San Lazaro Hospital, and a Dra. Luz[4] from Holy Infant in Lipa, Batangas, were consulted and found Normita afflicted with acute encephalitis.

On July 5, 1982, Jovita, worried about the worsening condition of her daughter (Normita) and relying on the advice of her sister-in-law, accompanied Normita to Balibago, Sta. Rosa, Laguna, to be treated by accused-appellant, Normelita Saban, a reputed healer believed to be possessed by the Sto. Nino.

On July 8, 1982, Jovita invited Normelita to their house in Bigaa, Calamba, Laguna, during the celebration of Normita's fourteenth birthday. The following day, July 9, 1982, Normelita persuaded Jovita to allow Normita to stay in the house of her (Normelita's) mother-in-law for continuous treatment since Normelita only conducted healing sessions in the evening.

She stays in their house together with her husband, Rolando Saban, and their two (2) children.

On July 17, 1982, at 11:00 in the morning, Normita, while busy cleaning the house of Normelita's mother-in-law, was called by Normelita to go to her (Normelita's) house. The house measures six (6) meters by eight (8) meters, with one room used for healing sessions. Normita was asked by Normelita to lie down on the floor. Normita acceded thinking that she would be treated.

Normelita then called her husband, telling him: "Oly, maghubo ka na ng salawal".[5] Frightened, Normita struggled and exerted efforts to resist the invasion on her womanhood by Rolando but to no avail, because Normelita pinned down her (Normita's) hands on the floor. When Normita tried to shout, Normelita covered her mouth. Rolando then removed his pants and brief and forcibly removed the panty of Normita. While Normelita continued pinning down Normita's hands on the floor, Rolando covered her mouth.

Rolando succeeded in inserting his sexual organ into Normita's (nagtagumpay siyang makuha ang aking pagkababae) by positioning his knees in between Normita's thighs.[6] Seminal fluid was oozing from the sexual organ of Rolando "tumutulong parang lamad lamad".[7] There was blood in the private organ of Normita. Lying on her side, Normelita laughed and laughed while watching her husband consummate the lecherous ordeal in the treatment room. After satisfying his lust, Rolando stood up, put on his pants and brief. Normelita warned Normita not to divulge the incident to anybody.

In the afternoon of the same day, Normita refused to be treated anymore. Normita was crying when her aunt, Zoila Elomina Baroro, arrived to fetch her. She continued crying while on board the passenger jeepney. Upon reaching home, her mother asked why she was crying but she gave no answer. The next day, Normita disclosed to her mother what was done to her.

Dr. Solita Plastina submitted her medico-legal findings as follows:

> "Physical Condition: ambulatory
> Garments: no soiling of garments
> Height: 4' 9"
> Signs of violence: no signs of violence
> Pubic Hair: not matted
> Labia Majora: w/ fresh brownis congested
> Labia minora: with fresh erosion congested
> Posterior commissure: gaping
> Fourchette: retracted
> Hymen: w/ 3 o'clock and 6 o'clock fresh lacerations
> Vaginal Orifice: lax
> Vaginal Canal: lax
> Vaginal wall: lax
> Discharges: vaginal: moist
> Laboratory Findings Discharges: w/ difficulty
> Stains: (+) for spermatozoa
> Conclusion: (+) for sexual penetration[8]

Normelita Saban placed reliance on the defense of denial while Rolando Saban theorized upon alibi and denial.

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Normelita testified that it was against human nature to commit rape in broad daylight and in the presence of her three (3) children. According to her, the Elominas were just looking for persons to put their blame on, and they wanted to discredit her claim of successfully treating the sick. They also want to escape from the obligation of paying her services; Normelita maintained.

To bolster her defense, Normelita asked the trial court to reexamine Normita's revelation that her uncle used to go to their house in Bigaa everytime her mother went to Manila, as Normita told the same thing to the other patients (Blenvenida Almano, Celia Almano and one Nena) on July 9 -12, 1982 while they were playing sungka.

Normelita recounted that she first met Normita and her mother on July 8, 1987 in her (Normelita's) house. She was invited to attend Normita's birthday but she refused. The next day, they (Normita and her mother) returned to her house in Balibago. Jovita asked her if Normita could stay with her. However, Normita stayed in the house of Normelita's mother-in-law from July 9 to July 15, 1982 until her aunt, Zoila Elomina Baroro arrived to fetch her (Normita).

According to accused-appellant Rolando Saban, the charge of rape against him is malicious and unfounded since Normita had left their (accused-appellants') house.

Rolando narrated that on July 17, 1982, he was at the Balibago Elementary School, a walking distance (one half kilometer) from their house, as there was a special election for Barangay Captain. He met Barangay Captain Florentino Satsatin, a neighbor, between 10:00-12:00 a.m. on the same day. During the election, he also met Bienvenido Molina Tan, who testified that until 12:00 noon, they were looking for their names in the list of voters. Barangay Captain Satsatin told them to search for their names in the Comelec master list but according to Rolando, they were able to vote.[9] From there, he went to Efren Service Parts in Laguna where he worked as a mechanic; Rolando recalled.

Fermina Creo testified that Normelita Saban treated people from eight o'clock in the morning to 4:00 o'clock in the afternoon. It was only at 11:00 o'clock in the morning when she was treated by Normelita. She stayed in the latter's house and talked to other patients.

On November 16, 1992, Judge Rodrigo V. Cosico, (now Justice of the Court of Appeals) found accused-appellants guilty beyond reasonable doubt of the crime of rape, and sentenced them thus:

> "WHEREFORE, finding the accused Rolando Saban and Normelita Saban guilty beyond reasonable doubt as principal in the crime of rape as defined and penalized under Art. 335 of the Revised Penal Code, they are hereby sentenced to suffer the penalty of reclusion perpetua, with all the accessory penalties set by law, and to pay the amount of P30,000.00 each as moral damages, without subsidiary imprisonment in case of insolvency plus costs."[10]

On October 15, 1993, Atty. Cecil Fojas withdrew her appearance as counsel for accused-appellants because on appeal, the case had been referred to Public Attorney Primo R. Naldoza of the Public Attorney's Office.

On November 18, 1993, the appeal at bar was received by the Court. Accused-appellants theorize, that:

> I
>
> THE COURT A QUO ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES AND DISREGARDING THE THEORY OF THE DEFENSE.
>
> II
>
> THE COURT A QUO ERRED IN CONVICTING THE ACCUSED DESPITE THE PRESENCE OF REASONABLE DOUBT.

The appeal is devoid of merit.

To begin with, the Supreme Court is not a trier of facts.

> "Findings of fact, as this Court has reiterated in a host of cases, are within the competence and province of trial courts. Absent any showing that they overlooked, misunderstood, or misapplied some facts or circumstances of weight and substance which would have affected the result of the case, this Court accords highest respect to their factual findings and their resolution of the issue of credibility."[11]

What is more, Normita's testimony appears straightforward. She positively identified her ravishers. She narrated what transpired with simplicity and veracity. The Medico Legal Officer categorically declared that Normita, though suffering from acute encephalitis, was in her clear mind when she submitted herself for the medical examination of her private parts. She exposed herself to public trial and even allowed pictures to be taken of her private parts.

Well-settled is the doctrine that testimonies of child-victims are given full weight and credit. When a woman or a girl-child says that she has been raped, she says, in effect, all that is necessary to prove that rape was really committed.[12] Quoted hereunder is Normita's testimony:

> Interpreter Please state your name, age, civil status and other personal circumstances.
>
> a
>
> Normita Elomina, 16 years old, single, jobless and residing at Bigaa, Cabuyao, Laguna. (TSN, December 4, 1984, p. 3)
>
> Court CROSS EXAMINATION
>
> Atty. Fojas
>
> With the permission of the Honorable Court.
>
> Atty. Fojas
>
> When for the first time did you go to the house of the accused in this case.
>
> a
>
> After my birthday
>
> Atty. Fojas
>
> When was your birthday
>
> a
>
> ON (sic) July 8
>
> Atty. Fojas
>
> How many days after your birthday did you go to the house of Normita Saban for the first time
>
> a
>
> I invited the spouses to our house and then after the birthday party they accompanied me to their house.
>
> Atty. Fojas
>
> You mean to say on July 8 - - - What year was that?

Atty. Librojo

We would like to inform this Honorable Court that this witness did not finish grade one beside (sic) she is suffering from epilepsy.

Court

Make it of record

Atty. Fojas

The observation this representation is that during the direct examination witness was answering the question immediately and fluently.

Atty. Librojo

Not with respect to dates I never asked her to remember dates, the record will show that i'll (sic) never ask the dates.

Court

Make that of record, let the witness answer.

Atty. Fojas

You said a while ago that accused where (sic) invited by you to your birthday on July 8, 1982, what time did you celebrate your birthday?

a

At noontime.

(TSN, Normita Elomina, December 4, 1984, pp. 11-13)

"It is elemental that where there is no showing that complainant was impelled by any improper motive in making the accusation against the accused, her complaint is entitled to full faith and credit."[13]

Accused-appellants further theorized that they would have been exculpated from liability if only the trial court allowed presentation of evidence with respect to her (Normita's) testimony that her uncle used to go to their house when her mother goes to Manila.

But such a procedure could not negate the evidence that accused-appellants conspired to consummate the crime of rape.

"It is well-settled that conspiracy exists when two or more persons come to an agreement concerning the commission of a crime and decide to commit it."[14] In a case,[15] this Court found that the husband and wife were guilty of rape, stating thus:

"The rather unique feature about this case was that a couple, now appellants Vicente C. Villamala and Gaudiosa Villamala, were jointly prosecuted for the crime of rape allegedly perpetrated on the complainant Eustaquia Bentulan. xxx

xxx xxx xxx

While the two seated side by side were conversing, complainant heard Gaudiosa whistle, and immediately thereafter, her husband, appellant Vicente Villamala entered the house. No sooner was he inside when Gaudiosa, who was at Eustaquia's left side, placed her left arm around her neck and pinned the latter to the floor, the left leg of appellant being thrust between Eustaquia's knees. In that situation with Gaudiosa choking

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> her neck, she was unable to extricate herself, being held fast by the bigger and the taller Gaudiosa. Vicente in turn took advantage of the situation and through force removed complainant's black skirt and panties. Such torn garments appellant Vicente Villamala threw aside, removed his short pants, and placed himself on top of Eustaquia. Thus he was able to consummate the sexual act, with Gaudiosa continuing to hold and pin to the floor the victim's neck and left leg. xxx"

The circumstances of the aforecited case are on all fours with the present case. Normelita called Rolando (Oly, maghubo ka na ng salawal) and pinned the complainant's hands on the floor. She was laughing and laughing while her husband was perpetrating the act. "Lust is no respecter of time and place."[16]

Anent the defense of alibi, this Court held:

> "The essential requisites in order that the defense of alibi may be appreciated are:(a) to prove his presence at another place at the time of the perpetration of the offense, and (b) to demonstrate that it would be thus be physically impossible for him to be at the scene of the crime. xxx"[17]

Alibi, the weakest of all defenses, is relied upon by Rolando. According to him, he voted at the Balibago Elementary School on July 17, 1982 and afterwards proceeded to his work. But his narration was not corroborated by any other defense witness and what is more, even if he really went to vote, as theorized upon, it was not physically impossible for him to have been in their house at 11:30 o'clock in the morning on that fateful day. The place where he claimed to be was just a walking distance from their house.

Neither is the Court impressed with Normelita's denial. It is simply unbelievable that the complainant and her mother would allow themselves to undergo such a tedious and humiliating trial just to discredit Normelita's claim of successfully healing people while her father was working abroad. The defense theory that they (Normita and her mother) did not want to pay the services of Normelita is too incredible to deserve serious consideration. Evidence to be believed must not only proceed from the mouth of a credible witness but must foremost be credible in itself.[18]

So, also, Normelita's insistence that the trial court must acquit her and her co-accused husband on the basis of the frequent visits of Normita's uncle in their house in Bigaa everytime her mother went to Manila, is equally without any legal or factual basis. The Court is not compelled to inquire into all matters the parties raise, if in the exercise of its sound discretion, the Court feels that the accused can be found guilty beyond reasonable doubt of the crime charged on the basis of the evidence already on record.

With respect to damages, as aptly put by counsel for the People, the complainant having experienced pain and shame as a result of what the accused-appellants did to her, she is entitled to moral damages pursuant to Article 2219 of the New Civil Code which provides that moral damages may be recovered in cases of seduction, abduction, rape or other lascivious acts.[19]

Accused-appellants should likewise pay complainant the amount of Fifty Thousand (P50,000.00) as indemnity for their crime.[20]

WHEREFORE, the appealed Decision is AFFIRMED with MODIFICATION. As above indicated, accused-appellants are hereby ORDERED to pay the complainant, Normita Elomina, the amount of P50,000.00 as indemnity, apart from moral damages of P50,000.00. Costs against accused-appellants.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Gonzaga-Reyes, JJ., concur.

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[1] Records, p. 1.

[2] Records, p. 41.

[3] Direct Examination, Jovita Elomina, TSN, July 11, 1984, p. 6.

[4] Tsn, July 11, 1984, p. 10.

[5] Direct Examination, Normita Elomina, TSN, December 4, 1984, p. 5.

[6] Affidavit, Normita Elomina, July 19, 1982, Records, p. 2.

[7] Direct Examination, Normita Elomina, December 4, 1984, p. 9.

[8] Records, p. 4.

[9] Tsn, June 16, 1987, p. 7.

[10] Rollo, p. 22.

[11] People v. Ferrer, G.R. Nos. 116516-20, September 7, 1998, 295 SCRA 190.

[12] People v. Ferrer, supra.

[13] People v. Gementiza, 285 SCRA 479, 486, citing People v. Ramos, 245 SCRA 405.

[14] People v. Quinao, 269 SCRA 495.

[15] People v. Villamala, 78 SCRA 145.

[16] People v. Gementiza, 285 SCRA 480.

[17] People v. Patawaran, 274 SCRA 130, 139, citing People v. Dayson, 242 SCRA 124.

[18] People vs. Cayabyab, 274 SCRA 387, 397; People vs. Atad, 266 SCRA 262, 277.

[19] People v.Tismo, 204 SCRA 535, 559.

[20] People v. Bondoy, 222 SCRA 231.

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