# PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. YAMASITO VERGEL @ "BUBOY" AND DANNY DURAN, ACCUSED, YAMASITO VERGEL @ "BUBOY," ACCUSED-APPELLANT.

*G.R. No. 128813. October 04, 1999*

Ponente: PANGANIBAN, J.

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**PANGANIBAN, J.:**

In resolving this case, the Court reiterates the rule that the findings of the trial court on the credibility of witnesses are entitled to great respect and will not be disturbed on appeal, absent any showing of palpable mistake or grave abuse of discretion.

The Case

Before this Court is the appeal filed by Yamasito Vergel, assailing the Decision[1] of the Regional Trial Court of Malolos, Bulacan (Branch 78), in Criminal Case No. 661-M-96, finding him guilty of rape and sentencing him to reclusion perpetua.

Acting on a Complaint filed by Elizabeth S. Lawson, Assistant Provincial Prosecutor Edsel M. Rutor filed an Information[2] dated May 14, 1996, charging appellant and Danny Duran with rape, allegedly committed as follows:

> "That on or about the 15th day of February, 1996, in the [M]unicipality of Meycauayan, [P]rovince of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping each other, armed with a firearm and bladed instrument, did then and there wilfully, unlawfully and feloniously, by means of force, violence and intimidation, with lewd designs, have carnal knowledge of the offended party Elizabeth S. Lawson, against her will and without her consent."

Assisted by Counsel Macario Go,[3] Appellant Vergel pleaded not guilty when arraigned on May 24, 1996.[4] Accused Duran remained at large. Trial proceeded against appellant only.

On November 6, 1996, the court a quo rendered the assailed Decision,[5] the decretal portion of which reads:

> "WHEREFORE, premises considered, judgment is hereby rendered finding the accused YAMASITO VERGEL GUILTY BEYOND REASONABLE DOUBT of the crime of rape defined and penalized under Art. 335 of the Revised Penal Code and hereby sentences him to suffer the penalty of RECLUSION PERPETUA and to indemnify the victim [in] the amount of P100,000.00 in moral damages and to pay the costs of suit."[6]

Hence, this appeal.[7]

The Facts

Version of the Prosecution

The Office of the Solicitor General presents the following narration of facts as viewed by the prosecution: [8]

> "Sometime before 11:00 o'clock in the morning of February 15, 1996, appellant Yamasito Vergel and Danny Duran, both apparently drunk and armed with a gun and fan knife (balisong), respectively, fetched and forcibly brought victim Elizabeth Lawson on board a tricycle to the apartment of a certain Aling Aurora located at Zuniga, Bayugo, Meycauayan on the pretext that her mother wanted her to join her there.
>
> "When they arrived at the apartment, Elizabeth was told by appellant to wait for her mother who had gone out to buy something. Appellant then poked the gun at her side and pulled her into a bedroom. Appellant put the gun down on the bed and then removed the victim's clothes before undressing himself. When they were both naked, appellant parted the victim's thighs and inserted his penis into her vagina. He made up and down and push and pull movements only pausing whenever he heard Danny Duran, who had stayed guard near the door of the sala, alert him to the presence of someone passing. Appellant held the victim's outstretched arms above her head and mashed her body while performing sexual intercourse with her. The victim, who felt pain in her private parts, pleaded with the appellant to let her go home. At about 1:00 o'clock in the morning of the following day appellant, after satisfying his lust, finally agreed to let the victim go home but only if she would tell no one about the incident. Appellant and Duran dropped the victim off in her home and then sped off on board a tricycle.
>
> "Exhausted from her ordeal, the victim did not tell her mother about the rape upon reaching home. It was only on the morning of February 27, 1996 that she narrated the incident to her mother after the latter noticed 'kiss marks' on her neck. Her mother lost no time in reporting the matter to the authorities and filing a complaint against appellant and Duran.
>
> "The victim was brought by her mother to the hospital at Camp Olivas, Pampanga for medical examination. She was later confined at the Nazareno Clinic from March 1-3, 1996 for treatment after she was found to be suffering from a vaginal infection.
>
> "Dr. Edgardo Gueco, PNP Superintendent and Chief of the Crime Laboratory at Camp Olivas, examined the victim on February 29, 1996 upon the request of the Meycauayan Police. Genital examination of the victim revealed newly-healed hymenal lacerations at 1, 4 and 10 o'clock positions.
>
> "Incidentally, the victim who was 21 years old at the time of the incident, finished schooling only up to Grade VI. She was nicknamed 'Nano' because of her short height. She had a low IQ and was sickly."

Version of the Defense

Appellant Vergel denied that he had raped Elizabeth. The trial court's summary of his testimony, which was reproduced in the Appellant's Brief, is quoted hereunder:[9]

> "On the part of the defense, the accused Vergel denied the charges leveled against him, insisting that it was the victim's mother who caused the filing of the instant suit as the latter was constantly being reminded by the accused of her monetary obligations to the accused in the amount of P4,000.00. In fact, in the morning of February 28, 1996, as he was again collecting from the victim's mother the amount the latter owed him, he was told by Mrs. Lawson that something [would] happen to him. True enough, on the evening of that day, he was arrested by the authorities. He likewise insisted that he could not have done the alleged rape at the place being referred to by the private complainant as the said place is teeming with people considering that beside it is an artesian well, on its other side is a store and fronting it is a street where there are many passersby."[10]

Ruling of the Trial Court

The trial court gave credence to the testimony of Elizabeth Lawson and debunked appellant's denial, ruling that such defense could not prevail over the positive testimony of a credible witness.


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> "While the victim's narrations were at times confusing the private complainant having given answers totally unrelated to the questions being propounded, nevertheless, her testimony, taken in its entirety, revealed a clear picture of the consummation of the crime of rape and that the accused Vergel was the author thereof.
>
> "It must be stressed that the victim is a mere grade school graduate which made it doubly difficult for her to immediately comprehend the questions thrown at her and to offer an intelligent answer. It would not matter that she was unable to sequentially describe her ordeal. 'The failure of a rape victim to relate in detail the things done to her does not lessen her credibility[;] instead it indicates her sincerity, candor and lack of outside suggestion' (PEOPLE vs. PAMOR, supra) for 'a rape victim is not and cannot be expected to keep an accurate account of her traumatic experience.' (PEOPLE vs. SABELLINA, 239 SCRA 492). What is relevant is that she was able to describe details which [constitute] the elements of the crime complained of -- the accused had carnal knowledge of the offended party and xxx coitus was done through force or intimidation (PEOPLE vs. FABRO, 239 SCRA 462).
>
> "Besides, as the Court had noticed, the private complainant was trembling, confused and ashamed during all the time that she was on the stand. This is quite understandable for she could not be expected to be at ease relating to the public a painful and humiliating experience."[11]

In disbelieving appellant's claim that it was the victim's mother who had initiated the filing of the rape case, the trial court ratiocinated:

> "The Court also cannot fathom the defense being advanced by the accused that the victim's rape charges [were] mere concoctions planned by her mother. In the first place, no woman would permit herself to be used, even by her own mother, for some flimsy reason. The Filipino culture places a heavy premium on a Filipina's purity and virginity, thus, making it unthinkable for the herein victim to make-up such a story. 'An unmarried Filipina would not publicly admit that she had been raped, voluntarily allow herself to be medically probed and endure humiliating and delicate questions in the course of the trial, if her accusations were malicious concoctions.' (PEOPLE vs. BAUTISTA, 236 SCRA 102).
>
> "What is more appalling is the accused's insinuation that the rape story was the victim's mother's brainchild simply because of a P4,000.00 debt which the accused had been continuously and annoyingly demand from her. 'No mother would stoop that low as to subject her daughter to the physical hardship and shame concomitant to a rape prosecution just to assuage her own hurt feelings' (PEOPLE vs. REJANO, 237 SCRA 627) or 'to satisfy her desire for revenge' (PEOPLE vs. SABALLE, 236 SCRA 365) or simply because of a 'supposed feud' (PEOPLE vs. SABELLINA, supra)."[12]

Assignment of Errors

In his Brief, appellant submits that the trial court committed the following errors:

> "I. The trial court gravely erred 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:
>
> "(1) The presence of the essential elements [that] constitute rape was not proved[;] on the contrary, granting that the testimony of the complainant [was] true, it is clear that the act if done, was with the consent of the offended party;
>
> "(2) The circumstances as narrated by the offended party [were] contrary to the natural human experience and on this basis alone, the trial court should have taken the testimony of the offended party with extreme caution, as it [was] clearly fabricated;
>
> "(3) The trial court totally ignored the clear and direct testimony of both the offended party and her mother that the latter discovered the commission of the offense because of the presence of kiss marks on the neck of her daughter.


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"II. The trial court erred in totally disregarding the defense of the accused that the victim's tale of rape [was] incredulous and was merely a concoction of the victim's mother who had an axe to grind against him.

"III. The trial court erred in not giving weight and importance [to] major inconsistencies in the testimony of the victim xxx:

> (1) she stated at first when she was called at her house that if she will not go with them, she will be killed, later she testified that if she will not go with him, he will kill her mother;
>
> (2) the impossibility of waiting for her mother inside the room when there [were] several persons in the house;
>
> (3) at the time accused [was] undressing himself, she ha[d] all the time to shout or run away or call the attention of the persons in the house and outside of the house;
>
> (4) the on and off acts of abusing the victim [were an] impossible scenario in a crime of rape;
>
> (5) [the victim's statement]: 'stop that, I do not like it anymore' connotes[d] that she like[d] it initially;
>
> (6) xxx when accused inserted his penis, her thighs were opened, which for all intents [was a] glaring indication of her willingness to do the act, if such act was really done on the date of the alleged commission; and
>
> (7) xxx it is highly unbelievable that the push and pull movement of the accused would last from 12:00 o'clock in the afternoon of February 15, 1996 up to one o'clock in the morning of the following day."[13]

In sum, appellant assails (1) the sufficiency of prosecution evidence and (2) the credibility of the victim and her testimony.

This Court's Ruling

The appeal is without merit.

First Issue:

Sufficiency of Evidence

The prosecution relied mainly on the narration of the victim that appellant had raped her. Though she was at times not responsive to the questions posed by the counsels of both the prosecution and the defense, she was consistent in declaring that appellant, after intimidating her with a gun, succeeded in raping her. She testified thus:

> "PROS. SANTIAGO:
>
> Q After poking a gun, what happened, if anything still happened?
>
> A He undressed me, Sir. I [was] wearing "ternong pula".
>
> x x x x x x x x x
>
> COURT:
>
> Q What happened after Yamasito undressed himself?
>
> A He separated my thighs, Your Honor.
>
> Q And after that what happened?
>
> A He inserted his penis into my vagina.
>
> Q And what happened?


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A I was hospitalized.

Q Was Yamasito Vergel able to insert his penis into your vagina?

A Yes, Your Honor.

PROS. SANTIAGO:

Q How did Yamasito Vergel move his body while his penis was inserted into your vagina?

A He made an up and down, push and pull movement.

Q For how long did Yamasito Vergel move his body while he was in that movement?

A Five (5) times, Sir.

Q For how long?

A He stopped for a while, Sir.

COURT:

When you said stop, what do you mean? He stopped the push and pull movement?

A Whenever somebody [was] passing, he would stop for a while.

PROS. SANTIAGO:

Q While somebody [was] passing [by] the room?

A While raping me, when somebody would pass, he would leave me and after a while, he [would] return.

Q How [did] you know that somebody [was] passing along that house?

A Because Danny Duran was guarding[;] when somebody [was] passing, he would say: “Stop that, somebody is passing”.

x x x x x x x x x

Q What were your and Yamasito’s position whenever he would stop that push and pull movement?

A He [would] return to me when there [was] no more person passing.

Q Will you describe the appearance of Yamasito Vergel when he was in the act of pushing and pulling xxx?

A He was frowning. (“nakasimangot”)

Q What about you, please be candid, what did you feel when Yamasito inserted his penis to your private part?

A “Masakit po”.

x x x x x x x x x

Q How about your arms?

A Like this one, Sir. (Witness demonstrating her both arms stretched above her head)

Q How about the arms of Yamasito?

A He [was] holding [both of my] hands, Sir.

Q Are your referring to both hands of Yamasito?


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A Yes, Sir.

Q What else happened?

A Yamasito Vergel told me to return to the room.

COURT:

Q While Yamasito Vergel was in the act of what you stated as push and pull movement and holding your hands with his hands, how did you react?

A "Masakit Po." He mashed my whole body, Your Honor.

Q While Yamasito Vergel was doing that particular act, what was your reaction?

A I felt aches on my breast, Your Honor.

Q Did you like the act?

A No, Your Honor.

Q And what did you do?

A I told him, "Yamasito Vergel, let me go home." ("Pauwiin mo na ako".)

PROS. SANTIAGO:

Q What was the response of Yamasito Vergel?

A He said, 'I will let you go home but do not tell it to anybody'."[14]

The above narration clearly shows that there was rape. The prosecution was able to prove that (1) the appellant had carnal knowledge of the complainant (2) because he intimidated her by pointing a gun at her.[15]

The lone but credible testimony of the victim is sufficient to sustain appellant's conviction of rape.[16] When a woman cries rape, she says in effect all that is necessary to show that she was indeed raped.[17] No girl would concoct a story of sexual assault, undergo gynecologic examination, or subject herself and her family to the trauma and the embarrassment concomitant to criminal prosecution unless she speaks the truth.[18]

Moreover, her testimony was corroborated by the chief of the Camp Olivas PNP Crime Laboratory Service, Edgardo O. Gueco,[19] who testified that her hymen had deep lacerations caused by sexual intercourse.[20] The Medico-legal Report shows that the victim was "in non-virgin state physically xxx compatible [with] a recent sexual intercourse."[21] Besides, the victim suffered vaginal infection, for which she was treated and confined in a hospital for three days.[22]

Second Issue:

Credibility of the Victim

In assailing the credibility of the victim, appellant submits that (1) her testimony was full of inconsistencies, (2) her behavior during and after the "alleged" rape was contrary to the behavior of a woman ravished, and (3) the charge was merely fabricated by her mother.

We disagree. It is a well-settled rule that the trial court's assessment of witnesses' credibility will not be disturbed on appeal, absent any showing of palpable error or grave abuse of discretion.[23] Appellate courts generally accord credence to the factual findings of the trial court, for the latter was in the best position to observe the witnesses' deportment and manner of testifying.[24] In the present case, we find no reason to overturn the

ruling of the trial court that the victim's testimony was credible.

Contrary to the contentions of the defense, the alleged inconsistencies are minor; they do not affect the credibility of the victim. Indeed, they should be taken as indicia of truth rather than as badges of falsehood, for they erase any suspicion of a rehearsed testimony.[25] After her traumatic experience, we do not expect the victim to remember vividly the appellant's threats or each and every ugly detail of the sexual assault.[26] What is significant is that Elizabeth was clear and consistent in asserting that Vergel had intimidated and raped her. On the basis of the victim's credible testimony, the conviction of appellant is inevitable.

We are not persuaded by appellant's contention that the victim offered no resistance. Such resistance is not an element of the felony, which is committed when the accused has carnal knowledge of a woman by use of force or intimidation.[27] It is enough that the malefactor intimidated the complainant into submission. In any event, failure to shout or offer tenacious resistance did not make voluntary the complainant's submission to the criminal acts of the accused.[28]

Furthermore, not every victim of rape can be expected to act with reason or in conformity with the usual expectations of everyone.[29] The workings of a human mind placed under emotional stress are unpredictable; people react differently -- some may shout, some may faint, while others may be shocked into insensibility.[30] Indeed, rational reaction is seldom displayed by rape victims, especially in the case of Elizabeth who had had little formal education.

In the same vein, we reject the argument of the defense questioning her testimony that appellant raped her for seven hours. To repeat, the victim was of feeble mind, and her recollection of the details of the incident cannot be expected to be exact. Indeed, the fact remains that, according to her, appellant would temporarily pause in the act of ravishing her whenever Duran warned him of passers-by.

We are not convinced of appellant's claim that he could not have committed rape in his live-in partner's house, situated in a place where people congregated. The oft-stated truism is that lust is no respecter of time and place. Rape can be committed even in the most unlikely places, such as a park, a roadside, school premises, or an occupied room.[31]

Finally, we are not impressed by the claim of appellant that the accusation of rape had merely been concocted by the victim's mother. Other than his self-serving testimony, no clear or convincing proof was presented in his defense.[32] Moreover, no mother would sully the honor of her child if she were not motivated by an honest desire to punish her daughter's molester.[33]

Damages

We agree with the trial court that the victim is entitled to moral damages. "[T]he fact that complainant has suffered the trauma of mental, physical and psychological sufferings which constitute the bases for moral damages [is] too obvious to still require the [victim's] recital thereof at the trial x x x, since the Court itself even assumes and acknowledges such agony on her part as a gauge of her credibility. What exists by necessary implication as being ineludibly present in the case need not go through the superfluity of still being proved through a testimonial charade."[34] Nonetheless, the amount of P100,000 awarded as moral damages should be reduced to P50,000.

Pursuant to current jurisprudence,[35] indemnity ex-delicto should also be awarded to the victim in the amount of P50,000, without need for further evidence except the conviction of the accused. Appellant must also pay the victim actual damages in the amount of P4,041.85, corresponding to her duly-proven medical expenses when she was treated at the Nazarenus Clinic Hospital.[36]

WHEREFORE, the appeal is hereby DENIED and the Decision is AFFIRMED with these MODIFICATIONS on the civil aspect only: Appellant Yamasito Vergel is hereby ORDERED to pay Elizabeth Lawson P50,000.00 as moral damages, P50,000.00 as indemnity ex-delicto, and P4,041.85 as actual damages. Cost against the appellant.

**SO ORDERED.**

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

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[1] Penned by Judge Gregorio S. Sampaga.

[2] Rollo, p. 6.

[3] Subsequently, appellant appointed Atty. Bernardina Ariñas as his counsel de parte. (Records, p. 26.)

[4] See Certificate of Arraignment; records, p. 9.

[5] Rollo, pp. 13-18.

[6] Assailed Decision, p. 5; rollo, p. 17.

[7] The case was deemed submitted for resolution on May 31, 1999, when the Appellee's Brief was filed before this Court. The filing of a reply brief was deemed waived, as none was filed within the reglementary period.

[8] Appellee's Brief, pp. 3-5; rollo, pp. 75-77. This was signed by Assistant Solicitor General Carlos N. Ortega, Assistant Solicitor General Magdangal M. de Leon and Solicitor Leonor Meliza P. Serrano-Filio.

[9] Appellant's Brief, pp. 5-6; rollo, pp. 42-43. The Brief was signed by Atty. Bernardina R. Ariñas.

[10] Assailed Decision, p. 3; rollo, p. 53.

[11] Assailed Decision, pp. 4-5; rollo, pp. 54-55.

[12] Ibid.

[13] Appellant's Brief, pp. 6-8; rollo, pp. 43-45.

[14] TSN, July 10, 1996, pp. 20-23; records, pp. 139-143.

[15] People v. Salem, 280 SCRA 841, 845, October 16, 1997.

[16] People v. Julian, 270 SCRA 733, 746, April 4, 1997; People v. Apilo, 263 SCRA 582, 598, October 26, 1996; People v. Ramirez, 266 SCRA 335, 348, January 20, 1997; People v. Gabris, 258 SCRA 663, 671, July 11, 1996; and People v. Alimon, 257 SCRA 658, 669, June 28, 1996.

[17] People v. Borja, 267 SCRA 370, 379, February 3, 1997 and People v. Ramirez, 266 SCRA 335, 348, January 20, 1997.

[18] People v. Erese, 281 SCRA 316, 322, November 5, 1997; People v. Mamalayan, 280 SCRA 748, 760, October 16, 1997; and People v. Gomez, 279 SCRA 688, 696, September 29, 1997.

[19] TSN, July 19, 1996, p. 5; records, p. 124.

[20] See also Assailed Decision, p. 3; rollo, p. 53.

[21] Records, p. 82.


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[22] Records, pp. 84-85.

[23] People v. Oliver, GR No. 123099, February 11, 1999; People v. Barredo, GR No. 122850, October 7, 1998; People v. Gaddi, 170 SCRA 649, February 27, 1989; People v. Pascual, 204 SCRA 618, December 5, 1991; People v. Naparan, 225 SCRA 714, August 30, 1993; People v. Deopante, 263 SCRA 691, October 30, 1996; and People v. Escandor, 265 SCRA 444, December 9, 1996.

[24] People v. Atop, GR Nos. 124303-05, February 10, 1998, and People v. Agbayani, 284 SCRA 315, January 16, 1998.

[25] People v. Salvatierra, 276 SCRA 55, July 24, 1997; People v. Zumil, 275 SCRA 182, July 8, 1997; People v. Bergonia, 273 SCRA 79, June 6, 1997.

[26] People v. Rabosa, 273 SCRA 142, June 9, 1997; and People v. Butron, 272 SCRA 352, May 7, 1997.

[27] Article 335 of the Revised Penal Code prior to its amendment by RA No. 8353 (or the Anti-Rape Law of 1997).

[28] People v. Corea, 269 SCRA 76, 92, March 3, 1997.

[29] People v. Cabel, 282 SCRA 410, December 14, 1995.

[30] People v. Malunes, 247 SCRA 317, August 14, 1995.

[31] People v. Gabayron, 278 SCRA 78, August 21, 1997; People v. Tabalesma, 277 SCRA 536, August 18, 1997; and People v. Bugarin, 273 SCRA 384, June 13, 1997.

[32] People v. Henson, 270 SCRA 634, 644, April 2, 1997.

[33] People v. Oliva, 282 SCRA 470, 482, December 5, 1997, and People v. Escober, 281, SCRA 498, 504-505, November 6, 1997.

[34] People v. Ignacio, 294 SCRA 542, August 24, 1998, per Romero, J. See also People v. Prades, 293 SCRA 411, July 30, 1998.

[35] People v. Gementiza, 285 SCRA 478, January 29, 1998; People v. Sumalpong, 284 SCRA 464, January 20, 1998; People v. Betonio, 279 SCRA 532, September 26, 1997; and People v. Adora, 275 SCRA 441, July 14, 1997.

[36] Records, p. 84.

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