

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. JESUS CLEDORO, JR., RESPONDENT.

G.R. No. 111860. June 29, 2001

Ponente: PARDO, J.

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PARDO, J.:

As the court of last resort, we are laden with a heavy task--to determinate whether accused shall suffer the highest prison term imposable under the law.[1] Given no chance to observe the demeanor and deportment of the witnesses and the parties involved, we rely on the expressionless and impersonal records and on the trial court's careful assessment, bearing in mind that proof beyond reasonable doubt requires a moral certainty of guilt.[2] All things considered, we reject the appeal.

The Case

This case was appealed from the decision[3] of the Regional Trial Court of Cavite, Branch 13, Tagaytay City, to the Court of Appeals.[4] The Court of Appeals affirmed the decision of the trial court finding accused Jesus Cledoro, Jr. guilty beyond reasonable doubt of rape but modified the sentence by imposing upon him the penalty of reclusion perpetua. However, the Court of Appeals refrained from entering judgment and certified the case to the Supreme Court for review [5]

The Antecedents

On July 19, 1989, assistant provincial prosecutor Reynaldo L. Gervacio of Cavite filed with the Regional Trial Court, Cavite, an information for rape against accused Jesus Cledoro, Jr., to wit:[6]

"That on or about 12:00 o'clock noon of March 14, 1989, at Barangay Lumil, Municipality of Silang, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and violence did then and there, willfully, unlawfully and feloniously have carnal knowledge of the private complainant, Agrifina J. Espiritu, a minor fourteen (14) years of age, against her will.

"CONTRARY TO LAW."

On September 20, 1989, the trial court arraigned the accused. He pleaded "not guilty." [7]

On January 23, 1990, the trial court rendered a decision, the dispositive portion of which reads:[8]

"WHEREFORE, considering all the foregoing, judgment is hereby rendered, finding accused JESUS CLEDORO, JR., GUILTY beyond reasonable doubt, of the crime of RAPE committed against AGRIFINA J. ESPIRITU, as defined and penalized under Art. 335 (par. 1) of the Revised Penal Code and hereby sentences him to suffer a penalty ranging from:

TWELVE (12) YEARS and ONE (1) DAY

- to -

TWENTY (20) YEARS

"there being no aggravating nor mitigating circumstances sufficient to alter the structure of the penalty provided for by law, as amended by Section 1, Republic Act 4111.

"In addition, accused is hereby ordered to pay his victim, AGRIFINA J. ESPIRITU, the following:

"(1) The sum of P50,000.00 - as and for moral damages;

"(2) The sum of P30,000.00 - as and for exemplary damages;

"(3) The sum of P10,000.00 - as and for actual damages and to pay the costs of suit.

"SO ORDERED."

In time, accused appealed to the Court of Appeals.[9]

On September 28, 1993, the Court of Appeals promulgated its decision, decreeing thus:[10]

"WHEREFORE, the Decision of the trial court dated January 23, 1990, finding the appellant guilty beyond reasonable doubt of the crime of rape, being in all respects in accordance with law and the evidence should be, as it is hereby AFFIRMED with the sole modification that the appellant shall suffer the penalty of reclusion perpetua. In accordance with Section 13, Rule 124 of the Revised Rules of Criminal Procedure, we hereby refrain from entering the judgment and forthwith certify the case and elevate the entire record thereof to the Supreme Court for review. With costs.

"SO ORDERED."

As aforesaid, the Court of Appeals certified the case to this Court for final determination.[11]

The Facts

The procedural antecedents surrounding the filing of the rape charge find its roots in a story narrated by complaining witness Agrifina J. Espiritu (hereafter, "Agrifina"). The accused was her suitor. On March 14, 1989, at around noon-time, she was on her way home when accused accosted her, poked a knife at her, held her at the waist and forcibly brought her to a nearby nipa hut where he succeeded in having sexual intercourse with her twice.[12]

On the other hand, accused weaves a tale of love and romance, claiming that Agrifina was his lover and that they consummated their love not just once but eight times.[13] Accused-appellant claims that it was Agrifina who brought him to the nipa hut to voluntarily have sexual intercourse.[14]

Accused decries the accusation against him as an act of hatred of Agrifina's parents who have always disliked him.[15]

Someone is lying. The trial court had the duty to determine who it was and pass down the verdict. It found in favor of the prosecution, a finding likewise supported by the Court of Appeals. Hence, this appeal.

The Court's Ruling

The well-written decision of the trial court, supported by the records and resting on eloquent logic, coupled with the dearth of evidence in favor of accused-appellant prompts us to affirm a finding of guilt beyond reasonable doubt.

Accused insists he and complaining witness were sweethearts. However, except for his assertion, he did not offer any proof to sustain this claim. He did not present other witnesses to attest to this alleged fact. He did not present

any love letters or gifts. Profession of love is not enough; acceptance of the proffer must be proved to show a sweetheart relationship. Allegations are not proof. There must be corroborative evidence.[16]

There is no better test to measure the value of a witness' testimony than its conformity to the knowledge and common experience of mankind.[17] In *People v. Antonio*, [18] we held that the testimony of a fourteen-year old rape victim impressed as it is with youth and immaturity, bears the badges of truth and sincerity. A fourteen-year old rape victim comes forward, allows the examination of her private parts and undergoes a public trial because of a desire to have the culprit apprehended and punished.[19]

The well-entrenched rule is that the assessment of the trial court on credibility of witnesses is entitled to respect. It is the trial court that had the opportunity to observe the witnesses' manner of testifying, their furtive glances, calmness, sighs or their scant or full realization of their oaths.[20]

More compelling are the findings of the medico-legal expert that buttresses the assertion that force was employed on the young Agrifina. Dr. Engracia dela Cruz submitted a medico-legal report which showed that Agrifina suffered the following injuries:[21]

- (a) Abraision, right knee
- (b) Abraision, right leg, anterior
- (c) Abraision, left leg, anterior
- (d) Labia minora, not captated
- (e) Labia minora, 12:00 abraision

According to Dr. Engracia dela Cruz, the injuries were sustained about four to five days before the physical examination on March 20, 1989.[22] To our mind, this sufficiently buttresses Agrifina's accusation that sexual contact with accused was not consensual and that he employed force.

Accused cites inconsistencies in the testimony of Agrifina. These inconsistencies, he insists, discredit her. We are not persuaded. The substance of Agrifina's testimony is that accused force sexual contact with her. On this matter, she did not waiver. Any inconsistency in Agrifina's testimony is insignificant. The rule is that for a discrepancy in a testimony to acquit, such must refer to crucial facts significant to the guilt or innocence of the accused. Inconsistencies irrelevant to the elements of the crime are not grounds to reverse the conviction.[23]

The Court of Appeals imposed the correct penalty. Under Article 335 of the Revised Penal Code, the crime of rape shall be punished by reclusion perpetua, in the absence of mitigating or aggravating circumstances.

An award of civil indemnity ex-delicto in favor of the offended party in the amount of fifty thousand pesos (P50,000.00) is mandatory upon a finding of rape.[24] Likewise, moral damages in the amount of fifty thousand pesos (P50,000.00) must be awarded without need of proof of mental and physical suffering.[25]

We delete the award of exemplary damages.

We also delete the award of actual damages. They are not proved by competent evidence. The rule is that every pecuniary loss must be established by credible evidence before it may be awarded.[26]

The Fallo

WHEREFORE, the decision of the trial court is hereby **AFFIRMED** with **MODIFICATION**. Accused-appellant Jesus Cledoro, Jr. is found guilty beyond reasonable doubt of rape, defined and penalized under Article 335 of the Revised Penal Code, and in the absence of aggravating and mitigating circumstances, is sentenced to reclusion perpetua, with all its accessory penalties. Accused-appellant is further ordered to pay complainant Agrifina J. Espiritu, civil damages ex-delicto in the amount of fifty thousand pesos (P50,000.00) and moral damages of fifty

thousand pesos (P50,000.00). The awards of exemplary and actual damages are DELETED.

Costs against accused-appellant.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, and Kapunan, JJ., concur.

Ynares-Santiago, J., on official business abroad.

[1] Reclusion perpetua.

[2] Manuel Huang Chua v. People, G. R. No. 128095, January 19, 2001.

[3] In Crim. Case No. TG-1483-89, dated January 23, 1990, Judge Julieta P. Tabiolo, presiding.

[4] In CA-G. R. CR No. 08364, promulgated on September 28, 1993, Alfredo J. Lagamon, J., ponente, Arturo B. Buena (now an Associate Justice of the Supreme Court) and Artemon D. Luna, JJ., concurring.

[5] In accordance with Rule 124, Sec. 13, 1985 Rules of Criminal Procedure, as amended.

[6] CA Rollo, p. 5.

[7] Embodied in RTC Decision, CA Rollo, p. 6.

[8] RTC Decision, CA Rollo, pp. 1-8, at p. 8.

[9] Docketed as CA-G. R. CR No. 08364.

[10] CA Decision, pp. 1-10, at p. 10.

[11] Rollo, p. 2.

[12] CA Rollo, Decision of the Regional Trial Court, pp. 1-8, at pp. 1-2.

[13] Letter to Division Clerk of Court Virginia Ancheta Soriano, Rollo, p. 7.

[14] CA Rollo, Decision of the Regional Trial Court, pp. 1-8, at p. 6.

[15] Ibid., p. 3.

[16] Manuel Huang Chua v. People, *supra*, Note 2.

[17] People v.. Cabiles, G. R. No. 125005, October 3, 2000.

[18] G. R. No. 128149, July 24, 2000.

[19] Citing People v. Juntilla, 314 SCRA 568 [1999]. People v. Lomerio, G. R. No. 129074, February 28, 2000.

[20] People v.. Gonzales, G. R. No. 138402, August 18, 2000.

[21] CA Rollo, Decision of the Regional Trial Court, pp. 1-8, at p. 2.

[22] Ibid.

[23] People v. Sancha, G. R. Nos. 131818-19, February 3, 2000; People v. Bato, G. R. No. 134939, February 16, 2000.

[24] People v. Mendiona, G. R. No. 129056, February 21, 2000.

[25] People v.. Mangila, G. R. Nos. 130203-04, February 15, 2000; People v.. Omar, G. R. No. 120656, March 3, 2000; People v.. Alicante, G. R. Nos. 127026-27, May 31, 2000.

[26] People v. Enguito, G. R. No. 128812, February 28, 2000, People v. Mindanao, G. R. No. 123095, July 6, 2000.

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