

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODOLFO OLING MADRAGA, ACCUSED-APPELLANT.

G.R. No. 129299. November 15, 2000

Ponente: BUENA, J.

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BUENA, J.:

Before the Court, for its automatic review, is the Decision[1] of the Regional Trial Court of Isabela, Basilan, Branch 2, in Criminal Case No. 2511-599, which has found herein accused-appellant, Rodolfo Oling Madraga, guilty beyond reasonable doubt of the crime of rape committed against his 16-year old daughter. The death sentence having been decreed by the trial court, the records of the case have, accordingly, been elevated to this Court.

Rodolfo Oling Madraga was charged with two (2) counts of rape committed against his own 16-year old daughter, Fe C. Madraga. One was committed on May 19, 1995 (Crim. Case No. 2511-599), and the other one on August 24, 1996 (Crim. Case No. 2515-602).[2]

At the arraignment on November 4, 1996, accused-appellant, with the assistance of Atty. Antonio D. Banico, entered separate pleas of not guilty for each case. Thereafter, the trial proper of the cases was set to November 18, 19, and 20, 1996.[3]

On November 18, 1996, Atty. Banico, counsel for the accused, moved that they be given time up to December to talk with complainant's mother so that the accused will plead guilty to the first case, but will seek for the dismissal of the second case. The complainant's mother, who was in Court, manifested that she does not agree to the proposition. Trial of the cases was re-set to December 2, 3 & 4, 1996.[4]

On December 2, 1996, counsel for the accused manifested that the accused was willing to enter a plea of guilty to the crime of rape, which was committed in the month of May, 1995, provided that the other case be tried on another date.

Thus, accused pleaded guilty in Criminal Case No. 2511-599 upon the following complaint:

"The undersigned complainant, a minor of sixteen (16) years of age, under oath, accuses her father, Rodolfo Oling Madraga, of the crime of Rape, committed as follows:

"That sometime in the month of May, 1995, and within the jurisdiction of this Honorable Court, viz., at Barrio Militar, Barangay Menzi, Municipality of Isabela, Province of Basilan, Philippines, the above-named accused who was under the influence of liquor, entered the room of the undersigned complainant, who was then sleeping, and by means of force and intimidation, did then and there willfully, unlawfully, and feloniously remove the short pant (sic) and panty of the undersigned complainant, lay on top of her and insert his penis inside her vagina, and succeeded in having carnal knowledge of the undersigned complainant, against her will.

"Contrary to law."[5]

Thereafter, the prosecution presented its evidence which consisted of the private complainant's testimony and the medical certificate issued by Dr. Nilo Barandino.

Private complainant's testimony revealed that:

"Fe Madraga, 16 years old, is the daughter of Rodolfo Madraga, a tricycle driver (TSN, December 2, 1996, pp. 4-5). Her mother, Flordelina Madraga, was in Sabah, Malaysia, working as a domestic helper.

"When her mother left for Malaysia, Fe and her brothers and sisters stayed with their grandfather, Luis Cotamco Sr., at Calle Bisaya (Ibid., p. 5). On the other hand, Rodolfo Madraga remained at the family residence at Barrio Militar, Menzi, Isabela, Basilan Province (Ibid, p. 6).

"Sometime in January 1995, Rodolfo Madraga took his children from their grandfather and forced them to stay with him at the family residence (Ibid, pp. 6 & 7).

"Sometime in May 1995, at 12:00 midnight, Rodolfo Madraga sexually abused her (sic) 16-year old daughter, Fe Madraga, in one of the rooms of the family residence. (Ibid, pp. 7-8)

"On the third night after the rape, Rodolfo Madraga repeated his bestial act toward her (sic) own daughter and did it every night thereafter (Ibid, p. 9).

"On August 24, 1996, Flordelina Madraga arrived from Malaysia (Ibid, p. 10). The presence of her mother gave Fe Madraga enough courage to report to her the sexual abuses committed against her by her father (Ibid).

"Fe Madraga was brought to the doctor, and her medical examination confirmed that she was sexually molested (Ibid; Exhibits A, A-1, A-2 and B).

"Fe Madraga, reported the matter to the police authorities (Ibid, p. 13)."[6]

On December 10, 1996, the trial court rendered its Decision,[7] the dispositive portion of which reads:

"WHEREFORE, premises considered, this Court finds the accused, RODOLFO OLING MADRAGA, GUILTY beyond reasonable doubt of committing the said crime of RAPE against his own daughter, who is only more than 16 years old at the time of the commission of the offense. And hereby sentences said accused to suffer the extreme penalty of DEATH.

"The plea of guilty of the accused being offset by his being drunk during the commission of the crime, which according to the complainant, her father is not a habitual drinker, cannot be taken into consideration in his favor.

"The penalty imposable for the crime of Rape especially if it is committed by the accused against his children is really harsh. In fact this Presiding Judge was a little bit reluctant to impose that extreme penalty of death upon the accused, but since it is the mandate of the law, then the Court when the evidence warrant must have to obey its command. And besides, the Court cannot cleanse its conscience if the perpetrator of the crime of rape committed against his own blood would be able to escape the punitive sanction of the law.

"And as this Court had repeatedly pronounced over and over again, under no circumstance, shall a father use his own daughter as a vehicle to satisfy his bestial instinct for it is his moral and legal responsibility to take care, to nourish, and to educate his children to become useful citizens of this country. But since the accused herein had chosen to place the honor and the dignity of her (sic) daughter into shame, into disgrace, and into ill-repute, then the heavy burden of the law that catches upon him cannot show him any mercy.

"With respect to Criminal Case No. 2515-602, for the same offense of Rape committed by the same accused, against the same complainant, the hearing thereof is hereby set to the January calendar of this Court.

"SO ORDERED."

Two Appellant's Brief were filed with this Court -- one filed by the Free Legal Assistance Group (FLAG) Anti Death Penalty Task Force, and another one filed by Public Attorney Antonio D. Banico, appellant's counsel, before the court a quo.

The Appellant's Brief filed by the Free Legal Assistance Group (FLAG), submits the following assignment of errors:

I

Accused-appellant was denied due process.

II

The plea of guilt of accused-appellant is null and void as the trial court violated Section 3, Rule 116 of the 1985 Rules on Criminal Procedure.

On the first assigned error, appellant contends that he was illegally arrested, because there was no warrant of arrest issued for his arrest. Worse, appellant avers, his right to preliminary investigation was not observed, although there is no showing that he waived his right thereto. Appellant further alleges that there was irregularity in the filing of the information in that a criminal complaint was filed on September 10, 1996. However, in the Order of the Court dated October 7, 1996, it mentioned an information not attached to the records of the case. The trial court directed the prosecution to submit the resolution which became the basis for the filing of the alleged information. A resolution dated October 8, 1996 was submitted by the prosecution on October 17, 1996 in compliance with the Order dated October 7, 1996. The resolution was issued only on October 8, 1996, hence, appellant concludes that the same could not have been the basis for the alleged information (assuming such information exists) which was obviously filed earlier.[8]

The contentions have no merit.

In the recent case of *People vs. Galleno*,[9] this Court held that an accused, as in this case, is estopped from questioning any defect in the manner of his arrest if he fails to move for the quashing of the information before the trial court, or if he voluntarily submits himself to the jurisdiction of the court by entering a plea, and by participating in the trial.

With regards to the absence of preliminary investigation, this Court ruled in *Sanciangco, Jr. vs. People*[10] and cited in *Larranaga vs. Court of Appeals*,[11] that "the absence of preliminary investigation does not affect the court's jurisdiction over the case. Nor does it impair the validity of the (complaint) or, otherwise, render it defective."

On the second issue, appellant, through the FLAG, argues that the trial judge failed to conduct a searching inquiry into the voluntariness and full comprehension of the accused's plea of guilty to the capital offense, as mandated in Sec. 3, Rule 116[12] of the New Rules on Criminal Procedure. Thus, this case should be remanded to the court of origin for further and appropriate proceedings, citing *People vs. Estomaca*. [13]

This contention[14] of the FLAG would have been correct were it not for the circumstance that accused-appellant did not, in fact, plead guilty to a capital offense in the first place. On this matter, Atty. Banico correctly pointed out that only the first paragraph of the complaint mentions the age of the private complainant and the relationship of the accused to the private complainant, i.e., that the accused is the father of the private complainant. Atty. Banico is correct in arguing that the first paragraph of the complaint is not part of the allegation of the charge for rape to which appellant pleaded guilty. Therefore, said complaint charges only simple rape under Art. 335, for which the penalty is only reclusion perpetua, and not for rape under R.A. 7659, qualified by the circumstance that

the offender is the father of the victim who is a minor, for which the penalty is death.[15]

In other words, since the appellant did not plead guilty to a capital offense, he cannot properly invoke Sec. 3, Rule 116, and *People vs. Estomaca*, to have this case remanded to the trial court for compliance with said rule.

In order for rape to be punishable with death, the information/complaint must properly allege the qualifying circumstance of relationship between the accused and the victim, and the latter's minority, and the same must be proved beyond reasonable doubt, in the same manner that circumstances that qualify a killing to murder, must be alleged in the information, and also proved beyond reasonable doubt during the trial. Failure to allege the fact of filiation and minority in the information for rape is fatal and consequently bars conviction of its qualified form which is punishable with death.[16]

In the case at bar, such relationship is not stated in the "cause of the accusation," or in the narration of the act or omission constituting the offense, but only in the preamble or opening statement of the complaint. The complaint upon which the appellant was arraigned does not state in the specifications of the acts constitutive of the offense, that he is charged as the father of the victim. Such omission is prejudicial to the right of the accused to be informed of the nature of the accusations against him.

In the recent case of *People vs. Bali-Balita*,[17] the Court, through Madam Justice Minerva P. Gonzaga-Reyes, reiterated the ruling in *Buhat vs. Court of Appeals*[18]that: "xxx the real nature of the criminal charge is determined not from the caption or the preamble of the information, nor from the specification of the provision of law alleged to have been violated xxx, but from the actual recital of the facts as alleged in the body of the information."

We should now discuss the issue of whether or not the prosecution was able to prove appellant's guilt beyond reasonable doubt, and the appropriate penalty to be imposed on appellant. But first, the manner in which appellant entered his plea of guilt should be tackled.

Accused-appellant entered a plea of guilty, but it appears from the records of the proceedings before the court a quo that the same was a conditional plea, because appellant's counsel argued that the mitigating circumstances of plea of guilty and drunkenness should be appreciated in favor of the appellant.[19] Said counsel was apparently unaware that the mitigating circumstances of plea of guilty, and the fact that the appellant was drunk when he committed the crime, cannot be appreciated in the latter's favor because a plea of guilty would not, under any circumstance, affect or reduce the death sentence.

As heretofore discussed, the appellant pleaded upon a charge of simple rape. The penalty for simple rape under Art. 335 of the Revised Penal Code is reclusion perpetua, a single indivisible penalty. It appears that said counsel is also not aware that under Article 63 of the Revised Penal Code, in all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed (except where there is a privileged mitigating circumstance of minority of the accused under Art. 68, and when the crime committed is not wholly excusable under Art. 69 - neither of which is the case here[20]). While the records do not show that appellant entered his plea with the proviso that a certain penalty be imposed upon him, this can be inferred from the arguments made by his counsel during the hearing on December 2, 1996, and in the appellant's brief filed by said counsel, asking that appellant be entitled to the benefit of the plea.[21]

We would, thus, assume that appellant made a conditional plea because this assumption would be more favorable to the accused. A conditional plea of guilty, or one entered subject to the provision that a certain penalty be imposed upon him, is equivalent to a plea of not guilty and would, therefore, require a full-blown trial before

judgment may be rendered.[22] The question now arises: Was a full-blown trial conducted?

We answer in the affirmative. The prosecution presented evidence to prove the commission of the crime as charged in the Complaint. The victim testified and was cross-examined. An examination of the victim's testimony shows that she testified in a categorical, straightforward, spontaneous and frank manner, and remained consistent. Also, we find the victim's testimony to be natural and consistent with human nature and the normal course of things. A rape victim who testifies in a categorical, straightforward, spontaneous and frank manner, and remains consistent, is a credible witness.[23] Although no other evidence was presented by the prosecution, in rape cases, the accused may be convicted solely on the testimony of the victim, provided that such testimony is credible, natural, convincing and consistent with human nature and the normal course of things.[24] We, therefore, find that the trial court correctly found the appellant guilty beyond reasonable doubt of the crime of rape.

The victim is entitled to indemnity of P50,000.00 in line with prevailing jurisprudence[25] in addition to moral damages in the amount of P50,000.00. Award of moral damages to a rape victim is proper even if there was no proof presented during the trial as basis therefor.[26]

WHEREFORE, the decision appealed from is **AFFIRMED** insofar as it finds the accused-appellant Rodolfo Oling Madraga guilty of the crime of rape, with the **MODIFICATION** that the penalty imposed is reduced to reclusion perpetua, and the accused-appellant is directed to pay the victim P50,000.00 by way of indemnity, in addition to P50,000.00 as moral damages.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Panganiban, Quisumbing, Pardo, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.
Mendoza, J., on leave.

[1] Penned by Judge Salvador A. Memoracion.

[2] A plain photocopy of the Decision dated July 9, 1997 in this Case No. 2515-602 is attached to the Appellant's Brief filed by Atty. Banico, and found on pp. 123-138 of the Rollo. Said Decision states on p. 10 (Rollo, p. 132) that Rodolfo Madraga testified that after May 1995, several acts of sexual intercourse up to 1996 were done with mutual consent. In said case (2515-602), Rodolfo Madraga, the same accused in the case at bar, was found guilty of violation of the Special Protection of Children Against Child Abuse, Exploitation and Discrimination (R.A. 7610).

[3] Order dated November 4, 1996, Original Records, p. 22.

[4] Order dated November 18, 1996, Original Records, p. 26.

[5] Complaint, Original Records, p. 1.

[6] Appellee's Brief, Rollo, pp. 97-98.

[7] Original Records, pp. 36-42; Rollo.

[8] Appellant's Brief, Rollo, pp. 57-58.

[9] 291 SCRA 76 [1998].

[10] 149 SCRA 1 [1987].

[11] 287 SCRA 581 [1998].

[12] "Section 3. Plea of guilty to capital offense; reception of evidence. - When the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence in his behalf."

[13] 256 SCRA 421 [1996].

[14] See also *People vs. Durango*, G.R. 135438-39, April 5, 2000; *People vs. Tizon*, G.R. No. 126955, October 28, 1999, which upheld *People vs. Estomaca* and *People vs. Camay*, 152 SCRA 401 [1987]; *People vs. Dayot*, 187 SCRA 637 [1990]; and *People vs. Albert*, 251 SCRA 136 [1995].

[15] Appellant's Brief filed by Atty. Banico, Rollo, pp. 119-121.

[16] *People vs. Ambray*, 303 SCRA 697 [1999]; *People vs. Licanda*, G.R. 134084, May 4, 2000.

[17] G.R. No. 134266, September 15, 2000.

[18] 265 SCRA 701 at 716-717 [1996].

[19] TSN, December 2, 1996, pp. 22-23.

[20] Revised Penal Code, Book I, Reyes, 1998 Ed., p. 717.

[21] Appellant's Brief, p. 3; Rollo, p. 121.

[22] *People vs. Moro Sabilul*, 93 Phil. 567 [1953]; *People vs. Magat*, May 31, 2000, G.R. No. 130026.

[23] *People vs. Perez*, 296 SCRA 17 [1998].

[24] *People vs. Medina*, 300 SCRA 98 [1998].

[25] *People vs. Perez*, 307 SCRA 276 [1999].

[26] *People vs. Medina*, 300 SCRA 98 [1998].

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