

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROTELDO TORION, ACCUSED-APPELLANT.*G.R. No. 120469. May 18, 1999*

Ponente: BELLOSILLO, J.

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ROTELDO TORION was found guilty of rape by the trial court and sentenced to reclusion perpetua.[1] He is now before us protesting his conviction and insisting on his innocence. He claims that the evidence for the prosecution is riddled with material inconsistencies and falsehoods,[2] hence, he pleads for acquittal not only on the ground that he is innocent but that the evidence presented against him fails to satisfy the requisite quantum of proof beyond reasonable doubt.

Eufemia Codera, complaining witness, and Roteldo Torion, accused-appellant, are fourth degree cousins. Both hail from Masbate. For a year Eufemia lived with accused-appellant and his family at 54 Anahaw Street, Barangay Cupang, Muntinlupa City. She was a laundry woman doing laundry for a living. On 29 May 1992 Eufemia transferred to the house of accused-appellant's daughter Liza and son-in-law Jimmy Payno, which was just some five (5) meters away.

Eufemia claimed that in the early morning of 30 May 1992 she felt somebody on top of her. She woke up. When she opened her eyes, she saw accused-appellant with his pants and underwear already drawn. She tried to push him away but could not because of her frail body. He threatened to kill her with a balisong, which he was holding with his right hand and planted on the left side of her neck, if she shouted. He then forced her legs open, according to her, tore off and removed her panty, and with his left hand forced his penis into her vagina. After three (3) thrusts, he ejaculated. Then he left. Before leaving however, he promised her that he would henceforth live with her and leave his wife behind.

Eufemia also claimed that on the very same day of the incident she reported the matter to accused-appellant's wife Rita who solicitously gave her a tablet to take and convinced her to forget everything. Nevertheless, on 4 June 1992 she went to the Muntinlupa Police to report the rape and then proceeded to the NBI for physical examination. On 15 December 1992 a complaint for rape was filed in court against accused-appellant.

The prosecution did not present any other witness to corroborate the lone testimony of complaining witness Eufemia Codera.

Accused-appellant, to prove his innocence, presented as his witnesses his wife Rita Torion, his daughter Liza Torion Payno in whose house the alleged rape took place, Dr. Herminia Cipriano, their community doctor, and their barangay secretary Domingo Villamor. He also took the witness stand and narrated that the complainant lived with him and his wife for about a year. On 29 May 1992 his wife called the attention of complaining witness that she was drinking too often with their male neighbors and that it was already becoming scandalous. Rita also reminded her to stop these drinking spree if possible. But instead of heeding Rita's advice, Eufemia resented it. This in fact resulted in an altercation. Eufemia then left the house of the Torions and moved to that of their

daughter which was just a few steps away.

At around four or five o'clock the following morning, Rita agains had a serious argument with Eufemia and scuffle ensued where Rita suffered injuries which were treated by Dr. Cipriano. Like their first incident, this one was also reported to the barangay captain who entered it in the barangay logbook. Thereafter, upon initiative of the barangay officials, the protagonists amicably settled their differences.

Dr. Cipriano testified on her treatment of Rita's injuries and bruises which she said could have been sustained by Rita in a fight, while barangay secretary Domingo Villamor confirmed that Rita indeed filed a complaint against Eufemia before the barangay office but they were able to settle the case amicably.

After trial, the court a quo found accused-appellant Roteldo Torion guilty as charged. Then and there accused-appellant filed a motion for new trial on the ground that new witnesses whose testimonies could not have been produced with reasonable diligence prior to or during the trial had been discovered.[3] In the joint affidavit of these proposed witnesses they narrated that on 25 March 1995 Eufemia Codera bragged that she was able to have accused-appellant sentenced to life even if she was not actually raped by him, and when asked why she accused him of rape she replied that it was to get even with his wife who quarreled with her in the early morning of 30 May 1992.

However, the trial court denied accused-appellant's motion on the ground that the alleged new evidence was merely hearsay.

Accused-appellant now argues before us that the trial court gravely erred in giving credence to the inconsistent and incredible testimony of complaining witness Eufemia Cordera, and in denying his motion for new trial.

There is merit in the appeal. While it is settled that findings of fact of trial courts are generally given much weight, if not finality, there are indeed cogent reasons in the instant case to disregard the conclusions of the lower court. We are quite disturbed with the tale of complaining witness Eufemia. Not only are her allegations uncertain and inconsistent on substantial aspects, they are also quite confusing and contrary to human experience.

First. Complaining witness teetered when queried whether Liza Torion and her husband were asleep or awake during the alleged rape and thus could have been witnessed the actual sexual encounter -

Atty. De Castro (counsel for the defense):

Q: What were they (Liza Torion and her husband Jimmy) doing when you were allegedly raped?

Complaining witness:

A: They just keep silent, sir.

Q: Are you saying that they were awake when you were being raped?

A: Yes, sir x x x x

Q: But in your statement given to the police you said that while you were being rape inside a room Liza and Jimmy were sleeping inside a room?

A: They were already sleeping, sir.[4]

Second. She continuously waived when asked she was asleep or awake when the alleged rape took place -

Atty. De Castro (counsel for the defense):

Q: Earlier when you testified x x x you were already awake when the accused pointed the knife at your neck and held his penis and entered you?

Complaining witness:

A: Yes, sir.

Q: x x x in your statement given to the police you said that you were asleep and when you awoke the accused was already inside you, meaning he has (sic) already raped you, which is correct?

A: I was asleep, sir x x x x

Q: What happened with your panty? I mean when the accused raped you, were you wearing a panty?

A: Yes, sir x x x x

Q: If that is the case the organ of the accused did not penetrate your private organ because there is (sic) something there that blocks (sic) your panty?

A: He removed my panty, sir.

Q: So now you are again changing your answer x x x x were you not awoken (sic) when the accused took your panty?

A: I was awoken (sic), sir.

Q: x x x x but earlier you said you were awoken (sic) when the accused was already pointing his knife at your neck. Which is true now, which is correct?

A: When he pointed the knife at my neck, sir.

Q: But you said earlier that x x x when you awoke he was already inside you x x x which is correct now?

A: I was awoken (sic) when he forcibly penetrated his organ to my organ, sir, by holding his penis with his left hand x x x x

Q:

Let us go back to the question. When for the first time did you wake up? Was it right after he took your panty or right after he penetrated you x x x or when he pointed his knife at your neck?

A: When he removed my panty, sir.[5]

Third. Quite significantly, because of the vacillating, confusing, uncertain, incredible testimony of complaining witness, the public prosecutor himself was forced to cut short the presentation of his evidence and to rest his case, even foregoing with the testimony of the medico-legal officer -

Court: Any redirect?

Fiscal Ong: No redirect, Your Honor. We would like to make it of record, in order to clear doubt on my part, that I have x x x interviewed the private complainant for more or less one (1) hour, and I was then confused when I presented her. I (am) even confused up to this time. I'm sorry, I'm resting our case.

Court: How about the doctor?

Fiscal Ong: No more, Your Honor.[6]

Fourth. If the complaining witness Eufemia was in fact raped she should have mentioned this and charged accused-appellant accordingly when she and his wife Rita were called for a conference by the barangay officials on a grievance against her by Rita. Eufemia should not have simply allowed the charges leveled against her by the Torion family to pass and be settled amicably, if she was really raped by the accused-appellant and thus the real aggrieved party.

Fifth. In fine, it does not seem credible indeed that on the very same day that complaining witness decided to leave the house of accused-appellant and moved to the adjacent house of his daughter and son-in-law, accused-appellant would give vent to his "pent-up lust" and unleash it on her. For a year complaining witness lived with the accused-appellant. Not a strand of her hair did he touch. Then suddenly, after she left the house of

accused-appellant, he would ravish her. Why did he not do this to her when she was still living with him in his house if indeed he had the urge to have sex with her? Could he have contained for a year his fleshly prurience, held it in rein and waited patiently for her to move out of his house before giving in to his venereal appetite? Could this be a spartan-like discipline? But this psychological endurance is unknown to a rapist who is a man of unbridled lust and captive to his perverse instincts.

While it may be true that in rape cases the lone testimony of the supposed victim is enough to sustain a conviction, such testimony must meet the test of credibility, which means, that the testimony should not only come from the mouth of a credible witness, it should likewise be credible and reasonable in itself, candid, straightforward and in accord with human experience. The testimony of complaining witness Eufemia, unfortunately, is far from these. The discrepancies in her testimony have seriously impaired its probative value and cast serious doubt on its credibility. Her contradictory statements on important details simply eroded the integrity of her testimony.

Needless to stress, the prosecution has failed to establish the guilt of accused-appellant with moral certainty. Its evidence has fallen short of the quantum of proof required for conviction. Among the fundamental rights of an accused under our Bill of Rights is to be presumed innocent until the contrary is proved, and to overcome the presumption, the prosecution must establish with nothing but proof beyond reasonable doubt. In our criminal justice system, if the prosecution fails to discharge its burden of proving the guilt of the accused beyond reasonable doubt, it becomes not only the right of the accused to be set free but also the constitutional duty of the court to set him free. This leaves the Court with no option but to acquit accused-appellant Roteldo Torion for insufficiency of evidence; at the very least, on reasonable doubt.

With this conclusion, we deem it unnecessary to resolve the issue raised by the denial of the trial court of the accused-appellant's motion for new trial.

WHEREFORE, the decision of the Regional Trial Court of Makati, Br. 135, convicting accused-appellant ROTELDO TORION of rape is REVERSED and SET ASIDE. He is therefore ACQUITTED of the crime charged and ordered released immediately from confinement unless held for some other lawful cause. Costs de oficio.

The Director of the Bureau of Corrections is DIRECTED to implement this Decision and to report to this Court immediately the action taken hereon but not later than five (5) days from receipt hereof.

SO ORDERED.

Puno, Mendoza, and Quisumbing, JJ., concur.
Buena, J., on leave.

[1] Decision penned by then Judge Omar U. Amin, RTC-Br. 135, Makati City.

[2] Appellant's Brief, p. 9; Rollo, p. 58.

[3] Accused-appellant's Motion for New Trial, p. 1; Records, p. 159.

[4] TSN, 15 September 1993 pp. 4-5.

[5] Id., pp. 6-8.

[6] Id., p. 10.

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