

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEL COREA ALIAS "DIGOY"; ACCUSED-APPELLANT.

G.R. No. 114383. March 03, 1997

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In seeking acquittal, appellant insists that complainant was his sweetheart who willingly consented to the sexual congress. However, the "sweethearts theory," even granting it is true, does not necessarily rule out force and intimidation. In the end, the conviction or acquittal of appellant rests upon the credibility of complainant and her testimony in regard to the use of force upon her person.

These matters are threshed out by the Court in resolving this appeal from the Decision of the Regional Trial Court of xxx,[1] dated July 9, 1993, in Criminal Case No. 1196-Tb, finding appellant guilty of the crime of rape.

The Facts

On January 7, 1992, AAA filed a criminal complaint[2] against Appellant Joel Corea. After preliminary investigation, appellant was charged with rape in an Information, dated April 23, 1992, which reads:[3]

"That on or about the 4th day of January, 1992 at around 1:30 o'clock in the afternoon in xxx, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat, violence and intimidation, did then and there willfully, unlawfully and feloniously lie with and succeeded in having carnal knowledge of AAA, a fifteen (15) years (sic) old girl who is not his wife, against the will and without the consent of said AAA.

CONTRARY TO LAW."

Upon arraignment, appellant, assisted by counsel, pleaded not guilty to the crime charged.[4] After trial, the trial court convicted appellant of rape in the assailed Decision, the dispositive portion of which reads:[5]

"WHEREFORE, the Court finds the accused guilty beyond reasonable doubt of rape. He is hereby sentenced to the penalty of reclusion perpetua and to indemnify the victim AAA the sum of P40,000.00 as moral and exemplary damages.

SO ORDERED."

Hence, this appeal.

Version of the Prosecution

Complainant was sixteen years old when she testified, in-between sobs, on how she was raped by appellant. On January 4, 1992, at 1:30 p.m., after attending a wedding reception in xxx, where she and appellant were the veil sponsors, she went with appellant and his cousin Benjie Corea to the former's house in nearby xxx to pick coconuts. She did not sense any danger because she was acquainted with appellant; and he had assured her that a lady companion would be there.[6]

However, nobody was at appellant's house when they arrived. Appellant and his cousin went inside to speak with each other while the complainant was left outside.[7] When appellant returned, he pulled her right hand and took her to a nearby house about ten meters away, leaving Benjie behind. There, appellant brought her upstairs, held her hands and placed them at the back of her neck. He dragged her inside one of the rooms, saying that he would not mind if her parents and brothers would kill him as long as he had carnal knowledge of her.

Forcing her down on the floor, he professed that he loved her and would take her from her parents because he pitied her. She fought back, kicking and slapping him, telling him that she did not want to have sex with him. She also shouted, "Tabang!" (Help!) and slapped him, hitting his mouth. However, he succeeded in getting on top of her. To stifle her resistance, he held her arms, then he raised her shirt and bra to her neck. She resisted him until she lost consciousness due to exhaustion.

When she regained consciousness, her whole body, specially her genitals, was very painful. She saw appellant standing at her feet. He returned her skirt and underwear, which had been removed, and told her to get up and dress. Then he led her down the house. By that time, her mind was blank; thus she could not remember where he had brought her. (As will be shown later, she had been brought by appellant to his house.)

At about 5:00 p.m., her brother-in-law BBB fetched her from appellant's house in xxx. She did not want to go home because her sister was always scolding her and, when her brother-in-law fetched her, she saw all the people around her as demons.[8] Anyway, BBB brought her to his house at xxx. There, she refused to tell her sister what had happened to her. Suspecting that complainant was ill, her sister brought her to the provincial hospital at xxx, where she was confined for two days.

On rebuttal, she insisted that she and appellant were not sweethearts. She denied that she had given him any token of love, such as a Christmas card or a ring. She said she had given the picture, presented by appellant in court, to appellant's first cousin CCC, her schoolmate and friend. She could not remember meeting appellant's mother on that day.

Dr. xxx testified that, on January 4, 1992, at 8:15 p.m., she conducted a medical examination on the complainant. She noted that, upon admission, complainant was conscious but uncommunicative. The medical certificate she prepared reported the following findings:[9]

"NOI = Alleged Rape

POI = Sinolon, T'boli, South Cotabato

TOI = 2:30 PM

DOI = Jan. 4, 1992

PE: Conscious but uncommunicative; keeps eyes close

most of the time; responds to sternal (sic) pressure.

Ecchymoses, multiple: (L) forearm mid. 1/3 palmar surface.

(L) anterior cervical triangle area.

(L) breast, inner upper outer quadrant.

Soft abdomen, (-) tenderness (+) bowel sounds.

Pelvic External: Minimal whitish discharge per vagina; & Internal: erythema about 5-6 o'clock position,

(L) hymen with minimal bleeding.

:(-) other fresh lacerations; hymenal ring not distorted.

:Admits one forefinger up to a depth of about 3 cms then with resistance."

:Linear abrasions at 2 points on both (L) & (R) inner thighs.

:Vaginal Smear done for sperm analysis, revealed absence of spermatozoa."

The doctor explained that she observed bleeding underneath the skin at the area of the cervix and the left breast. There was no fresh laceration, only inflammation with minimal bleeding, which could have been caused by sexual contact. The hymenal ring was not distorted. There were linear abrasions on her left and right inner thighs, but vaginal smear revealed the absence of spermatozoa. In spite of this, the doctor testified that "penetration is possible."

Version of the Defense

Appellant denied that he had employed force on complainant. He testified that he had courted complainant for two months and that they became sweethearts on October 27, 1991.[10] After the wedding in xxx, at about 1:30 p.m., they walked to appellant's farmland at xxx, about two kilometers away. At 2:00 p.m. they reached his house where they caressed each other.

Then they went to his grandmother's house which had been abandoned. He denied pulling complainant by her hand to be able to take her upstairs. According to appellant, complainant voluntarily went inside a room and he only followed her. He asked her to lie on the floor, but she initially refused, telling him she was still studying.[11]

Later, she allowed him to remove her skirt, blouse[12] and underwear, as he stood up to remove his briefs. With him on top of her, they had sexual intercourse for about two hours. Afterwards they put on their clothes and went downstairs.

Subsequently, his mother arrived and found them at the grandmother's house at 2:30 p.m.[13] Later, all three of them proceeded to his house in xxx, arriving there at about 4:00 p.m.[14] When her brother-in-law came to fetch her, she refused to go with him thus; she had to be forced to board her brother-in-law's tractor.[15]

In the evening of the same day, appellant was arrested by the barangay captain and brought to the municipal hall of xxx. The following day, complainant's brother-in-law accused appellant of raping complainant.

Appellant insisted that complainant was his girl friend. To prove this, he alleged that complainant herself had visited him in jail where they allegedly kissed and embraced each other.[16] He also presented a Christmas card given to him by complainant. Its envelope bore the name "Boy Insik," which he claimed was his code name, to prevent discovery of their relationship by complainants' parents. He identified the writing on the card and envelope to be that of complainant, since he was familiar with her handwriting. The card was accompanied by a picture of complainant with a dedication written at the back. He also presented a ring given to him by complainant on October 27, 1991.[17]

On cross-examination, he also claimed that they had sex even before January 4, 1992. He said that their first time to have sex was on "October 27, 1992." Upon being reminded that he was already in jail by said date, he changed the year to 1991.[18]

Elizabeth Apac, the mother of the bride at whose wedding complainant and appellant had been veil sponsors, testified that she knew appellant and complainant to be sweethearts.[19] They had been at her house for the wedding since eight in the morning. At 1:00 p.m., appellant asked her permission to leave with complainant.

Although she did not know if they did go to their respective homes, she said that at 5:00 p.m., complainant went to her house and embraced her, saying that she would not go home anymore because she was often scolded by her sister.[20] She sent for the elder sister of complainant. Complainant's sister and brother-in-law came to take her home, but the complainant refused to go with them; thus, she had to be forcibly taken to their house.

Felicidad Corea, appellant's mother, testified that at 4:30 p.m., she went to their house at xxx to feed their pigs. There she found appellant and complainant conversing. When she asked why they were there, complainant said that she would no longer go home because she was always scolded. As she cried, Felicidad embraced her, prevailed upon her, and even accompanied her home.[21]

Ruling of the Trial Court

As appellant admitted having sexual intercourse with complainant, the only issue was whether it "was done (with) the use of force or intimidation." The trial court ruled that it was "improbable for a young second year student of a barangay high school in a remote town to concoct matters x x x if the said story was not true (People vs. Nunag, 173 SCRA 274)."[22] It also rejected appellant's "tokens" as fabricated because he had not rebutted complainant's denial that she ever gave them to him.

It also noted that even if appellant's "sweethearts theory" was true, rape could still be committed following the ruling in People vs. Cabilao (210 SCRA 326).

Issues

Appellant alleges that the trial court erred:[23]

I

"x x x in convicting the accused even when the prosecution's evidence failed to meet the parameters of proof beyond reasonable doubt and/or moral certainty because —

- (a) The presence of the essential elements to constitute rape was not proved.
- (b) The testimony of the complainant, standing alone, was not sufficient and substantial to completely negate the fact that she consented freely and voluntarily to the act of sexual liaison.
- (c) The prosecution prevaricated in failing to call to testify complainant's brother-in-law, or sister, or parents or even the police officer who conducted the investigation, and this only means that complainant was physically, morally and emotionally (')persuaded (') to testify falsely against her lover, the accused.

II

xxx in finding the accused guilty when it failed —

- (a) To give due weight and credit to the accused's evidence of consent and free will by the complainant to the sexual liaison, thereby negating the force allegedly committed against the person of the complainant.
- (b) To give the proper consideration to the testimonies of accused's witnesses that there was in fact consent, and that complainant was only seriously (')influenced (') and pressured by family relationship and ascendancy in testifying falsely against the accused.
- (c) To render a judgment of acquittal on the basis of the totality of the evidence proffered by both parties where the hypothesis of innocence appeared to be more consistent and substantially proved by the facts and the evidence "

In the main, appellant alleges that the evidence of the prosecution did not sufficiently establish the element of force or intimidation.

The Court's Ruling Credibility of Witness

The prosecution's theory of rape through force rested essentially on the credibility of complainant, and the trial court chose to place full faith and credence upon her testimony.

The basic rule is that findings and conclusions of a trial court, upon whom the responsibility of assessing the credibility of witnesses primarily rests, deserve great weight and respect.[24] Conclusions as to the credibility of witnesses in rape cases lie heavily on the sound judgment of the trial court.[25] When the question arises as to which version is to be believed, the judgment of the trial court is accorded the highest respect in view of the opportunity it had to observe the witnesses' demeanor and deportment on the witness stand. Concededly, it is in a better position than an appellate court to discern whether a witness is telling the truth or fabricating a lie. Barring arbitrariness and oversight of facts which might affect the result of the case, such assessment must bind even this Court.

The testimonies of Felicidad Corea and Elizabeth Apac tended to show that appellant and complainant were sweethearts. However, these testimonies, in the final analysis, do not bar the possibility of rape or conclusively prove consent. Further, the credibility of the testimonies of Felicidad and Elizabeth is not as faultless as the defense claims them to be. Felicidad testified that she herself accompanied private complainant to the latter's house,[26] contradicting Elizabeth's testimony that she sent her own daughter to fetch complainant's sister.[27] Appellant testified that only the complainant's brother-in-law came to fetch the complainant from appellant's house in xxx, but Elizabeth said that complainant's sister and her brother-in-law came to fetch the complainant at her house instead. Earlier, a time discrepancy was noted in appellant's testimony.^{27-A} The testimonies of the defense witnesses, together, do not present a coherent story which can overthrow the prosecution's case. Therefore, appellant has failed to present a justification for asserting a finding contrary to that of the trial court.

In comparing said testimonies to that of complainant and in reviewing cases of this nature, this Court is guided by three settled principles, viz.:

"(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 it; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for 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." [28]

Conviction or acquittal of an accused depends on the credibility of complainant's testimony because of the fact that, usually, the only witnesses to the incident are the participants themselves. [29] Thus, the victim's testimony, standing alone, can be made the basis of accused's prosecution and conviction, if such testimony meets the test of credibility.[30]

Courts usually give credence to the testimony of a woman who is a victim of sexual assault, like complainant in this case, because normally no woman would be willing to undergo the humiliation of a public trial and testify on the details of her ordeal if it be not to condemn an injustice.[31]

Complainant was only sixteen years old then and a sophomore high school student from the province. She was not shown to have the shrewdness and callousness of a woman who would concoct such a story and endure physical examination and public trial if her story were untrue. In *People vs. Vitor*, [32] the Court held that when a woman,

more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed.

The credibility of her story is further bolstered by the actuations of complainant subsequent to the commission of the crime.[33] Complainant testified that, after being raped, her mind went blank[34] and she thought she was being possessed by demons;[35] thus after the incident, she went along with appellant and his mother to their house in xxx and refused to go with her brother-in-law when he came to fetch her at appellant's house because she saw him as a demon. Her refusal to go with her brother-in-law does not detract from her claim that she has been raped by appellant, based on psychological findings that different people react differently to similar situations. Thus, while most women will immediately flee from their aggressors, others become virtually catatonic because of the mental shock they experience.[36] Dr. xxx, while conducting physical examination on complainant, observed that she was conscious but uncommunicative.[37] These facts suggest that complainant suffered psychological trauma from her defloration.

Resistance Indicates Use of Force

Rape is committed by having carnal knowledge of a woman with the use of force or intimidation.[38] Since appellant himself admitted that he had sexual intercourse with complainant on said occasion,[39] the only element to establish is the use of force.[40] Appellant adopted the theory that the complainant consented to his sexual advances, but this is contradicted by evidence that complainant sustained physical injuries consistent with her claim that she was sexually abused without her consent.[41] In her testimony, complainant recounted how she resisted appellant's advances:[42]

"FISCAL LEDDA:

Q What part of the body was held by Joel when he pulled you?

A My right hand (witness holding her right wrist).

Q Where did he bring you by Joel, when he pulled you?

A At the house of his grandmother.

xxx xxx xxx

Q When you reached the house of the grandmother of Joel Corea, what did he do next, if any, Madam Witness?

A He dragged me upstairs.

xxx xxx xxx

Q When you reached upstairs, what did he do next, if any?

A He held my both hands and placed here at the back of my neck.

xxx xxx xxx

Q After that what did Joel Corea do, if any?

A Then he removed again my hands dragged me towards one of the rooms.Slxsäc

xxx xxx xxx

Q When you reached the said room, what did he do next, if any?

A He said, even I have my parents, my brothers will kill him, he won't (sic) mind it as long as he will take me.

Q After uttering those words, what did he do next, if any?

A He let me laid down. I fought back.

Q Where did you lay?

A On the floor.

Q When you were already lying on the floor you said you fought him or resisted him, in what manner did you offer the resistance?

A I slapped him.

COURT:

Q Hit where?

A On his mouth.

Q What more?

A I kicked him.

xxx xxx xxx

FISCAL LEDDA:Kyle

Q When you kicked him, what was your position when you kicked him?

A I was lying on the floor while he was on top of me. I pushed him. (witness making a motion by pushing both his (sic) hands forward) And I kicked him. (witness making a motion by kicking her right leg).

xxx xxx xxx

Q Did you shout?

A Yes, I shouted.

Q You repeat what you shouted?

A I shouted "tabang" meaning "help".

Q How many times did you shout for help?

A Once.

Q Then what did Joel Corea do next, if any?

A He placed himself on top of my body.

Q While he was on top of you, Madam Witness, what were the position of your hands, if any?

A The position of my hands were like this (witness extending both her right and left arms).

COURT:

Q Joel did not hold your hands?

A He held my left hand. (Witness touching her left wrist) and my right hand was released, sir.

FISCAL LEDDA:

Q What did you do when he released your right hand and what did he do?

A When my right hand was released by him I slapped him and resisted him. At this juncture, I held again my right hand. At this moment, both of my hands were held by him."

The testimony of complainant that she was forced by appellant to have sex with him is also corroborated by the medical certificate of Dr. xxx.[43]

The force required in rape cases need not be overpowering or irresistible when applied.[44] The force or violence required is relative.[45] Failure to shout or offer tenacious resistance did not make voluntary complainant's submission to the criminal acts of the accused.[46] What is necessary is that the force employed in accomplishing it is sufficient to consummate the purpose which the accused has in mind.[47]

The defense that complainant merely made "token resistance" is unavailing. The resistance she had put up against appellant need not have reached the point of her sustaining death or physical injuries at his hands; all that was necessary was that the force or intimidation applied against her enabled the assailant to effect sexual penetration.[48]

Likewise, the absence of confederates and of a weapon in consummating the rape has no persuasive effect given the disparity in physical strength and the physical superiority of a nineteen-year old boy relative to that of a sixteen-year old girl. The sheer force and strength of appellant would have easily overcome any resistance that complainant could have put up.

Being Sweethearts Does Not Prove Consent

The trial court refused to believe that appellant and complainant were sweethearts because appellant failed to rebut complainant's denial of such relationship. More importantly, it properly concluded that being sweethearts did not prove consent by complainant to the sexual act. The lower court appropriately applied *People vs. Cabilao* which held that:[49]

"x x x Moreover, even if such averment is true, it does not necessarily follow that no rape can be committed against one's sweetheart. Such a relationship provides no license to explore and invade that which every virtuous woman holds so dearly and trample upon her honor and dignity. That relationship is held sacred by many x x x. A sweetheart cannot be forced to engage in sexual intercourse against her will. As a matter of fact, proof even of a prior history of a common-law marital relationship will not prevail over clear and positive evidence of copulation by the use of force or intimidation."

Not to be overlooked is the complainant's willingness to face police investigators and to submit to a physical examination which are eloquent and sufficient affirmations of the truth of her charge.[50]

Testimony on Circumstances After Rape Is Unnecessary

Non-presentation of other witnesses is not crucial to the sufficiency of the evidence for the prosecution where the testimony would have focused only on circumstances subsequent to the rape.[51] Thus, the non-presentation of the investigating police officer and parents, sister or brother-in-law of the complainant does not give rise to any suspicion of suppression of contrary evidence. The Court fails to see how the testimony of said persons which, as contended by appellant, centers on the state of mind of complainant after the incident, can prove consent to the sexual act, or prove that they had forced complainant to concoct her allegations of rape against appellant.

All told, appellant has failed to show any reversible error, and this Court finds no cogent reason to reverse the

decision of the trial court. However, in line with current jurisprudence, the complainant is entitled to P50,000.00 indemnity.[52] The award of moral and exemplary damages is deleted due to the lack of basis therefor and the absence of any attendant aggravating circumstance,[53] respectively.

WHEREFORE, the appeal is hereby DENIED. The assailed Decision is AFFIRMED with MODIFICATIONS. The complainant is granted indemnity in the sum of P50,000.00, but the award of moral and exemplary damages is DELETED.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Melo, and Francisco, JJ., concur.

[1] Presided by Judge xxx.

[2] Exhibits, p. 1.

[3] Records, p. 1.

[4] Records, p. 35.

[5] Rollo, p. 28.

[6] TSN, October 16, 1992, p. 28.

[7] Ibid., p 8.

[8] Ibid., pp. 36-37.

[9] Exhibits, p. 4.

[10] TSN, February 5, 1993, p 4.

[11] Ibid., p; 9.

[12] According to the complainant, she wore a shirt, not a blouse.(TSN, October 16, 1992, p. 14.)

[13] The Court notes a discrepancy in the time as appellant admitted that they arrived at xxx at 2:00 p.m. and had sex with the complainant for about two hours, yet appellant claimed that his mother arrived at said place at 2:30 p.m. See testimony of Felicidad Corea, appellant's mother, for the more plausible time of her arrival at the house of appellant's grandmother.

[14] TSN, February 5, 1993, pp. 17-18.

[15] Ibid., p. 20.

[16] Ibid., p. 22.

[17] Ibid., pp. 12-16.

[18] Ibid., p. 24.

[19] TSN, April 29, 1993, p. 11.

[20] Ibid., p. 6.

[21] TSN, May 19, 1993, pp. 5-6.

- [22] RTC Decision, Rollo, page 27.
- [23] Appellant's Brief, Rollo, pp. 67-68.
- [24] People vs. Alimon, G.R. No. 87758, June 28, 1996, p. 12; People vs. Magana, G.R. No. 105673, July 26, 1996, p. 16.
- [25] People vs. Malunes, 247 SCRA 317,324, August 14, 1995.
- [26] TSN, May 19, 1993, pp. 6-7.
- [27] TSN, April 29, 1993, pp. 6-8.
- 27-A Supra., Footnote 13.
- [28] People vs. Alimon, supra., pp. 11-12; People vs. Gabris, G.R. No. 116221, July 11, 1996, pp. 7-8; People vs. Tacipit, 242 SCRA 241, 247, March 8, 1995 and People vs. Teves, 246 SCRA 236, 238-239, July 14, 1995.
- [29] People vs. Rivera, 242 SCRA 26, 35, March 1, 1995.
- [30] People vs. Vallena, 244 SCRA 685, 691, June 1, 1995; and People vs. Dado, 244 SCRA 655, 666, June 1, 1995.
- [31] People vs. Abendaño, 242 SCRA 531, 538, March 21, 1995.
- [32] 245 SCRA 392, 402, June 27, 1995; and People vs. Biendo, 216 SCRA 626, 629, December 16, 1992.
- [33] People vs. Tacipit, supra., p. 249.
- [34] TSN, October 16, 1993, p. 19.
- [35] Ibid., p. 34.
- [36] People vs. Ibay, 233 SCRA 15, 25, June 8, 1994
- [37] TSN, January 11, 1993, p. 11.
- [38] Article 335 (1), Revised Penal Code; People vs. Conte, 247 SCRA 583, 592, August 23, 1995; People vs. Palicte, 229 SCRA 543, 545, January 27, 1994; and People vs. Lucas, 232 SCRA 537, 546, May 25, 1994.
- [39] TSN, February 5, 1993, p. 11.
- [40] People vs. Dulay, 217 SCRA 132, 153, January 18, 1993.
- [41] People vs. Saluna, 226 SCRA 447, 451, September 15, 1993.
- [42] TSN, October 16, 1992, pp. 11-14.
- [43] People vs. Godoy, 250 SCRA 676, 708, December 6, 1995.
- [44] People vs. Errojo, 229 SCRA 49, 56, January 4, 1994; and People vs. Codilla, 224 SCRA 104, 119, June 30, 1993.
- [45] People vs. Baculi, 246 SCRA 756, 766, July 26, 1995; and People vs. Errojo, supra., p. 56-57
- [46] People vs. Dupali, 230 SCRA 62, 69, February 14, 1994; People vs. Grefiel, 215 SCRA 596, 607, November 13, 1992; and People vs. Dado, supra., p. 667.
- [47] People vs. Antonio, 233 SCRA 283; 299, June 17, 1994

[48] *People vs. Soberano*, 244 SCRA 467,477, May 29, 1995; *People vs. Antonio*, *ibid.*; and *People vs. Errojo*, *supra*.

[49] 210 SCRA 326,337, June 25, 1992 and *People vs. Tacipit*, *supra.*, p. 249.

[50] *People vs. Baculi*, *supra*. p. 764.

[51] *People vs. Saguban*, 231 SCRA 744, 757, April 25, 1994; and *People vs. Gapasan*, 243 SCRA 53,61, March 29, 1995.

[52] *People vs. Ramirez*, G.R. No. 97920, January 20, 1997, p. 22; *People vs. De Guzman*, G.R. No. 117217, December 2, 1996, p. 10; and *People vs. Salazar*, G.R. No. 98121-22, July 5, 1996, p. 8; and *People vs. Abordo*, G.R. No. 80437-38, July 11, 1996, 13.

[53] Article 2230, Civil Code.

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