

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSELITO BALTAZAR Y ESTACIO @ “JOEY”; ACCUSED-APPELLANT.

G.R. No. 115990. March 31, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the decision dated May 16, 1994, of the Regional Trial Court of Agoo, La Union, Branch 31,[1] convicting accused-appellant of the crime of rape, sentencing him to suffer the penalty of reclusion perpetua, and ordering him to indemnify the offended party the amount of P50,000.00.

Appellant Joselito Baltazar y Estacio was a 22 year-old resident of Baybay, Sto. Tomas, La Union, where he was accused of raping his neighbor, Josefina de Guzman, a 17 year-old high school student.

The facts are as follows:

On April 16, 1992, at around 7 o'clock in the evening, appellant and Josefina with some other guests attended the pasyon ritual at the house of the appellant's mother in Baybay.[2] The ritual lasted until about 3 o'clock the following morning. Josefina was about to go home when Mrs. Baltazar prevailed upon her to sleep in their house since it was already late. Mrs. Baltazar pointed to a room where Josefina could sleep.[3] As Josefina was about to enter the room, appellant suddenly grabbed her from behind and poked a knife at her neck.[4] Josefina fearfully asked him, "why are you doing this to me?" But appellant ordered her to keep quiet. He pushed her towards the bed and with his right hand holding the knife, appellant mounted her while his left hand removed her short pants. Josefina struggled to push him away, but appellant ordered her not to shout or he would kill her. Appellant inserted his penis inside her vagina and made a push and pull movement, causing her vagina to bleed.

After satisfying his lust, appellant threatened her, telling her not to tell her mother or his own mother, otherwise, he would kill her. Appellant then abruptly left the room. Totally distraught at the assault, Josefina rushed home without asking permission from appellant's mother. Mindful of appellant's threats to her life, she kept quiet about the incident.[5] About a month thereafter, appellant left for Manila to find work.

It was on May 13, 1992, when Josefina's mother chanced upon her despondently crying in her room. After much prodding, Josefina eventually broke down and told her mother of the rape. She cried that she felt so ashamed of what happened but could not tell anyone for fear that appellant would kill her. The following day, Josefina, accompanied by her mother, reported the incident to the police authorities. Josefina was also brought to the Doña Gregoria Memorial Hospital at Agoo, La Union for a medical examination. Her family also hired a private prosecutor to prosecute the case.[6]

On September 3, 1992, upon filing of the Criminal Complaint[7] and after preliminary investigation, the Provincial Prosecutor filed the following Information[8] for rape against appellant: Esmc

"The undersigned 2nd Assistant Provincial Prosecutor, upon the sworn criminal complaint of the

seventeen-year-old offended woman JOSEFINA A. DE GUZMAN, accuses JOSELITO BALTAZAR y ESTACIO @ "JOEY", of the crime of RAPE, committed as follows:

That on or about the 17th day of April, 1992, in the Municipality of Sto. Tomas, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with lewd design being then armed with a knife, did then and there, by means of intimidation with the use of the said knife, willfully, unlawfully, and feloniously have carnal knowledge of the aforementioned offended woman against her will and without her consent, to her damage and prejudice."

CONTRARY TO Article 335 of the Revised Penal Code."

On July 6, 1993, upon arraignment, appellant entered a plea of not guilty.[9]

Trial commenced and the prosecution presented the following witnesses: (1) Dr. Diana Imelda T. Palo, the physician who examined[10] private complainant on May 15, 1992; (2) Josefina de Guzman, private complainant; and (3) Natividad de Guzman, her mother.

The defense, for its part, presented appellant himself, who denied the rape charges. He admitted, however, that he attended the pasyon and that he slept in his mother's house at the time of the incident. He claimed that he could not have possibly raped the victim "since he was a married man and it was the holy week." He said that he only learned of the accusation for rape when he was already working in Manila.[11]

Appellant's mother, Mrs. Flora Baltazar, corroborated his denial of the rape charges. She stated that she did not invite Josefina to attend the pasyon, and in fact, the latter was not a participant therein but a mere spectator. She even testified that after the pasyon, Josefina went home with one Beatriz Estacio. Her son, appellant herein, went to his room to sleep. Thereafter, she prepared breakfast but did not notice any untoward incident in the house. At around 5:00 A.M., her son woke up and went out to drive their tricycle. She further testified that her family had been neighbors with the family of the victim, and that their relationship had always been cordial.[12]

Other witnesses for the defense were Faustino Estacio, who merely testified he was also present at the pasyon, but he had gone home at around 11:00 o'clock.[13] Federico dela Cruz, another participant in the pasyon, identified the persons who attended the ritual, but he stated that he does not even know the victim.[14]

On rebuttal, the prosecution presented the victim who clarified, as to who were actually present during the pasyon, and reiterated that the mother of appellant had actually invited her to attend it.[15]

On May 16, 1994, the trial court rendered its decision,[16] disposing as follows:

"IN VIEW OF THE FOREGOING, the Court finds the accused JOSELITO BALTAZAR guilty beyond reasonable doubt of the crime of Rape defined and penalized under Article 335 of the Revised Penal Code and hereby sentences the accused to suffer the penalty of RECLUSION PERPETUA and to indemnify the offended party Josefina de Guzman in the amount of FIFTY THOUSAND (P 50,000.00) Pesos.

SO ORDERED."

Hence, the present appeal. Appellant contends that the trial court erred:[17]

a)..... IN HOLDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT ON THE BASIS OF INCREDIBLE AND SUSPICIOUS DECLARATIONS OF THE COMPLAINANT.

b)..... WHEN IT FAILED TO CONSIDER THE TESTIMONY OF DRA. DIANA PALO THAT THE LACERATIONS FOUND IN THE PRIVATE PARTS OF THE COMPLAINANT WERE OLD LACERATIONS ABOUT THREE (3) MONTHS OLD AT THE TIME OF EXAMINATION WHICH NEGATES THE ASSERTION OF COMPLAINANT THAT SHE WAS RAPED ON APRIL 17,1992.

c).....IN RENDERING JUDGMENT OF CONVICTION NOT ON THE BASIS OF THE STRENGTH OF PROSECUTION EVIDENCE BUT ON THE BASIS OF THE WEAKNESS OF THE DEFENSE.

Appellant belittles the rape charge considering that the victim's story on the whole is incredible and unbelievable. He claims that the scene of the alleged rape renders its commission impossible, there being other occupants of the house, including appellant's own mother. Further, he faults the victim for not making any tenacious physical resistance to the alleged rape by "pulling down the curtains and kicking the aparador, which she could easily do to call the attention of the other occupants of the house that she is in danger." He contends that the victim's conduct after the alleged rape is highly unnatural, since she did not even report the incident to the members of her own family and even continued with her daily chores at home. Appellant points out inconsistencies between the victim's statement before the police, that she did not have companions in going to the pasyon, and her testimony in court, that the other members of appellant's family were present at the ritual. Appellant contends that applying the maxim of falsus in onus, falsus in omnibus, the other portions of the victim's testimony should be disregarded. Appellant insists that he could not have raped the victim since her own Physician even opined that the lacerations were about three (3) months old at the time of examination, when the alleged rape allegedly occurred only a month prior to her physical examination. Finally, appellant makes the assertion that sexual intercourse, if it did occur, was consensual.

The Office of the Solicitor General, for the State, contends that rape can be committed almost anywhere, even inside a house where there are other occupants. The failure of the victim to call out to the other occupants of the house can be attributed to her fear for her life. Further, delay in reporting a rape incident does not indicate that the charge was fabricated, nor does it cast doubt on the credibility of the complainant. The alleged inconsistencies between the sworn statement and testimony of the victim pertain to details which have nothing to do with the commission of the rape and do not necessarily render the testimony not credible, and therefore the maxim of falsus in onus, falsus in omnibus need not be applied. Finally, the OSG asserts that the physician's testimony regarding the possible date of the rape cannot prevail over the victim's own testimony.

In sum, appellant questions the credibility of private complainant and the sufficiency of the evidence to convict him of the crime charged.

The peculiar nature of rape is that "conviction or acquittal depends almost entirely upon the word of the private complainant." [18] The crime of rape is essentially one committed in relative isolation or even secrecy, hence it is usually only the victim who can testify with regard to the fact of forced coitus. [19] In the assessment of credibility of witnesses, we have laid down the following parameters: [20]

"First, the appellate court will not disturb the factual findings of the lower court unless there is a showing that it had overlooked, misunderstood, or misapplied some fact or circumstance of weight and substance that would have affected the result of the case;

Second, the findings of the trial court pertaining to the credibility of witnesses are entitled to great weight and respect since it had the opportunity to examine their demeanor as they testified on the witness stand; and

Third, a witness who testified in a categorical, straightforward, spontaneous and frank manner and remained consistent on cross-examination is a credible witness."

The victim herein bravely recounted her story before the police investigators, submitted herself to a medical examination by a physician, took to the witness stand no less than three (3) times and was subjected to rigorous cross-examination. Her actuations and her testimony bear the earmarks of a credible witness for no woman would subject herself to the humiliation of a rape trial, the attendant embarrassment of a medical examination, and suffer the stigma of a sexual assault for no motive at all, unless the accusation be true. [21]

Appellant contends that private complainant's testimony is inconsistent as to who were her actual companions during the pasyon. In her sworn statement she stated that there were other people during the pasyon while in her testimony, she stated that only the members of the Baltazar family were present. This matter, to our mind, does not pertain to the commission of the crime of rape. Discrepancies and inconsistencies in the testimony of a witness referring to minor details, and not in actuality touching upon the central fact of the crime, do not impair her credibility.[22]

Appellant further negates the commission of the rape considering the location of room and the presence of his mother in the house. It is however an accepted rule in criminal law that rape may be committed even when the rapist and the victim are not alone. Rape was held to have been committed in the same room while the rapist's spouse was asleep, or in a small room where other family members also slept.[23] It is common judicial experience that rapists are not deterred from committing their odious act by the presence of people nearby.[24] Apparently, neither are they deterred by the solemn atmosphere of the holy week.

As to the delay in reporting the rape incident, the victim already explained that she did not immediately report the incident because of appellant's threats to kill her.[25] Even after the rape, he was always guarding her everytime she would leave the house. It was only after appellant left for Manila that she finally gathered enough courage to tell her mother of the sexual assault upon her person.[26] It is not uncommon for rape victims to conceal for sometime the assaults on their virtue or person because of the rapist's threats on their lives.[27]

The more pressing issue is whether all the elements of rape as alleged in the Information were duly proved by the prosecution. Here we find the following duly established beyond reasonable doubt.

First, appellant had carnal knowledge with the victim. As testified to by the victim:

PRIVATE PROSECUTOR ALBERTO GOROSPE TO PRIVATE COMPLAINANT[28]

"Q:

When you were trying to push him with your two hands while Joselito was on top of you, did you say anything?

A:

I told him to please pity me but he said don't shout, I will kill you.

Q:

After saying that to you, what else did Joselito do if he did anything after that?

A:

After undressing me, he inserted his penis inside my vagina and made a push and pull movement." (Emphasis supplied)

Second, carnal knowledge took place by using force or intimidation. Appellant insists that "the complainant did not offer any tenacious resistance to the alleged sexual assault." [29] Nowhere is it required in our law or jurisprudence, however, that a woman must offer "tenacious" resistance to a sexual assault. The law does not impose upon the rape victim the burden of proving resistance.[30] We have held countless of times that "the force or violence required in rape cases is relative. When applied, it need not be overpowering or irresistible; it is enough that it has enabled the offender to consummate his purpose or to bring about the desired result." [31] For rape to exist, it is not necessary that the force or intimidation employed in accomplishing the crime be so great or of such character as could not be resisted. What is necessary is that the force or intimidation be sufficient to

consummate the purpose which the accused had in mind.[32] In this case, the victim testified that appellant poked a knife at her neck,[33] threatened her not to shout or he would kill her.[34] The act of holding a knife by itself is strongly suggestive of force or at least intimidation, and threatening the victim with a knife is sufficient to bring her into submission.[35] Thus we have held that physical resistance need not be established in rape cases when intimidation is exercised upon her and she submits herself against her will to the rapist's lust because of fear for her life and personal safety.[36] The victim's failure to resist the accused's assault successfully and to escape when the opportunity presented itself should not be construed as a manifestation of consent.[37]

It follows from these circumstances that, thirdly, the coitus was against her will and without her consent.

Appellant makes much of the fact that the physician who examined the victim a month after the rape testified that the hymenal lacerations could have been inflicted even as far as three (3) months previous to the date of examination. Considering that the medical examination took place almost a month after the rape incident, the physician could at best only estimate the possible date of the rape within the range of a certain period. Furthermore, laceration of the hymen, even if considered the most telling and irrefutable physical evidence of sexual assault, is not always essential to establish the consummation of the crime of rape.[38] In fact, even the absence of hymenal lacerations does not disprove sexual abuse for the mere introduction of the male organ into the labia of the pudendum constitutes carnal knowledge.[39] Insofar as the evidentiary value of a medical examination is concerned, we have held that "a medical examination of the victim, as well as the medical certificate, is merely corroborative in character and is not an indispensable element in rape. What is important is that the testimony of private complainant about the incident is clear, unequivocal and credible." [40] A medical examination is not indispensable to the prosecution of rape as long as the evidence on hand convinces the court that a conviction for rape is proper.[41]

The rape was committed with the use of a knife, which is a deadly weapon.[42] At the time of the commission of the crime on April 16, 1992, the penalty for rape "committed with the use of a deadly weapon" was reclusion perpetua to death.[43] The 1987 Constitution having suspended the imposition of the death penalty at that time, the trial court correctly imposed the penalty of reclusion perpetua.

As to the amount of damages, it has been the policy of the Supreme Court to outrightly award an amount not exceeding P50,000.00 to rape victims which relates to and should be categorized as actual or compensatory damages.[44] In addition, moral damages in the amount of P50,000.00 should be awarded without further need of proof.[45]

WHEREFORE, the judgment of the Regional Trial Court of Agoo, La Union, Branch 31, in Criminal Case No. A-2442 convicting appellant JOSELITO BALTAZAR y ESTACIO of rape and sentencing him to reclusion perpetua is hereby AFFIRMED with MODIFICATIONS as to the amount of damages. Accused-appellant is hereby ordered to pay the private complainant the sum of one hundred thousand pesos (P100,000.00) consisting of P50,000.00 as compensatory damages and P50,000.00 as moral damages. Costs against appellant.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

[1] Judge Marianito A. Licudan, presiding.

[2] TSN, August 4, 1993, pp. 10-12.

[3] Id. at 13-15.

- [4] Id. at 17, 19.
- [5] Id. at 20-25; TSN, August 9, 1993, pp. 9, 15-16.
- [6] TSN, August 4, 1993, pp. 26-29; TSN, August 17, 1993, pp. 3-17.
- [7] Records, p. 2.
- [8] Id. at 22.
- [9] Records, p. 36.
- [10] Medico-Legal Certificate, Exh. "A," "A-1," to "A-5," Records, p. 3; TSN, August 4, 1993, pp. 5-7.
- [11] TSN, October 14, 1993, pp. 5-9, 15-19.
- [12] TSN, September 15, 1993, pp. 4-8, 11-19.
- [13] TSN, September 14, 1993, pp. 3-5, 8-9.
- [14] TSN, October 14, 1993, pp. 2-4.
- [15] TSN, December 14, 1993, pp. 2-6.
- [16] Rollo, pp. 14-36.
- [17] Rollo, pp. 59-60.
- [18] *People v. Altagtag*, G.R. Nos. 124449-51, June 29, 1999, p. 7.
- [19] *People v. Sagun*, 303 SCRA 382, 392 (1999); *People v. De Guzman*, 265 SCRA 228, 240 (1996); *People v. Domingo*, 226 SCRA 156, 166 (1993)
- [20] *People v. Sahor*, G.R. No. 128384, June 29, 1999, p. 5; *People v. Galimba*, 253 SCRA 722, 727 (1996)
- [21] *People v. Gastador*, G.R. No. 123727, April 14, 1999, p. 14; *People v. Alquizalas*, G.R. No. 128386, March 25, 1999, p. 7; *People v. Lapinoso*, 303 SCRA 664, 676 (1999); *People v. Esguerra*, 256 SCRA 657, 664 (1996)
- [22] *People v. Maglente*, G.R. Nos. 124559-66, April 30, 1999, pp. 22-23; *People v. Empante*, G.R. Nos. 130665 and 137996-97, April 21, 1999, pp. 9-10.
- [23] *People v. Alitagtag*, G.R. Nos. 124449-51, June 29, 1999, p. 10, *People v. Perez*, 296 SCRA 17, 30 (1998); *People v. Leoterio*, 264 SCRA 608, 615 (1996); *People v. Dones*, 254 SCRA 696, 707 (1996); *People v. Cura*, 240 SCRA 234, 242 (1995)
- [24] *People v. Ramos*, 296 SCRA 559, 571 (1998)
- [25] TSN, August 4, 1993, p. 23.
- [26] Id. at 26-27.
- [27] *People v. Tayaban*, 296 SCRA 497, 509 (1998); *People v. Bartolome*, 296 SCRA 615, 628 (1998)
- [28] TSN, August 4, 1993, p. 22.
- [29] Rollo, p. 64.
- [30] *People v. Cantos*, G.R. No. 129298, April 14, 1999, p. 12; *People v. Talabac*, 256 SCRA 441, 450 (1996)

- [31] *People v. Reyes*, G.R. No. 122453, July 28, 1999, p. 11; *People v. Sagaysay*, G.R. No. 128818, June 17, 1999, p. 11; *People v. Mendoza*, 163 SCRA 568, 571 (1988)
- [32] *People v. Alfeche*, 294 SCRA 352, 372 (1998)
- [33] TSN, August 4, 1993, p. 20.
- [34] *Id.* at 22.
- [35] *People v. Dizon*, G.R. Nos. 126044-45, July 2, 1999, p. 9; *People v. Reynaldo*, 291 SCRA 701, 713-714 (1998); *People v. Pili*, 289 SCRA 121, 135 (1998)
- [36] *People v. Berana*, G.R. No. 123544, July 29, 1999, p. 10.
- [37] *People v. Monfero*, G.R. No. 126367, June 17, 1999, p. 12; *People v. Reñola*, G.R. Nos. 122909-12, June 10, 1999, pp. 22-23; *People v. Tayaban*, 296 SCRA 497, 508 (1998)
- [38] *People v. Marcelo*, G.R. No. 126714, March 22, 1999, p. 12; *People v. Tumulad*, 188 SCRA 203, 214 (1990)
- [39] *People v. Ayo*, G.R. No. 123540, March 30, 1999, p. 15; *People v. de la Pena*, 276 SCRA 558, 562 (1997)
- [40] *People v. Brandares*, G.R. No. 130092, July 26, 1999, p. 6; *People v. Taneo*, 284 SCRA 251, 268 (1998)
- [41] *People v. Rebose*, G.R. No. 131104, June 17, 1999, p. 7; *People v. Devilleres*, 269 SCRA 716, 726 (1997)
- [42] *People v. Alfeche*, 294 SCRA 352, 378 (1998)
- [43] Article 335, Revised Penal Code.
- [44] *People v. Perez*, 296 SCRA 17, 36 (1998)
- [45] *People v. Acala*, G.R. Nos. 127023-25, May 19, 1999, p. 30.

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