

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDWIN DAGANGAN, DEFENDANT-APPELLANT.

G.R. No. 117951. June 18, 1998

Ponente: MENDOZA, J.

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MENDOZA, J.:

Time and again we have emphasized the duty of courts to scrutinize with utmost caution the claim of complainants in rape cases and to base conviction on the evidence of the prosecution rather than the weakness of the evidence of the defense, in view of the fact that, while it is difficult to prove an accusation of rape, it is more difficult to disprove it.[1] This admonition seems to have been lost on the trial court in this case.

This is an appeal from the decision[2] of the Regional Trial Court, Branch 30, of Dumaguete City, finding accused-appellant Edwin Dagangan guilty beyond reasonable doubt of the crime of Rape, with the aggravating circumstance of dwelling, and sentencing him to suffer the penalty of reclusion perpetua and to pay the offended party P40,000, plus the cost of suit.

The information against accused-appellant alleged -

That on or about the 4th day of March, 1993, at sitio Pandan, Barangay Tibyawan, Municipality of Ayungon, Province of Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of violence and intimidation, did then and there willfully unlawfully and feloniously have carnal knowledge of the complainant Felma B. Baldomar, against her will, and in her own house.

That the crime was committed with the aggravating circumstance that said offense was committed in the dwelling of the offended party, the latter not having given provocation for the offense.[3]

The prosecution presented evidence which is fairly summarized in the following portion of the brief for the appellee submitted by the Solicitor General:[4]

On March 4, 1993, complainant Felma Baldomar was asleep, alone in her house and sick with fever and colds. She was, however, awakened when she felt somebody (who she later identified as appellant) was on top of her. Said person covered her mouth and held her hands. Previously asleep, she did not notice the precise time when the man doffed her undergarments (tsn., November 17, 1993, pp. 9-10).

Feeling weak because of her illness, she was not able to resist the assault on her honor. After about five minutes, she heard a voice or sound downstairs. Hearing this, appellant suddenly released her. As she was still in pain, she did not notice where appellant went or what happened next (Ibid, pp. 10-11).

The sound downstairs turned out to be her elder brother, Franklin Baldomar coming home for lunch from the fields. Upon coming up the stairs, and seeing her disheveled state, her brother helped her to stand up and put on her underwear and shorts (Ibid., p. 12; ts., Dec. 2, 1993, p. 4).

Franklin Baldomar testified that when he arrived at their house at noon of March 4, 1992, he heard some moans from upstairs. He went up and in the first room upstairs, he saw appellant naked and in the act of getting

up from atop his sister's body. Only his sister was with appellant then. He told appellant, "Bay, let's talk" and the latter told him that "your sister is an ill mannered person". After this, appellant ran downstairs, naked, bringing with him his short[s] and brief. After appellant left, Franklin Baldomar helped his sister stand up and dress herself (tsn., Dec. 2, 1993, pp. 3-4).

After helping his sister put on her clothes, Franklin Baldomar took a bath. After that, he went out to look for appellant. At about 3:00 in the afternoon, he found him in the flea market, about one kilometer away from their house, playing basketball. However, he did not immediately accost appellant and instead, he let him finish playing basketball. After the game, he asked appellant about the incident in their (Franklin Baldomar's) house. Since appellant did not answer, he brought him home so that appellant can be investigated by the councilor. Although the councilor's house is about 40 meters away from the flea market Franklin Baldomar opted to bring appellant to their house (about one kilometer away from the flea market) for fear that appellant might escape if brought to the councilor's house. (Ibid., pp. 5-6, 14-16).

Dra. Maria Delia Amahit testified that she performed the physical examination on Felma Baldomar. She noted a tear or break in the continuity of the hymen at 3:00 and 9:00 position. She also noted some discharge, which was found to be blood tinged with mucoid, on the vaginal canal (tsn., Nov. 17, 1993, pp. 4-5).

The evidence for the defense, as summarized in the brief for accused-appellant, is as follows:[5]

Accused-appellant denied that he had sexual intercourse with private complainant Felma Baldomar on the date in question (March 4, 1993). (TSN Balasabas, February 22, 1994, p. 18). He, however, said that he and Felma became lovers or sweethearts in January, 1989 during a dance held in connection with the fiesta celebration of Barangay Tambulan. He offered as proof Felma's picture which she gave to him as memento of their relationship (Exh. "1"). After seeing each other for a brief while, Felma went to Manila. Accused-appellant pursued his schooling at the Saint Anthony Academy in Tayasan, Negros Oriental and there he courted another girl who became his wife in June, 1990. He now has two children with her. (TSN Balasabas, February 22, 1994, pp. 2-7).

On March 4, 1993, accused-appellant and a certain Gildo Mojillo went to Sitio Polopandan, Tibyawan, Ayungon, Negros Oriental to see Joel Alejo about the female cow owned by accused-appellant and under Alejo's care which Mojillo wanted to buy. Alejo offered no objection to the sale and delivered the cow to accused-appellant and Mohillo. (Ibid, pp. 8-11).

Accused-appellant and Mojillo, with the cow in tow, passed by the flea market of Tibyawan and took their lunch thereat. After lunch, accused-appellant rested for awhile, after which, he played basketball. (Ibid, p. 11).

In the course of playing basketball, accused-appellant was surrounded by armed persons, numbering more than ten, one of whom was Franklin Baldomar, brother of private complainant. Franklin Baldomar "placed" his small bolo (plamingco) on the neck of accused-appellant, hogtied him, and forced him to go with the group so that the truth can be "ascertained or verified". (Ibid, p. 13).

Accused-appellant was brought to a house approximately one (1) kilometer from the flea market. Joel Alejo and Felma Baldomar were at said house when the group arrived thereat. Felma told accused-appellant, "since you are already here, I do not want you to go back to your family and you shall go with me because I will take charge". Accused-appellant refused, saying that he was already a married man, whereupon, Franklin Baldomar slapped him. Accused-appellant continued to refuse the proposal of Felma and the maltreatment also continued. (Ibid, pp. 15-17).

At midnight of the same day, a barangay councilman, uncle of Felma Baldomar, arrived and asked accused-appellant whether it is true that he had sexual intercourse with Felma. Accused-appellant did not reply for fear of being killed if he made a negative answer. The councilman decided that accused-appellant be brought to the Barangay Captain of Tibyawan. (Ibid, p. 18).

When accused-appellant was already at the house of Barangay Captain Junior Torres, accused-appellant denied the charge of rape, whereupon, the Barangay Captain suggested that accused-appellant be brought to the Municipal Hall of Ayungon, Negros Oriental. (Ibid, p. 21).

The accused-appellant was transported that very evening by the group of Felma Baldomar on a hired jeep from Tibyawan to the poblacion of Ayungon, Negros Oriental. On the jeep were Franklin Baldomar and another person both of whom were carrying long bolos. Fearing that he would be liquidated, accused-appellant jumped out of the moving jeep en route and escaped. (Ibid, pp. 23-24).

Accused was subsequently charged with rape, tried and convicted.

The trial court upheld the prosecution's version. Its reasons are set forth in its decision dated August 19, 1994, thus:[6]

In his defense accused claims that he and complainant are sweethearts since January 1989 when he first courted her at a dance in barangay Tambulan. He, however, denied having sexually abused complainant that noontime of March 4, 1993. Just what accused wanted to prove by his testimony that he and complainant are sweethearts is not clear. Suffice it to say, however, that such testimony only strengthens and fortifies the identity of accused made by complainant as her ravisher. But even on the assumption that accused and complainant are sweethearts, still accused has no right to force his advances on complainant and compel her to yield to his sexual drive and sexually take her against her will. "Love is not a license for lust, at least upon a sweetheart only, who, unlike the wife, has the right to resist the passionate advances of her partner." (People vs. Mercado, 161 SCRA 601; People vs. Melebo, G.R. No. 97921, Sept. 8, 1993).

The lack of an outcry on the part of complainant does not render improbable the commission of rape against her. Human reactions vary and are unpredictable. A person at one moment may cry her heart out over her misfortune but may be dry-eyed the next time she recalls her tragic fate. (People vs. Hortillano, G.R. 71116, Sept. 19, 1989). As shown by the evidence, complainant was taken by surprise and was shocked at the unexpected invasion of her womanhood besides the fact that she was then feverish and was nursing a cold. Under such circumstance, the failure to shout or offer tenacious resistance did not make voluntary complainant's submission to the criminal act of the accused, nor to mean that she has not been raped. A woman would not make public the offense, undergo the trouble and the humiliation of a public trial, endure the ordeal of testifying to all its gory details, and subjecting herself to an examination of the most private and intimate part of her body if she had not in fact been raped, for no decent Filipina would publicly admit that she had been raped unless it is the truth. . . .

The court dismissed accused-appellant's alibi, as well as his claim that he was being falsely charged in order to force him to live with complainant, his former sweetheart, despite the fact that he was then already married.[7]

How valid is the defense of alibi relied upon by the accused? He claims that he was in the place of Joel Alejo at about the time the offense was being committed in the residence of complainant. According to Defense witness Gildo Mojillo, he and accused left Barangay Tameso at about 7:00 A.M. of March 4, 1993 and arrived at the house of Joel Alejo in Barangay Tibyawan at around 11:00 A.M. They then left Alejo's place with the cow, to return home, arriving at the market place of Tibyawan at about 12:00 noon, according to accused himself.

It must be noted that the residence of complainant is in the poblacion of Barangay Tibyawan itself. And according to prosecution witness Joel Alejo his house is only about 100 meters from complainant's house. If accused and Mojillo arrived at the place of Joel Alejo at 11:00 or 11:30 that morning and on their return they arrived at the market place of Tibyawan at around 12:00 o'clock noon of same day, the house of Alejo could not have been far from the poblacion of Tibyawan where complainant resided. And since accused admitted being at the "tabu-an" (flea market) of Tibyawan at 12:00 noon, he was indeed within the vicinity of the residence of complainant at noontime of said day. And there was nothing that could have prevented him from

going to the Baldomar house and commit the crime imputed to him.

Furthermore, having been positively identified by complainant as the person who raped her and by Franklin Baldomar as the one he met coming out of his sister's room that noon of March 4, 1993, the alibi relied upon by accused is unavailing, . . .

. . . .

Accused further complains that he was maltreated by Franklin Baldomar, and by an elderly woman (obviously referring to complainant's sister Edna Dequillo). Assuming said testimony to be true it is not shown nevertheless that the maltreatment was inflicted in order to extract from accused a confession of the crime charged. Rather it is viewed more as an expression of outrage and indignation at what accused did to complainant. Certainly, a dastardly act of rape could not but evoke anger and indignation from the victim's relatives.

Accused declared that during the confrontation in the Baldomar house with Franklin Baldomar, complainant suggested that she did not want accused to go back to his family as she wanted the two of them to go away together as "she will take care of everything." This testimony presupposes that complainant was aware of the married status of accused, and thus it is highly improbable that she, who is single with a better future for a lawful and peaceful married life, would take the risk of going away with accused whom she cannot hope to marry and at the same time face the constant danger of criminal prosecution. It is hardly conceivable, considering the simple-mindedness of complainant as observed by the Court, that she could invent and concoct the serious crime of Rape, with all the unsavory and lurid publicity it naturally results (sic), just to have accused, a much married man live with him under unlawful and scandalous circumstances. The Court, therefore, rejects such testimony for its obvious improbability, if it is intended to show an ulterior motive on the part of complainant in charging accused with the offense of Rape.

In appealing, accused-appellant contends that the trial court erred in convicting him of rape despite circumstances which militate against his guilt, to wit:[8]

- (1) Accused-appellant was taken to Felma's house by Joel Alejo and Franklin Baldomar where he was served supper, together with others, by complainant herself.
- (2) The prosecution evidence shows that complainant did not resist and that even after she had been released because accused-appellant heard Felma's brother coming, she did not shout for help.
- (3) Upon finding accused-appellant inside their house naked, Felma's brother, Franklin Baldomar, showed no outrage but only said, "Bay, let's talk." Instead of pursuing accused-appellant when he ran, Franklin helped his sister dress up and then took a bath. He went to look for accused-appellant only later, and when he found him playing basketball, he waited until the latter was through before talking to him.
- (4) He and Felma were former sweethearts, and this fact was not denied by the prosecution. What the prosecution only said was that the picture, which accused-appellant claimed had been given to him by complainant, had been stolen from the album of the Baldomar family.

We have gone over the records of this case. The trial court correctly rejected the claim of alibi of accused-appellant, but in finding him guilty, it relied more on the weakness of the defense's evidence than on the strength of the prosecution's evidence. As shown by the prosecution's own evidence, the entire conduct of the complainant toward accused-appellant was wholly inconsistent with her claim that she had been raped by him. Yet the trial court found accused-appellant guilty.

First. The crime allegedly took place at noon, on March 4, 1993, in complainant's house. Yet complainant did not notice how accused-appellant was able to get inside the room where she was sleeping. She became aware of his

presence only when he was allegedly on top of her performing the sexual act. Complainant was 22 years old. Even if she was sick at the time, it is inconceivable that she did not know that accused-appellant had entered her room.

Second. Neither did complainant resist. She said:

PROSECUTOR HERMOSA:

Q All right, when you first noticed the accused, you said that your two hands were held by the accused and your mouth was covered by one hand of the accused, what did you do with this situation, or how did you react?

A I wanted to resist but I was not able to resist because my condition at that time was “weak”.

Q Did you try to shout?

A I was not able to shout because I was very weak.[9]

....

Q Did you not try to kick the accused while the latter was on top of you?

A I was not able to kick him because I was feeling very weak at that time because I had a fever and I cannot match his strength because he is a male.

COURT:

Q Did you not try to resist the accused?

A I tried but I was not successful because I was very weak.

ATTY. GARCIA:

Q But from the very moment that you noticed the accused placing himself on top of you, did you not immediately try to kick him at least once?

A No matter how I tried, I cannot resist him because I cannot match his strength because he is a male; I was very weak at that time.[10]

....

Atty. Erames:

Q When you heard the voice of Franklin Baldomar, did you shout for help?

Fiscal Hermosa:

Leading, Your Honor.

Atty. Erames:

I can ask leading questions, Your Honor. What is the matter, Your Honor?

Court:

Please do not make this personal between Counsels. Go ahead.

Atty. Erames:

I would like to make it of record that the witness has having difficulty in answering the question.

Court:

Not necessarily difficulty but it took her a long time to answer the question. Saying that the witness is having a difficulty in answering the question is a conclusion of counsel.

Witness:

A I was not able to shout for help because my mouth was covered by his hand.[11]

....

Q But, in your testimony which I have read, you said that after you heard the voice of a man, you were already released by the accused, why did you not shout?

A I was not able to shout at that time because at that time I was shocked and I was very tired.[12]

Complainant said she did not resist because she was sick and she was weak. She did not explain what she was sick of. Neither did she shout for help. She claimed this was because her mouth was covered by accused-appellant. But when asked why she did not do so even after accused-appellant had removed his hand as he heard complainant's brother coming, complainant said it was because she was in shock.

There is a limit to one's credulity. The testimony of Joel Alejo, a prosecution witness, gave the lie to complainant's claim that she was so weak she could not even shout for help. Alejo said that in the evening of the same day she was allegedly raped, complainant prepared supper and served dinner to accused-appellant and the people who had brought him to complainant's house. If she was ill, how was she able to prepare supper and serve accused-appellant and others who came that night?

Third. Joel Alejo testified:[13]

ATTY. ERAMES:

Q When you arrived at 7:00 there was no prepared supper, it had to be prepared?

A Felma was preparing.

Q Preparing food for you, Franklin and Edwin, is that correct?

A She was preparing for their supper, we were also able to eat because we were together in taking supper.

Q All right. How long did Felma prepare their supper for all of you?

A Less than an hour.

Q So after the supper was prepared, the supper was laid on the table, is that correct?

A Yes.

Q By Felma?

A Yes.

Q And Edwin Dagangan was there also with you at the table?

A Yes.

Q Together with Franklin?

A Yes.

Q And what were ... there was plenty of food as a matter of fact?

A Yes.

Q And as Felma was preparing the table Edwin, you and Franklin were there, did Felma maltreat Edwin?

A No.

Q And when Felma was already through setting the table, the 4 of you dined together at the table?

A Only the 3 of us namely: Franklin, Edwin and myself.

Q Felma was attending to all of you?

A Yes.

Q Felma served for the 3 of you?

A Yes.

Q And while Felma was serving the 3 of you she was quiet, she did not say anything?

A No.

Why should complainant serve dinner to her assailant? Instead of showing anger and outrage, she gave him food. This is bizarre, and tends to confirm accused-appellant's claim that he and complainant were formerly sweethearts, especially when considered with the testimony of complainant's brother that when he found accused-appellant naked inside their house, in the room where complainant was allegedly sleeping, he did not confront him. Franklin Baldomar, the complainant's brother, claimed in court:

Prosecutor Hermosa:

Q In what particular place in your house did you see Edwin Dagangan upon your arrival at the second floor?

A I saw him in the first room.

Q What was he doing in that room when you first saw him?

A He suddenly stood up.

Q Who was in that room at the time aside from Edwin whom you saw, suddenly stood up?

A My younger sister.

Q What's the name of your younger sister?

A Felma Baldomar.

Q When you saw Edwin Dagangan at that time, what did you notice in his body, if there was any?

A He had no clothes.

Q You mean he had no clothes in the upper part of his body and on the lower part of his body?

A Yes, everything.

Q All right, when you saw him "naked" and who suddenly or immediately stood up, what did he do right after he stood up?

A He ran.

Q He ran towards where?

A Downstairs.

Q Naked?

A Yes, sir.

Q Did he bring anything?

A Yes.

Q What did he bring with him?

A His short and brief.

Q All right, in your case, upon noticing the accused who stood up immediately upon your arrival at the second floor, of your house, what did you do?

A I told him that, “Bay, let’s talk” and he answered that “your sister is an ill-mannered person.”

Q All right, what else did you do?

A I helped my sister.

Q In what way?

A I helped her by letting herself stand up and dressing herself.[14]

....

Q All right, right after helping your sister put on her clothes ... put on her short pants, what happened after that?

A I took a bath.

Q After taking a bath, what did you do?

A I told my younger sister to just stay at home so that I will find the accused.[15]

Franklin Baldomar must indeed be a pathetic figure. Finding accused-appellant naked inside their house, he seems to be more surprised — if not embarrassed — than accused-appellant. He did not confront him. He did not even chase accused-appellant when the latter, still naked, allegedly fled. Nor did Franklin act with alacrity to look for accused-appellant. Instead, he first helped his sister get up and dress, and then took a bath. It was only afterward that he went out to look for accused-appellant. Franklin Baldomar said:

Atty. Garcia:

Q What time did you go to the flea market?

A About 3:00 o’clock.

Q Now in going to the flea market you saw the accused playing basketball, am I correct?

A Yes.

Q Did you stop the accused playing basketball in order to confront him?

A I let him finished first.

Q Why did you not immediately confront the accused?

A Because I respected him since he was still playing.

Q You also said that you asked the accused why he ran away, am I correct?

A Yes.

Q Is that all what you said to the accused?

A Yes, that is all.

Q Did you not ask the accused why he raped your sister?

A No.

COURT:

Q Why did you not ask?

A Because I wanted to bring him home.

ATTY. GARCIA:

Q Now you were able to bring the accused home, am I correct?

A Yes.

COURT:

Q Did he not resist?

A He told me that “I will not go with you” but I told him that “you should go with me because I have something to tell you”.

Q Did you not accused him of molesting your sister?

A No.

Q Why did you not?

A Because I was not bringing with me a bolo.

Q What is that bolo for?

A Because I’m apprehensive if he has a weapon, I am afraid of my life.[16]

It would appear that instead of showing contempt and anger for his sister’s outrage, Franklin Baldomar showed great courtesy and civility toward accused-appellant.

Indeed, the evidence of the prosecution, particularly the testimonies of complainant and her brother, Franklin Baldomar, tends to substantiate accused-appellant’s claim that he and complainant were former sweethearts, and that complainant wanted him to live with her and had him practically kidnapped. Although accused-appellant denies that he raped her, the fact is that when examined the day after the alleged incident, complainant’s hymen showed a tear and there was bleeding. The examining physician said this could have been due to sexual intercourse, consensually engaged in for the first time. Dr. Maria Delia Amahit said:[17]

Atty. Garcia:

Q Doctor, in your medical certificate you noted that there was a hymenal tear. My question is: Is it possible, doctor that this hymenal tear can be caused by a voluntary sexual intercourse?

A It could be caused by a voluntary sexual intercourse if it happened for the first time.

Q Likewise you also noted that the hymen is distensible in which a foreign object can easily penetrate and further there was also a laceration of the hymen. My question is: can this also be caused by a voluntary sexual intercourse?

A It could be.

The foregoing observations place in grave doubt the claim of complainant and raises the suspicion that complainant was not raped, but that she and accused-appellant were lovers who were having a tryst. The trial court, however, paid more attention to the weakness of accused-appellant's evidence, especially his defense of alibi, and overlooked the improbability of the prosecution's claim that accused-appellant committed rape.

WHEREFORE, the decision of the trial court is REVERSED and accused-appellant Edwin Dagangan is ACQUITTED for failure of the prosecution to prove its case beyond reasonable doubt.

SO ORDERED.

Regalado (Chairman), Melo, Puno, and Martinez, JJ., concur.

[1] E.g., *People v. Manansala*, G.R. Nos. 110974-81, June 17, 1997; *People v. Godoy*, 250 SCRA 676 (1995); *People v. Sanchez*, 250 SCRA 14 (1995); *People v. Teves*, 246 SCRA 236 (1995); *People v. Tacipit*, 242 SCRA 241 (1995).

[2] Per Judge Enrique C. Garravillo.

[3] Records, p. 1.

[4] Rollo, pp. 94-97.

[5] *Id.*, pp. 45-47.

[6] *Id.*, pp. 67-69.

[7] *Id.*, pp. 67-69.

[8] *Id.*, pp. 47-57.

[9] TSN, p. 11, Nov. 17, 1993.

[10] *Id.*, p. 19.

[11] TSN, p. 6, April 13, 1994.

[12] *Id.*, p. 7.

[13] TSN, pp. 14-15, July 14, 1994.

[14] TSN, pp. 3-4, Dec. 2, 1993.

[15] *Id.*, p. 5.

[16] *Id.*, pp. 14-15.

[17] TSN, p. 6, Nov. 17, 1993.

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