

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALBERTO RESTOLES Y TUYO, ROLDAN NOEL Y MOLET AND JIMMY ALAYON Y DE LA CRUZ, ACCUSED-APPELLANTS.

G.R. No. 112692. August 25, 2000

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This is an appeal from the Decision of the Regional Trial Court of Quezon City, Branch 95,[1] in Criminal Case No. Q-93-44189 dated October 29, 1993, convicting accused-appellants of six crimes of rape, sentencing them to suffer the penalty of six counts of reclusion perpetua and ordering them to jointly and severally pay private complainant, Virginia Bolante, the amount of P50,000.00 as moral and exemplary damages.

In the early morning of May 2, 1993, around 2:00 o'clock, Virginia Bolante, a thirty-nine year old widow, was in the house of Virgie Llagas at Area B, Sitio Talanay, Barangay Batasan Hills, Quezon City. She was there to help prepare food for the wedding of her nephew, Jon-Jon De La Cruz, to Virgie Llagas' daughter, the following morning. While Virginia was outside the house talking to Elsie and Gerry Vismonte, Tomas Calendario approached and asked Virginia to accompany him to the store to buy cigarettes. She refused because the store was still closed. Tomas held her arms and dragged her out of the yard. Once outside, Tomas drew a balisong (fan knife) and pointed it at Virginia's side, threatening to kill her if she shouted. Virginia had no choice but to go with Tomas.[2]

Tomas brought Virginia to a deserted house about nine meters away. Virginia had never been in that house. It had two open windows and two doors, one of which was open. There were no dividing walls inside. When she entered the house, she saw seven men. She was able to see the men's faces from the moonlight shining through the open door and windows, and she recognized them as Alberto Restoles, Roldan Noel, Jimmy Alayon, "Lito", "Boy", "Fernando" and "Unggok", all of whom were her neighbors in Area B, Sitio Talanay, Barangay Batasan Hills, Quezon City.

Tomas tied Virginia's forearms with a rope and removed her pants and panties while she protested verbally.[3] She could not move as she was afraid that Tomas, who was still holding the balisong, might kill her. Then Tomas made her lean against the table, after which he forcibly had sexual intercourse with her. Meanwhile, the seven others watched. After Tomas finished, the seven men took turns in having carnal knowledge of her one by one. Virginia kept pleading for them to stop. As each man stood in front of Virginia to have sexual intercourse with her, the moonlight from the opposite window shone on his face.[4]

Each of the men had sexual intercourse with Virginia twice.[5] The second time, Alberto and Tomas made Virginia lay on the ground.[6] After everyone had their second turn, Lito suggested that they kill Virginia. She begged and pleaded them not to kill her and vowed not to tell anyone what they did to her. The others took pity on her and decided to release her. Tomas cut her loose, and she immediately put on her panties and pants and rushed out of the house. It was already daybreak.[7]

Virginia walked quickly back to Virgie Llagas' house and, on reaching it, immediately reported to Elsie Vismonte that she had been raped. Elsie then told the mother of Tomas that Virginia was raped by the eight men. Virginia later went home and told her sister and brother-in-law, Alberto Estacio, that she was raped. That evening, Alberto accompanied her to Camp Crame where she was medically examined by Dr. Ma. Cristina Freyra, Medico-Legal Officer.[8] Dr. Freyra executed a medico-legal report wherein she indicated the following findings:

GENERAL AND EXTRAGENITAL:

xxx. The following injuries are noted:

- 1) Contusion, distal 3rd of the right forearm, measuring 2.8 x 2 cm, along its anterior midline.
- 2) Contusion, distal 3rd of the left forearm, measuring 7 x 3 cm, along its anterior midline.

GENITAL:

xxx. Labia majora are full, convex and coaptated with the congested labia minora presenting in between. On separating the same is disclosed an abraded posterior fourchette and a carunculae myrtiliformis. External vaginal orifice offers no resistance to the introduction of the examining index finger and the virgin-sized vaginal speculum. Vaginal canal is wide with flattened rugosities. Cervix is normal in size, color and consistency.[9]

Virginia and her brother-in-law went home for a while, then left a few minutes later to go to the barangay authorities in order to report the incident. From there, they proceeded to Police Station 5. There, the police officers conducted a preliminary investigation, and then went to the residences of the alleged rapists, accompanied by Virginia and her brother-in-law. That same evening, the three accused-appellants, Alberto Restoles, Roldan Noel and Jimmy Alayon, were arrested based on the positive identification of Virginia.[10]

On May 6, 1993, Virginia Bolante executed a criminal complaint for rape against the three accused-appellants, which pertinently reads:

That on or about the 2nd day of May, 1993 in Quezon City, Philippines, the above-named accused, conspiring, confederating with other persons, whose true identities, whereabouts and other personal circumstances of which have not as yet been ascertained, and mutually helping one another, with lewd designs and by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with the undersigned VIRGINIA BOLANTE y CARDENIA, without her consent and against her will, to her damage and prejudice.

CONTRARY TO LAW.[11]

On July 5, 1993, all three accused-appellants pleaded not guilty to the complaint against them.

The accused-appellants raised the defense that Tomas Calendario and complainant Virginia Bolante were lovers. They presented as witness a certain Irene Santos who testified that she was a resident of Sitio Talanay, Area B, Batasan Hills, Quezon City. At 2:00 o'clock in the morning of May 2, 1993, she said she was sleeping inside her house when she heard voices. She looked out the window and saw Tomas Calendario and Virginia Bolante talking in front of the door of the vacant house. Their arms were around each other and then they kissed on the lips. Irene Santos also saw three men near the vacant house. Tomas and Virginia entered the house. Irene stepped outside her house and peeped through the open door. She saw Virginia sitting on the papag. Tomas undressed and they had sexual intercourse. Virginia was smiling and moaning. After Tomas finished, he went outside the house. Joselito Restoles entered the house and also had sexual intercourse with Virginia. Then Joselito stepped out of the house. Lito Tuyon went inside and also had sexual intercourse with Virginia. After Lito finished with her, Jun Calendario followed and had sexual congress too with Virginia. At this juncture, Irene Santos picked up three stones and threw them at the roof of the vacant house. Jun Calendario emerged from the house, followed by Virginia. When

Virginia came out of the house, Tomas put his arm around her. The other three men joked with each other and walked away. Tomas and Virginia, who were left behind, kissed and then walked towards the house of Virgie.[12]

Irene Santos further testified that she was able to talk to Virginia Bolante later and ask her why the accused-appellants were arrested, to which Virginia replied that Tomas promised to marry her but suddenly disappeared, and that if Irene can locate Tomas, she will have accused-appellants released.[13]

Accused-appellant Roldan Noel testified that he was in the house of Virgie Llagas from 8:00 o'clock in the evening of May 1, 1993 until early the next morning, helping in the food preparations. At 10:00 o'clock, Tomas Calendario and Virginia Bolante, whom he knew to be lovers, left together to get a frying pan in Eden Jimenez's house. Tomas and Virginia left again at around 1:30 o'clock in the morning of May 2, 1993. They returned at 3:00 o'clock. When he saw the two arrive, he asked them when they will get married, and Tomas confided that they were already living together. His co-accused, Alberto Restoles and Jimmy Alayon, were also there. Tomas and Virginia left Virgie Llagas' house at quarter to five because Virginia got mad when they teased her in front of Tomas, saying that if Tomas married her, he will be gaining not only a wife but also a mother. He, together with Restoles and Alayon, all left at around 5:00 o'clock that morning.[14]

Alberto Restoles substantially corroborated his co-accused's narrative.[15] When he was asked to comment on Virginia's charge of rape against him, he stated that according to Tomas, it was he who had intercourse with her since he was her boyfriend; and that Virginia had in fact asked Tomas to live with her.[16]

Jimmy Alayon gave the same story as the other accused-appellants, but said he knew of no reason why Virginia would charge him with rape.[17]

On October 29, 1993, the trial court promulgated the appealed decision, the dispositive portion of which reads:

WHEREFORE, the Court finds accused Alberto Restoles y Tuyo, Roldan Noel y Molet, and Jimmy Alayon y De La Cruz each guilty beyond reasonable doubt of six crimes of rape, defined and punished in Art. 335 of the Revised Penal Code, as principal in the commission thereof, with the aggravating circumstances of nocturnity, abuse of superior strength, and ignominy and, accordingly, each of said accused is hereby sentenced to suffer the penalty of reclusion perpetua for each of said six crimes of rape and pay the proportionate costs, without prejudice to the application of Rep. Act No. 6127; and, further, said three accused are hereby ordered jointly and severally to indemnify the offended party, Virginia Bolante, in the total sum of fifty thousand pesos as moral and exemplary damages.

IT IS SO ORDERED.[18]

In convicting accused-appellants, the trial court found that Virginia's testimony was credible and consistent with the physical evidence. Thus:

That Virginia's forearms were hogtied with a rope is corroborated by the contusions found on both her forearms by the medico-legal officer who examined her; and, per the examining physician's testimony, said contusions could have been brought about by forceful holding or by tying and they could indicate struggle. Too, according to the same medico-legal officer, said contusions, together with the degree of abrasion in the posterior fourchette and of the congestion in the labia minora, as well as the presence of spermatozoa in Virginia's vagina, were consistent with the allegation of rape; for, according to the doctor, if the sexual intercourse were consensual, the degree of congestion in the labia minora and of abrasion in the posterior fourchette would have been different from her findings, for in consensual sexual intercourse, there would have been lubrication.[19]

On the other hand, the trial court refused to believe accused-appellants' version for being contrary to ordinary

human behavior, and rejected the defense of alibi.

Accused-appellants raise the following assignment of errors in their appeal before this Court:

I

THE LOWER COURT ERRED IN NOT FINDING THAT COMPLAINANT'S TESTIMONY IS UNCORROBORATED, DOUBTFUL, UNRELIABLE, INCONSISTENT AND CONTRADICTORY.

II

THE LOWER COURT ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANTS.

Accused-appellants list down several points of alleged inconsistencies in Virginia's testimony. Most of these inconsistencies, however, are too irrelevant to deserve consideration. Some are non sequiturs. Still others are misleading statements which are contradictory to the record. Those that deserve discussion, however, are really minor inconsistencies which do not affect the credibility of the witness. Rather, inconsistencies such as these serve to strengthen the credibility of the witness as they are badges of truth rather than indicia of falsehood.[20]

For instance, accused-appellants make capital of Virginia's varying statements regarding the sequence in which the men raped her and the time each rapist took in consummating his sexual assault on her. Surely, in the situation she was in at the time, Virginia could not be expected to take note of such minute details. On the contrary, it was perfectly understandable that she could have been confused in her recollection of these trivial matters because of the harrowing experience and trauma that she underwent. That would be the normal and more believable reaction under the circumstances.

Furthermore, minor inconsistencies do not affect the credibility of witnesses, as they may even tend to strengthen rather than weaken their credibility. Inconsistencies in the testimony of prosecution witnesses with respect to minor details and collateral matters do not affect either the substance of their declaration, their veracity, or the weight of their testimony. Such minor flaws may even enhance the worth of a testimony, for they guard against memorized falsities.[21]

Accused-appellants also insinuate that Virginia failed to show that she adequately resisted the sexual advances on her. Thus, they argue that Virginia did not shout for help while Tomas was dragging her towards the vacant house. While Tomas was dragging Virginia, a fan knife was poked at her side. Tomas still had the knife when he undressed Virginia. This was sufficient to instill fear in Virginia's mind that her life was in danger, thus deterring her from resisting the sexual attacks.

Force need not be irresistible; all that is necessary is that the force used by the accused is sufficient to consummate his evil purpose, or that it was successfully used. It need not be so great or of such character that it could not be repelled. Intimidation, on the other hand, must be viewed in light of the victim's perception and judgment at the time of the commission of the crime and not by any hard and fast rule; it is enough that it produces fear --- fear that if the victim does not yield to the bestial demands of the accused, something would happen to her at that moment, or even thereafter as when she is threatened with death if she would report the incident.[22]

In rape cases, three well-known principles guide the Court, namely: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape where two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence of the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.[23]

Likewise, when the complainant in a rape case testifies that she has been raped, she says in effect all that is necessary to show rape has been committed,[24] the offended party most often being the only one available to prove directly the commission of rape. The credibility of the complainant is, thus, of utmost importance, for the accused may be convicted solely on the basis of the complainant's testimony if the same meets the test of credibility.[25]

In the case at bar, we agree with the trial court's finding that Virginia's testimony was credible. Especially, her conduct immediately after the rape was a clear indication of the veracity of her statements. It should be recalled that on the same day that the crimes of rape were committed, Virginia was able to go to the barangay authorities and the police station to report the incident, and to submit herself to a medical examination of her bodily injuries, including those on her private parts. That same evening, she also caused the arrest of her molesters, although only the police were able to locate and arrest the three accused-appellants. Four days later, she executed a formal criminal complaint for rape against accused-appellants.

Certainly, it is inconceivable that a woman who was left by the man who promised to marry her would accomplish all of these in one day just so she could institute trumped-up criminal charges of rape against all her fiancé's friends and thereby exact revenge, when the man who supposedly jilted her has been gone for only a few hours. Her actuation immediately after the incident lends credence to the charges of rape. Indeed, this conduct is consistent with her straightforward, logical, truthful and credible testimony thus rebutting any insinuation of voluntariness on her part to the sexual confrontation; rather, they only display a moral certainty of accused-appellants' culpability for the crime charged.[26] Apropos are the following observations made in a similar case:

A meticulous assessment of Gilda's testimony demonstrates beyond doubt the truthfulness of her story which she narrated in a categorical, straightforward and candid manner. Further strengthening her credibility in recounting her ordeal at the hands of the accused was her conduct immediately after the sexual assault. She ran home without looking back, and upon her arrival she reported the rape to her husband and her mother at once. Immediately thereafter, she reported it to Tony Antonio, the President of the Homeowner's Association and President of the National Press Club, who then sought police assistance. When the policemen arrived at Antonio's residence in response to the latter's call, Gilda narrated the rape to the policemen and gave them the description of the assailant. When the policemen brought the accused to the residence of Antonio, Gilda forthwith pointed to the accused as the person who raped her. Gilda voluntarily submitted herself to a medical examination at the Las Piñas Hospital and then to an examination of her private parts by Dr. Bernales of the NBI. The following day she submitted herself to an investigation by the PNP of Bacoor, Cavite, and filed on the same day a complaint for rape against the accused with the MTC of Bacoor, Cavite.

All the foregoing acts of Gilda were done within twenty-four hours after the commission of the crime. The quickness and spontaneity of these deeds manifested the natural reactions of a virtuous woman who had just undergone sexual molestation against herself, and evinced nothing more than her instant resolve to denounce the beast who criminally abused and ravished her, and to protect her honor. Moreover, she rejected the plea for forgiveness sought by the accused's parents, wife, and children, then suffered the travails of a public trial which necessarily exposed her to humiliation and embarrassment by unraveling the details of her rape and enduring a cross-examination which sought to discredit her.

What Gilda endured could only come from one whose obsession was to bring to justice the person who had abused her and vindicate her honor, even if such vindication would never erase from her memory that excruciatingly painful chapter in her life which left her psychologically and emotionally scarred forever. This Court has repeatedly held that no complainant would admit that she has been raped, make public the offense,

allow the examination of her private parts, undergo the troubles and humiliation of public trial and endure the ordeal of testifying to all its gory details if she had not in fact been raped.[27]

Further buttressing the veracity of Virginia's statements is her behavior at the witness stand. The records show that she quivered and cried while recounting her ordeal, both during direct examination[28]and on cross-examination.[29] Surely, the trial judge must have witnessed this first-hand and this must have guided him in rendering his decision. We, therefore, respect his findings, there being no showing of manifest error. Well settled is the rule that the issue of credibility is the domain of the trial court that had observed the deportment and manner of the witnesses as they testified. The findings of facts of a trial court, arrived at only after a hearing and evaluation of what can usually be expected to be conflicting testimonies of witnesses certainly deserve respect by an appellate court.[30]

The trial judge is in a better position to decide the question of credibility, since he personally heard the witnesses and observed their deportment and manner of testifying. He had before him the essential aids to determine whether a witness was telling the truth or lying. Truth does not always stalk boldly forth naked; she often hides in nooks and crannies visible only to the mind's eye of the judge who tried the case. To him appears the furtive glance, the blush of conscious shame, the hesitation, the sincere or flippant or sneering tone, the heat, the calmness, the yawn, the sigh, the candor or lack of it, the scant or full realization of the solemnity of an oath, the carriage and mien.[31]

All told, we see no reversible error in the appealed Decision.

WHEREFORE, the Decision appealed from is AFFIRMED.

SO ORDERED.

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

[1] Presided by Judge Aloysius C. Alday.

[2] TSN, August 9, 1993, pp. 5-8.

[3] TSN, August 13, 1993, p. 7.

[4] TSN, August 9, 1993, pp. 9-21.

[5] Ibid., p. 21.

[6] TSN, August 12, 1993, p. 8; TSN, August 13, 1993, p. 11.

[7] TSN, August 9, 1993, pp. 22-23.

[8] Ibid., pp. 22-24.

[9] Exh. "B".

[10] TSN, August 6, 1993, pp. 5-9; TSN, August 9, 1993, pp. 24-25.

[11] Rollo, p. 3.

[12] TSN, August 27, 1993, pp. 4-24.

[13] TSN, August 31, 1993, pp. 3-4.

[14] TSN, September 10, 1993, pp. 5-14.

- [15] TSN, September 14, 1993, pp. 4-11.
- [16] Ibid., p. 11.
- [17] TSN, September 20, 1993, pp. 5-11.
- [18] Rollo, p. 24.
- [19] Ibid., p. 22.
- [20] People v. Dreu, G.R. No. 126282, June 20, 2000.
- [21] People v. Flora, G.R. No. 125909, June 23, 2000.
- [22] People v. De Guzman, supra.
- [23] Citing People v. Abrecinoz, 281 SCRA 59 (1997).
- [24] Citing People v. Rabosa, 273 SCRA 142 (1997).
- [25] People v. Sapinoso, G.R. No. 122540, March 22, 2000; citing People v. Antido, 278 SCRA 425 (1997).
- [26] People v. Ulzoron, 286 SCRA 741, 748-9 (1998).
- [27] People v. De Guzman, 265 SCRA 228, 241-42 (1996)
- [28] TSN, August 9, 1993, p. 10.
- [29] TSN, August 13, 1993, p. 10.
- [30] People v. Meris, G.R. No. 117145-50 & 117447, March 28, 2000.
- [31] People v. Mitra, G.R. No. 130669, March 27, 2000; citing People v. Agbayani, 284 SCRA 315 (1998).

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