# PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAFAEL “LITO” BALDEVIESO, FAUSTO “TOTOY” ESCALANTE AND ROBERTO IMPERIAL NERI ALIAS “BALBON,” ACCUSED-APPELLANTS.

*G.R. No. 127315. September 21, 1999*

Ponente: BELLOSILLO, J.

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**BELLOSILLO, J.:**

RAFAEL "Lito" BALDEVIESO, FAUSTO "Totoy" ESCALANTE and ROBERTO "Balbon" NERI were found guilty by the trial court as co-principals in the crime of Serious Illegal Detention and sentenced to reclusion perpetua.[1] They now appeal to us imputing error to the trial court in giving full weight to the conflicting and incredible testimony of the private complainant.[2] They insist on their exoneration not only on the ground that they are innocent but also because the evidence presented against them does not measure up to the required quantum of proof beyond reasonable doubt.

On 16 April 1994 at around 5:30 in the morning, 16-year old Liza Margarejo went out of their house to defecate in an open space nearby, as she usually did. When she stood up after she was through to put on her underwear and short pants, a man suddenly boxed her in the stomach and almost simultaneously another one forced a tablet into her mouth. Either because of the pain wrought by the sudden punch or because of the instantaneous effect of the tablet, Liza felt her consciousness slipping away. When she recovered she found herself in a hut with bamboo splits for a flooring. There she noticed the three (3) accused conversing in hushed tones. Then another tablet was forced on her causing her to faint for the second time. When she regained consciousness the three (3) were gone. She also left the hut. Trudging along a trail in the rice fields towards the direction of the poblacion, she met Dioning Almirol who was grazing his carabao. She finally reached the house of her grandmother at around 5:00 o'clock that afternoon. When the neighbors of her grandmother learned of her misfortune they immediately fetched her parents who were living close by.

On the same day, together with her father Enrique Margarejo, Liza went to the police station where she was instructed to undergo first a medical examination. She was examined at the Narra Municipal Hospital by Dr. Perceverando Tangug who found some redness or erythematosis of the muscular tissues on her vulva. He opined that a blunt object, such as an erect penis, was probably employed on the vulva causing the redness although apparently coitus was not consummated. He noted the absence of bleeding or any hymenal laceration. Upon examination of the vaginal opening Dr. Tangug observed that the hymen was still intact and could only admit the tip of his finger.[3] These findings were reflected in the Medico Legal Certificate issued to Liza.[4]

Liza and her father returned to the police station at around 7:00 o'clock in the evening and lodged a complaint with PO3 Ramie Rosales who together with SPO3 Cesar Dellero and SPO1 Rodolfo Alili,[5] proceeded with dispatch to the house of the victim, about 2 kilometers away from the Narra municipal building, to see the reported scene of the crime. Then they went to the house of "Totoy" Escalante where they found him with

"Balbon" Neri and Sally Binday and invited them for questioning. While SPO3 Alili was investigating "Totoy" Escalante and his two (2) companions, two (2) other police officers went out to fetch the other suspect "Lito" Baldavieso to invite him for tactical interrogation. However, after three (3) hours, the suspects were released for lack of sufficient evidence to sustain a complaint against them.

Liza's parents subsequently sought the assistance of the National Bureau of Investigation. They went to the Sub-Office of the NBI in Puerto Princesa City (PUERSO) for further investigation so that appropriate charges could be filed against the perpetrators of the offense.

Senior Investigator Eduardo T. Villa, in the presence of the Officer-in-Charge of the NBI PUERSO, took the sworn statement of complainant Liza Margarejo. On the basis thereof and the medical report of Dr. Tangug, an information for forcible abduction, which was subsequently amended to forcible abduction with rape, was filed against "Lito" Baldevieso, "Totoy" Escalante and "Balbon" Neri.

All three (3) accused denied any culpability; they insisted on their innocence and sought refuge in their denial and alibi.

Fausto Escalante asserted that he was at home in the morning of 15 April 1994 at about 10:00 o'clock when Roberto, Lito and Sally Binday arrived. Lito and Sally dropped by because they visited Roberto's farm lot, which was adjacent to that of Fausto. Roberto, on the other hand, had just arrived from Zambales after an absence of two (2) years. As was customary among barrio folk, Fausto bought three (3) bottles of liquor at a nearby store and they drank as they conversed.

In the evening of that same day, at half past seven, Sally Binday told the group that she saw Liza Margarejo and Joel Nicolas kissing each other near the fence of Fausto Escalante. So the group quietly approached the two (2) lovers and surprised them. Startled, Liza and Joel scampered away but not before Joel could utter, "p - - - ina ninyo." Then the group returned to the house of "Totoy" Escalante although they only stayed outside under the tree. Shortly after, they decided to leave for Roberto's house, which was about a kilometer away, to continue their drinking. But on their way, they passed by the store of a certain Mr. Cruz and there resumed their binge until they separated at midnight. Lito went home at the PC Compound while Roberto and Fausto dropped by the Public Market where Roberto met "Oyoc," the guard on duty and a long-time acquaintance. They spent the night at the market. The following morning they purchased some meat and papa-itan. Roberto and Fausto went back to the latter's house and there idly spent the whole day of 16 April 1994. At 9:00 o'clock that evening they were roused from their sleep by the police who brought them to the police station for questioning concerning Liza's complaint. On their way to the police station, Sally Binday was also picked up. But the authorities subsequently released them for insufficiency of evidence.

Roberto Neri's testimony substantially corroborated that of Fausto Escalante and reiterated the defense of denial and alibi. Roberto narrated that at about 10:00 o'clock in the morning of 15 April 1994 he was at the Narra Terminal having just arrived from Zambales where he stayed the past two (2) years. From the terminal he went to the house of Fausto where he also met Lito and Sally. They were still drinking when Sally Binday told them that she saw Liza and Joel kissing near the fence of Fausto at around half past seven in the evening. Curious and naughty, "Lito," "Totoy," "Balbon" and Sally inched their way towards Liza and Joel. Sensing the presence of the voyeurs, the two (2) hastily left but not before Joel cursed them, "p - - - ina ninyo." Lito, Fausto and Roberto then went to the poblacion leaving Sally behind. When they reached the poblacion, the three (3) continued with their drinking spree until midnight when they called it a night. Lito went home while Fausto and Roberto dropped by the public market where they met Oyoc, a long time friend of Roberto. Their happy meeting lasted until 3:00 o'clock the following morning. They passed the time at the slaughterhouse of the market until they could buy meat


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before proceeding to Fausto's house.

Lito Baldevieso, on his part, affirmed his Sagot Salaysay which materially substantiated the testimonies of his co-accused.

Assessing the evidence on record, the trial court refused to believe the testimony of complaining witness Liza Margarejo in its entirety. It opined that forcible abduction[6] could not have been committed because the element of lewd designs was not proved nor even hinted at in her testimony. Nor could the accused be found guilty of rape in the absence of telltale signs more pronounced than the mere redness of the vulva evincing employment of physical violence and sexual abuse committed by several persons. It also noted that when Liza regained consciousness alone in the hut she was still clothed with the same apparel she was wearing when purportedly assaulted, lost consciousness, and then taken away. In fact, there was no showing whatsoever that any piece of Liza's clothes was ever removed or detached from her body. Liza herself was without any knowledge that she was sexually harassed and violated. Otherwise stated, carnal knowledge was not proved.

However, the trial court was convinced that the three (3) accused forcibly took and carried away Liza Margarejo to an undisclosed place and restrained her of her liberty thereat for almost 12 hours.[7] Consequently, it found all three (3) accused guilty of Serious Illegal Detention and sentenced them to reclusion perpetua.

We do not agree. While we are convinced, as was the lower court, that the crime of forcible abduction with rape was not established, we also find that the charge of Serious Illegal Detention against the same accused has not been established. In concluding that the accused were guilty of Serious Illegal Detention, the court below made no serious effort to consider impartially and dispassionately the totality of the evidence for the prosecution. The technique in deciphering testimony is not to focus on isolated parts of that testimony. Its correct import can often be ascertained only upon perusal of the entire testimony. Considered independently of any other, the effects may not suffice to overturn the lower court’s judgment of conviction; but assessed and weighed conjointly, they exert a powerful compulsion towards the reversal of the judgment.[8] A close scrutiny of Liza’s testimony will readily exhibit discernible and easily perceived inconsistencies and contradictions, which are in no wise trivial but go to the very core of her credibility.

Liza, on direct examination, asserted that Lito was her assailant; yet, on cross, she testified that before she was boxed she did not notice the presence of any of the three (3) accused.[9] Again, she testified that she regained consciousness at her grandmother’s house and was not sure how she got there.[10] Yet, her testimony on cross-examination was diametrically opposed to her declaration, thus[11]-

> Q: Before you were boxed you did not see anybody?
> A: None, sir.
>
> Q: You did not notice the presence of the three accused while you were defecating?
> A: No, sir.
>
> Q: Where did you regain consciousness?
> A: I don’t know sir.
>
> Q: Yesterday you said you regained consciousness in the house of your grandmother?
> A: Yes, sir.

As the above testimony shows, Liza was oblivious of how she reached her grandmother’s house as she was supposedly unconscious all the time until she recovered; yet, surprisingly, on cross-examination, she recalled a lot of details while on her way from the hut to her grandmother's house, thus[12]-

> Q: The place you passed through from the hut to the house of your grandmother, do you know if it is (sic) a

farm lot or what?
A: It was a farm lot, rice lot sir.

Q: But at the time there was no irrigation water, is (sic) it not?
A: None, sir.

Q: Did you take a trail or a road from that hut to the house of your grandmother?
A: It was only a trail on the rice field sir.

Q: And there was (sic) no rice plants at that time?
A: No, sir.

Q: Do you remember having met anybody from the hut to the house of your grandmother?
A: Yes sir, Dioning Almirol, was the one who saw me.

Q: You also saw him?
A: Yes sir.

Q: Did you recognize him at the time?
A: Yes sir, I also recognized him.

Q: Did he not talk to you or you did not talk to him?
A: No sir.

The way Liza adjusted and realigned her answers to cover up her inconsistencies was typified by this exchange[13]-

Q: What time did you regain consciousness Madam witness?
A: About 5:00 o'clock in the afternoon on that very day.

Q: Who did you notice in the house of your grandmother when you regained consciousness?
A: My grandmother, my sister, and some neighbors of my grandmother.

Q: You said earlier that you saw Lito Baldevieso, and his two companions when you regained consciousness?
A: Yes sir.

Q: Where were you then?
A: I don't know the place, sir.

Q: Was it in the house or where?
A: I just noticed that the flooring of the house was made of bamboo split, sir.

Q: So it was a kind of a house?
A: Yes sir.

Q: Was it the house of your grandmother?
A: No sir.

And then again in this portion of Liza's testimony[14]-

Q: Who boxed you after defecating, and the first time you saw Lito Baldevieso after you have defecated is not true?
A: No sir.

Q: It was not true that you saw Lito Baldevieso before you were boxed, why did you say that it was Lito Baldevieso who boxed you?
A: I remember that I was boxed.

Another inexplicable discrepancy in Liza's testimony was her positive assertion on direct testimony that she lost consciousness at the very moment she was supposedly boxed and thereafter recovered only when she was already at her grandmother's house. Yet, on cross-examination, she disclosed that she fainted a number of times and on different occasions.

Moreover, if indeed the three (3) accused took turns in molesting her, there should have been innumerable telltale signs of physical abuse, particularly in the genitalia, more pronounced than the mere redness of the vulva or a dirty underwear. We recall that Liza, in her testimony, revealed that her clothes, i.e. t-shirt, shorts, and panty, were still very much in order when she regained consciousness. We are not unmindful that when a woman is raped while unconscious her resistance is reduced to a bare minimum hence also a minimum of telltale signs. But would it be over-extending this supposition when the alleged victim was boxed, forced to take a medicine, then taken away and finally gang-raped, while in the state of unconsciousness as in this case? Finally, Liza explained that she felt pain in her thigh and shoulder when she recovered, yet it was strange that her stomach was not hurting when in the first place she lost consciousness when "Lito" supposedly hit her on that part of her anatomy!

On the other hand, the defense of alibi by the accused, although inherently weak, is more attuned with what really transpired on that fateful day of 16 April 1994. The testimonies of the three (3) accused were not only corroborative but devoid of material inconsistencies. Needless to say, conviction will not depend on the weakness of the defense but on the strength of the prosecution. For the prosecution to succeed, it is imperative that the complainant's testimony be not only believable but must spring from the mouth of a credible witness which common experience can probe under the circumstances. Liza's testimony was riddled with inconsistencies which when taken collectively revealed a pattern of contrivance.

In abduction with rape wherein the offended party's story, the greater part of which is improbable, is not corroborated by the other evidence of the case as against the defendants, and wherein the allegations of the defense appear to be more in consonance with the normal course of human events and are partly confirmed by the evidence in the case, the best action to take, as justice demands, is to give more credit to the exculpatory testimony of the defendants, applying in their favor, as subsisting and intact, the presumption that a man is innocent until the contrary is shown.[15]

We are not saying, however, that no harm or injury was ever done in any way against the complainant. Nor are we certain that the claims and assertions of the alleged victim were all absolutely false. The prosecution, simply, was not able to establish the immutable requisite of proof beyond reasonable doubt in order to obtain conviction. Truly, we can guess and theorize on what really happened on the day in question, or we can speculate on the motives why the charges have been filed but in the process we will be treading on the realms of conjecture. In criminal prosecution, the court is always guided by evidence that is tangible, verifiable and in harmony with the usual course of human experience and not by mere conjecture or speculation. While guilt should not escape, innocence should not suffer.

Thus in view of the severity of the penalties for the offense of Serious Illegal Detention we caution the lower courts to take utmost care to avoid miscarriage of justice. When reasonable doubt exists, the verdict should be one of acquittal.

WHEREFORE, the Decision of the lower court finding accused-appellants Rafael "Lito" Baldevieso, Fausto "Totoy" Escalante and Roberto "Balbon" Neri guilty of Serious Illegal Detention is REVERSED and SET ASIDE and accused-appellants are ACQUITTED thereof. Consequently, they are ordered IMMEDIATELY RELEASED FROM CUSTODY unless lawfully held for another cause.

The Director of the Bureau of Corrections/Iwahig Sub-Colony, IPPF, Puerto Princesa City, is DIRECTED to


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implement this Decision immediately and to report to this Court without delay the action taken hereon but not later than five (5) days from receipt hereof.

**SO ORDERED.**

Mendoza, Quisumbing, and Buena, JJ., concur.

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[1] Decision penned by Judge Filomeno A. Vergara, RTC-Br. 52, Puerto Princesa City.

[2] Rollo, p. 62.

[3] Id., pp. 21-22.

[4] TSN, 14 September 1995, p. 19.

[5] SPO3 Dellero and SPO1 Alili were both deceased during the pendency of the criminal action.

[6] The elements of forcible abduction are: (a) the person abducted is any woman, regardless of her age, civil status, or reputation; (b) the abduction is against her will; and, (c) the abduction is with lewd designs.

[7] Rollo, p. 31.

[8] People v. Sinatao, G.R. Nos. 10815-16, 25 October 1995, 249 SCRA 555.

[9] TSN, 23 October 1995, p. 4.

[10] Id., p. 7.

[11] Id., p. 5.

[12] Id., p. 16.

[13] TSN, 24 August 1995, p. 6.

[14] Id., p. 7.

[15] People v. Cosca, 52 Phil. 361 (1928).

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