

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ERIC BAID Y OMINTA, ACCUSED-APPELLANT.

G.R. No. 129667. July 31, 2000

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision[1] of the Regional Trial Court, Branch 95, Quezon City, finding accused-appellant Eric Baid y Ominta guilty of the crime of rape against Nieva Garcia y Saban, a mental patient, and sentencing him to suffer the penalty of reclusion perpetua and to pay the victim the amount of P50,000.00 as moral damages.

The information against accused-appellant, based on the complaint filed by the offended woman and her mother, alleged -

That on or about the 22nd day of December 1996, in Quezon City, Philippines, the said accused by means of force and intimidation, to wit: by then and there [willfully], unlawfully and feloniously undressing one NIEVA GARCIA y SABAN, a mental patient suffering [from] schizophrenia and put himself on top of her, and thereafter have carnal knowledge with the undersigned complainant against her will and without her consent.

CONTRARY TO LAW.[2]

When arraigned, accused-appellant entered a plea of not guilty, whereupon trial of the case on the merits proceeded.

The prosecution presented three witnesses, namely, the complainant, Dr. Herminigilda Salangad, the complainant's attending psychiatrist, and Dr. Emmanuel Reyes, the medico-legal officer who examined the complainant.

Complainant is a 27-year old single woman, who was diagnosed as having suffered from schizophrenia since 1988. In December 1996, she was confined at the Holy Spirit Clinic in Cubao, Quezon City because of a relapse of her mental condition.[3] On the other hand, accused-appellant was a nurse-aide of said clinic.

On December 22, 1996, at around 3 a.m., accused-appellant sneaked into the patients' room. He woke the complainant up and offered her a cigarette, at the same time touching her foot. Complainant took the cigarette. As she smoked it, accused-appellant caressed her. Apparently, she was aroused, because she afterward removed her pants. It turned out she was not wearing any underwear. Accused-appellant also removed his pants and the two had sexual intercourse. Afterwards, they transferred under the bed and continued their sexual intercourse. Complainant said she felt accused-appellant had an orgasm. A female patient who had been awakened tried to separate the two, and, as she failed to do so, she went out to call the two nurses on duty. The nurses responded but, when they arrived, accused-appellant had left, while complainant had already put on her pants.[4]

Complainant was brought later during the day before Dr. Emmanuel Reyes for medico-legal examination. She told him what happened. Dr. Reyes reduced her narration of the incident into writing[5] and then gave her a

physical examination. His report stated:[6]

FINDINGS:

GENERAL AND EXTRAGENITAL:

Fairly developed, and coherent female subject. Breasts are hemispherical with pale brown areola and nipples from which secretions could be pressed. Abdomen is flabby and soft.

GENITAL:

There is moderate growth of pubic hair. Labia majora are full, convex and coaptated with the pale brown labia minora presenting in between. On separating the same disclosed an abridged posterior fourchette and an elastic, fleshy-type hymen with deep healed lacerations at 3, 6 and 9 o'clock. External vaginal orifice offers moderate resistance to the introduction of the examining finger and the virgin-sized speculum. Vaginal canal is wide with flattened rugosities. Cervix is normal in size, color and consistency.

CONCLUSION:

Subject is in non-virgin state physically.

There are no external signs of application of any form of violence.

REMARKS:

Vaginal and peri-urethral smears are negative for gram negative diplococci and for spermatozoa.

Dr. Reyes said the fresh abrasion, located at 6 o'clock posterior of the complainant's genitalia, could have been recently caused by a hard blunt object, such as an erect penis during sexual intercourse, or by the insertion of a finger. Dr. Reyes found that complainant was suffering from mental illness and that she had lapses in the course of her interview.[7]

Accused-appellant testified in his behalf. He stated that he had been a nurse-aide of the Holy Spirit Clinic since September 18, 1995. His job was to watch the patients, especially when they become violent. He also fetched them from their homes. He admitted that he knew the complainant but claimed he did not know the reason for her confinement. He denied the allegations against him. He testified that, on the date and time referred to by the complainant, he was asleep in the nurse-aide quarters located about ten meters from the room where complainant was staying. He admitted, however, that to go to the patients' room, he did not have to pass by the nurses' station. He said he knew that, at the time in question, there were two nurses on duty and ten patients in the room. He described the patients' room as having an area of about eight by five square meters with wooden beds arranged one foot apart from each other.[8]

Accused-appellant was questioned by the trial court. He testified that on December 22, 1996, he was on duty from 4 p.m. to 12 midnight. He was a stay-in nurse-aide of the clinic. He stated that the clinic consisted of two floors and five rooms. The room where complainant and the other patients were staying and his quarters were both on the ground floor of the building. He admitted that the clinic was for the mentally ill and that, as a nurse-aide, he was supposed to know the status of every patient and his job was to watch them and pacify them whenever they become violent. He said he was very well acquainted with the behavior of the patients considering the length of time he had been working in the clinic. He claimed, however, that he did not specifically know from what ailment complainant was suffering, but only that she was undergoing treatment because of mental deficiency.[9]

On cross-examination, accused-appellant admitted that he knew it was prohibited to give cigarettes to patients. He further admitted that, as a nurse-aide, he could enter the patients' room anytime to check their condition and see to

it that the lights were turned off when they were not needed. He further stated that he was not investigated by the police when he was invited to their headquarters.[10]

On June 20, 1997, the trial court rendered its decision,[11] the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered finding the accused Eric Baid y Ominta GUILTY beyond reasonable doubt of the crime of rape defined in and penalized by Art. 335 of the Revised Penal Code, as amended by Rep. Act 7659, and hereby sentences the said accused to suffer the penalty of reclusion perpetua. The accused is further ordered to indemnify the victim Nieva Garcia y Saban the amount of P50,000.00, as moral damages.

IT IS SO ORDERED.

Accused-appellant contends that the trial court erred in convicting him of rape.[12]

Complainant is suffering from schizophrenia, a psychotic disorder of unknown etiology, characterized by disturbance in thinking involving a distortion of the usual logical relations between ideas, a separation between the intellect and the emotions so that the patient's feelings and his or her manifestations seem inappropriate to his or her life situation, and a reduced tolerance for the stress of interpersonal relations so that the patient retreats from social intercourse into his or her own fantasy life and commonly into delusions and hallucinations, and may, when untreated or unsuccessfully treated, go on to marked deterioration or regression in his or her behavior though often unaccompanied by further intellectual loss.[13] The following are the symptoms of schizophrenia:

- Characteristic symptoms: Two (or more) of the following, each present for a significant portion of time during a 1-month period (or less if successfully treated):

- (1) delusions
- (2) hallucinations
- (3) disorganized speech (e.g., frequent derailment or incoherence)
- (4) grossly disorganized or catatonic behavior
- (5) negative symptoms, i.e., affective flattening, alogia, or avolition

Note: Only one criterion A symptom is required if delusions are bizarre or hallucinations consist of a voice keeping up a running commentary on the person's behavior or thoughts, or two or more voices conversing with each other.

- Social/occupational dysfunction: For a significant portion of the time since the onset of the disturbance, one or more major areas of functioning such as work, interpersonal relations, or self-care are markedly below the level achieved prior to the onset (or when the onset is in childhood or adolescence, failure to achieve expected level of interpersonal, academic, or occupational achievement).

- Duration: Continuous signs of the disturbance persist for at least 6 months. This 6-month period must include at least 1 month of symptoms (or less if successfully treated) that meet criterion A (i.e., active-phase symptoms) and may include periods of prodromal or residual symptoms. During these prodromal or residual periods, the signs of the disturbance may be manifested by only negative symptoms or two or more symptoms listed in criterion A present in an attenuated form (e.g., odd beliefs, unusual perceptual experiences).

- Schizoaffective and mood disorder exclusion: Schizoaffective disorder and mood disorder with features have been ruled out because either (1) no major depressive, manic, or mixed episodes have occurred concurrently with

the active-phase symptoms; or (2) if mood symptoms, their total duration has been brief relative to the duration of the active and residual periods.

- Substance/general medical condition exclusion: The disturbance is not due to the direct physiological effects of a substance (e.g., a drug of abuse, a medication) or a general medical condition.

- Relationship to a pervasive developmental disorder: If there is a history of autistic disorder or another pervasive developmental disorder, the additional diagnosis of schizophrenia is made only if prominent delusions or hallucinations are also present for at least a month (or less if successfully treated).[14]

Schizophrenia is classified into five subtypes, namely, paranoid, disorganized (hebephrenic), catatonic, undifferentiated, and residual.[15]

Dr. Herminigilda Salangad, the complainant's attending psychiatrist and consultant at the Medical Center in Muntinlupa, the Perpetual Help Medical Center, the Philippine National Police, and the Holy Spirit Clinic, was presented as an expert witness. According to her, complainant was, at the time of the incident, suffering from an undifferentiated type of schizophrenia, described as having the characteristic symptoms of schizophrenia but does not fit the profile for paranoid, disorganized, or catatonic schizophrenia. Dr. Salangad stated that complainant seemed to shift from one type of schizophrenia to another. Complainant was catatonic when she first treated her, a situation where the patient shows waxy flexibility (e.g., when a limb is repositioned, that limb remains in that position for a prolonged period of time as if the patient is made of wax), mutism or agitation, and the patient mimics words and actions during examination. Later, complainant became paranoid, i.e., suspicious, hostile and aggressive. She also manifested a behavior where she mumbled and smiled to herself.[16]

It is contended that as complainant is a schizophrenic, her testimony should not have been given credence by the trial court. It is argued that: (1) there were serious inconsistencies between her sworn statement and her testimony in court; (2) the prosecution failed to present witnesses to corroborate her testimony; (3) complainant failed to identify accused-appellant; (4) the results of the medico-legal examination were negative for spermatozoa; (5) the healed lacerations showed that complainant had sexual intercourse seven days before the alleged incident; and (6) the probability was that her allegations of rape were merely a product of her fantasy.[17]

We disagree.

Notwithstanding her mental illness, complainant showed that she was qualified to be a witness, i.e., she could perceive and was capable of making known her perceptions to others.[18] Her testimony indicates that she could understand questions particularly relating to the incident and could give responsive answers to them. Thus she testified:

PROSECUTION: (to the witness)

Q

Miss Nieva Garcia, are you still confined at the Holy Spirit Clinic, Los Angeles St., Cubao, Quezon City?

A

Not anymore, sir.

Q

On December 22, 1996, do you know whether you are at the Holy Spirit Clinic, Los Angeles St., Cubao, Quezon City?

A

Yes, sir.

Q

Why were you there, Miss Witness?

A

My mother asked me if I want to be confined at the Holy Spirit Clinic and I chose to be confined at the Holy Spirit because during that time, I was then taking my medicine.

Q

At around three o'clock in the morning of December 22, 1996, do you know where were you?

A

Yes, I was lying on the bed inside the Holy Spirit Clinic.

Q

And while lying on the bed, inside the Holy Spirit Clinic, do you know what happened then, Miss Witness?

A

At that time, there was a person shorter than the person (witness pointing to the person dressed in yellow t-shirt whose name when asked, answered the name Eric Baid) and that person is smaller than the person inside the courtroom was disturbing "kinakalabit" another person inside the room.

Q

And what happened after that first man entered the room at the Holy Spirit Clinic?

A

The girl was trying to avoid the other person because at that time, the accused Eric Baid was entering the room.

Q

And what happened after Eric Baid entered the room?

A

When Eric Baid entered the room as if he knew me already and he asked me, "Nieva, gusto mo ng sigarilyo?", at the same time, Eric Baid was touching my foot.

ATTY. VENTURANZA:

I would just want to manifest that the witness while testifying, she was smiling.

PROSECUTION: (to the witness)

Q

And after he asked you whether you like a stick of cigarette and touched your foot, what happened next, Madam Witness?

A

I said yes.

Q

And what happened next after you said yes, I liked cigarette?

A

After that, he caressed me.

COURT: (to the witness)

Q

How did he caress you?

A

He went on top of me.

COURT: (to the prosecutor)

Go ahead.

PROSECUTION: (to the witness)

Q

How about the other man who entered earlier, what happened him?

A

The smaller person went in and out of our room twice, the first time that he went, he touched the other woman beside me on the foot but the woman resisted and shouted. After that, the second time, the other man went inside the room, he touched the other woman but the woman shouted and that smaller one went outside of the room.

Q

When Eric Baid placed himself on top of you, where was that other man?

A

He was no longer there.

....

PROSECUTION: (to the witness)

Q

When Eric Baid was already on top of you, do you know if the small man entered again your room?

A

No, sir.

Q

And then, what happened when Eric Baid placed himself on top of you?

A

I agreed.

Q

Agreed to what?

A

I agreed to the sex.

Q

You mean to say that you and Eric Baid has sexual intercourse while on top of your bed?

A

Yes, sir.

Q

And what happened during the sexual intercourse while both of you were on top of the bed?

A

Somebody was awakened and told me, "Hoy, asawa mo ba iyan? Kinukubabawan ka." and I answered no.

Q

And was Eric Baid, was he able to consummate that sexual intercourse, Miss Witness?

A

Yes, sir.

Q

And more or less, how long did the sexual intercourse last, Miss Witness?

A

Around three to five minutes.

COURT: (to the witness)

Q

Why, was he able to insert his private organ into your private organ?

A

Yes, your Honor.

Q

What did he do when he was able to insert his private organ into your private organ?

A

As if his orgasm suddenly appeared.

Q

Do you understand when you say as if his orgasm suddenly appeared?

A

They are like what they call, your Honor, as if "naiputok".

Q

And what did he do when according to you "naiputok"?

A

As if it was okay for him.

Q

You were wearing an underwear?

A

None, your Honor.

Q

You were actually naked?

A

I was wearing pants but I have no panty.

Q

But who removed your pants?

A

I was the one, your Honor.

Q

What about Eric Baid, what was he wearing?

A

He was also wearing pants.

Q

Who removed the pants of Eric Baid?

A

He was the one.[19]

When complainant was questioned on cross and redirect examination, she explained how she was able to identify accused-appellant, to wit:

ATTY. SALATANDRE:

Q

You said a while ago that when the sex affair happened it was dark so all throughout you did not see the face of the accused?

A

During that time it was dark but the latter part when he opened the light, I saw his face, sir.

Q

When the light was opened, he was about to leave the room?

A

About to leave, sir.

Q

He was already facing the door?

A

Yes, Sir.

Q

And you were at his back left inside the room?

A

No, Sir.

Q

Where were you then?

A

I was just inside the room in my bed not at his back, sir.

Q

You were already on your bed when he was about to leave the room?

A

Yes, Sir.

Q

At that time that sex affair transpired between you and the accused, you did not even know his name?

A

Yes, Sir.

Q

You were only told later on about this person?

A

Yes, Sir.

ATTY. SALATANDRE: (to the Court)

That will be all, Your Honor.

COURT:

Any redirect?

PROSECUTION:

Yes, your Honor.

COURT:

Go ahead.

PROSECUTION:

Q

You said that you were only able to identify the accused when he put on the lights, when he was about to leave the room, how far were you from the accused?

A

This distance, sir. (parties stipulated a distance of four meters, more or less)

Q

You said that you saw his face at that time?

A

Yes, sir.

Q

And before this incident of December 22, 1996, were there any other occasion that he had any sexual intercourse with you?

A

None, sir.

Q

And you often saw him as attendant in that clinic?

A

Yes, sir.

Q

And when you said that room was dark, is it totally dark or was it only a little dark?

A

Little light, sir. It was a little bit dark and a little bit light. (medyo may ilaw)

Q

So the time that you had sexual intercourse with the accused at that time, you can identify the face of this person?

A

Yes, sir.

COURT: (to the witness)

Q

You said that medyo may ilaw, where was the light emanating at about 3:00 in the morning?

A

From the window outside, the room can be illuminated through the window, Your Honor.

Q

So when the light came from outside, was the source from the moon, from the bulb of the Meralco post or from another light coming from another building or house?

A

It is the light actually coming from the ceiling of the building of the clinic which was outside the window, Your Honor.[20]

Though she may have exhibited emotions inconsistent with that of a rape victim ("inappropriate affect") during her testimony, such as by smiling when answering questions, her behavior was such as could be expected from a person suffering from schizophrenia. Otherwise, complainant was candid, straightforward, and coherent.

Furthermore, aside from the testimony of Dr. Salangad on complainant's consciousness and memory,[21] it is established that schizophrenic persons do not suffer from a clouding of consciousness and gross deficits of memory.[22] It has long been settled that a person should not be disqualified on the basis of mental handicap alone.[23]

With regard to the alleged inconsistencies between complainant's sworn statement[24] and her testimony as to the number of times she and accused-appellant had sexual intercourse and where they did the same, an examination of the evidence for the prosecution, particularly complainant's sworn statement and her interview with the examining medico-legal officer, shows that accused-appellant had sexual intercourse with her in different positions at various

places in the same room. When complainant testified, she stated that, aside from the fact that accused-appellant had sexual intercourse with her on her bed, he made her transfer later under the bed. Be that as it may, complainant has consistently established in all of her statements that he had sexual intercourse with her on her bed. Whether or not he had sex with her near the window and while facing him is of no moment and does not negate the finding of rape. Whatever may be the inconsistencies in her testimony, they are minor and inconsequential. They show that complainant's testimony was unrehearsed, and rather than diminish the probative value of her testimony, they reinforce it.[25]

In the case at bar, the rape of complainant occurred in a room where other patients were sleeping. This circumstance, it is argued, is antithetical to the possibility of the commission of rape. As this Court has repeatedly said, lust is no respecter of time and place and the crime of rape can be consummated even when the malefactor and the victim are not alone.[26]

The plausibility of an allegation of rape does not depend on the number of witnesses presented during the trial, so much so that, if the testimonies so far presented clearly and credibly established the commission of the crime, corroborative evidence would only be a mere surplusage.[27] In this case, the trial court gave credence to the testimonies of the prosecution witnesses on the basis of which it adjudged accused-appellant guilty. In the absence of bias, partiality, and grave abuse of discretion on the part of the presiding judge, his findings as to their credibility are entitled to utmost respect as he had the opportunity to observe their demeanor on the witness stand.[28]

Nor does the absence of spermatozoa in the genitalia of complainant destroy the finding of rape since ejaculation is never an element thereof.[29] What consummates the felony is the contact of the penis of the perpetrator, however slight, to the vagina of his victim without her consent.[30] Neither is it required that lacerations be found in the victim's hymen. We have held that a medical examination is not a requisite for a rape charge to prosper as long as the victim categorically and consistently declares that she has been defiled.[31] In this case, aside from complainant's positive testimony, the medical examination of the complainant showed an abrasion on her labia minora, indicating that she had recent sexual intercourse.[32] That the deep healed lacerations found on the complainant's genitalia may have been caused seven days prior to December 22, 1996 is immaterial and irrelevant considering that she is a non-virgin.

Accused-appellant also claims that complainant could have been hallucinating in alleging that she had sexual intercourse with him on December 22, 1996. In answer, suffice it to say that complainant was steadfast and consistent in stating that she was raped by accused-appellant. She maintained her allegation of rape when she was physically examined by the medico-legal officer, when she made her statement to the police and again when she testified in court.[33]

Accused-appellant assails the trial court's finding of lack of consent on the part of the complainant to the sexual act. As the facts show, complainant herself admitted that she agreed to have sex with him after he gave her a stick of cigarette. However, it should be stressed that complainant was in no position to give her consent. As Dr. Salangad said in her testimony:

COURT:

Q

If you claim that the private complainant is suffering from this kind of illness, schizophrenia, and manifests behavior to the effect that she can not be active during lucid intervals now if she is suffering from this kind or mental state, can she give an intelligent consent considering that the private complainant is already above 20 years

of age?

A

In her case, I would say no, Your Honor.

Q

I will rephrase my question. Because when I asked to give an intelligent consent, you might be referring to acts that are very important to her like, for example, "do you want to eat?" of course, she will give an intelligent consent. "Do you want to sleep?" of course, she will give an intelligent consent?

A

Yes, Your Honor.

Q

But things that would destroy her honor or reputation like for example having sex with her, can she give an intelligent consent?

A

No, Your Honor.

Q

In other words, she would not know the consequences of her consenting to such a proposal to have sex?

A

Yes, Your Honor.

....

ATTY. SALATANDRE:

Q

She can not give an intelligent consent to sex, your patient?

A

Yes, sir.

Q

Meaning she will just agree?

A

She has said so when I asked her. She was just offered a cigarette.

Q

Meaning if she opens her legs, she does not understand what she was doing?

A

She probably knew what she was doing but when we say an intelligent consent, she has weighed the pros and cons on an action and its future significance and also based on the upbringing, sir.

Q

That she was on top of the bed, then the accused allegedly opened the zipper of his pants and pulled down the pants up to his knees and placed himself on top of the patient and tried to insert his organ to her organ and the girl said she agreed to it because she likes it, does it mean all those things that transpired she does not know or understand what was happening?

A

She knew what was happening but there is a difference in her judgment, in her discernment. A child can be asked to lie down and knows that somebody was on top of him or her and that is the thing of being aware. But the judgment of the consent itself, the significance, the effect, we all know that a normal person does not do these unless he or she contemplates it.

Q

I just do not know if I am correct, my interpretation about what you are saying is that physically they are doing that, meaning the organ of the accused was inserted into the organ of the patient allegedly but the girl did not resist, the girl did not comment whatsoever because she did not understand what is happening?

COURT:

No, she did not say that she did not understand what was happening, she can not discern.

A

Let me give you a little information. In the psychological state of mentally ill patients, the basic instinct of a person is very prominent. They respond, they eat and they can have sex, that is normal and they are just responding on the level of their basic instinct. When you are a mature person or a normal person and you have attained maturity and clearness of mind, you now, of course, try to put things into their proper perspective, socially and morally, that is where upbringing and education come in. I would say that the patient's case, she is more responding in an instinctual level without the use of intellect.[34]

Accused-appellant questions in this appeal the qualifications of Dr. Salangad as an expert witness. However, he cannot do this now as he did not raise any objection to Dr. Salangad's qualifications in the trial court. On the contrary, he even cross-examined her on the matters on which she testified. In accordance with Rule 132, §36, objections not timely raised are deemed waived.

The fact that Dr. Salangad was hired by the family of complainant to give expert testimony as a psychiatrist did not by that fact alone make her a biased witness and her testimony unworthy of consideration. As has been said:

. . . Although courts are not ordinarily bound by expert testimonies, they may place whatever weight they choose upon such testimonies in accordance with the facts of the case. The relative weight and sufficiency of

expert testimony is peculiarly within the province of the trial court to decide, considering the ability and character of the witness, his actions upon the witness stand, the weight and process of the reasoning by which he has supported his opinion, his possible bias in favor of the side for whom he testifies, the fact that he is a paid witness, the relative opportunities for study and observation of the matters about which he testifies, and any other matters which deserve to illuminate his statements. The opinion of the expert may not be arbitrarily rejected; it is to be considered by the court in view of all the facts and circumstances in the case and when common knowledge utterly fails, the expert opinion may be given controlling effect (20 Am. Jur., 1056-1058). The problem of the credibility of the expert witness and the evaluation of his testimony is left to the discretion of the trial court whose ruling thereupon is not reviewable in the absence of an abuse of that discretion.[35]

It has not been shown in this case that the trial court abused its discretion in appreciating the testimony of Dr. Salangad so as to justify setting aside its findings.

Art. 335 of the Revised Penal Code, as amended by R.A. No. 7659, provides:

ART. 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances.

- (1) By using force or intimidation;
- (2) When the woman is deprived of reason or otherwise unconscious; and
- (3) When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by reclusion perpetua.

....

To warrant a conviction for rape under paragraph (2) of Art. 335, a woman need not be proven as completely insane or deprived of reason. The phrase "deprived of reason" has been construed to include those suffering from mental abnormality or deficiency or some form of mental retardation, those who are feeble-minded although coherent.[36]

That the complainant was suffering from schizophrenia at the time of the rape is shown by the fact that she was in the clinic precisely because of such illness and by her behavior at the trial, during which she would smile for no reason at all while answering the questions. Though she may not have totally lost her memory, it was shown that she was suffering from an impairment of judgment, which made her incapable of giving, an intelligent consent to the sexual act. It has been held that where the rape victim is feeble-minded, the force required by the statute is the sexual act itself.[37]

Even assuming then that the complainant consented to have sexual intercourse with accused-appellant, the copulation would fall under the third paragraph of Art. 335 of the Revised Penal Code in view of the fact that complainant was mentally ill. Sexual intercourse with an insane, deranged, or mentally deficient, feeble-minded, or idiotic woman is rape, pure and simple.[38]

At any rate, complainant said in her sworn statement that she was afraid of accused-appellant because of the nature of his job as a nurse-aid. Thus she stated:

28. Tanong : Ikaw ba ay natatakot kay Eric?

Sagot : Kaunti lang, dahil sa trabaho niya.[39]

As Dr. Salangad explained:

ATTY. SALATANDRE:

....

Q

Meaning that when she was asked on page 2 "Tanong 27 Q - Ikaw ba ay tinakot o sinaktan ni Eric? S - Hindi naman po." This is her own answer, nobody threatened her at that time?

A

Yes, sir, but may I add. There was no direct threat but in her situation she was brought there for confinement and treatment and for safekeeping. She is in a situation wherein the attendants and the nurses are all authorities around her, who dictate what to do. I believe that there was some kind of threat or force in that level, although there was no direct threat in the action.

COURT:

Q

In the mind of Nieva Garcia, who were those that might be threatening to her?

A

The accused somehow had made the threat. Because in their daily activity, the attendants and nurses dictate the things to do, they follow, they are bosses in the clinic, they are in that kind of situation always, Your Honor.

Q

That explains your presence during the investigation?

A

To assist her in order that she is not afraid and in response to earlier question of counsel if the patient was directly threatened or intimidated during the act, I am giving you a general situation in an institution, in this kind of institution. Sometimes they are restrained if they go out of line, they are ones who restrain them, the attendants and the nurses do these, Your Honor.[40]

As already stated, accused-appellant invoked alibi in his defense. He claimed that, at the time of the incident, he was in his quarters at the Holy Spirit Clinic sleeping. For the defense of alibi to be believed, the following requisites must be met: (a) his presence at another place at the time of the perpetration of the offense must be proven; and (b) it was physically impossible for him to be at the scene of the crime.[41]

Accused-appellant's testimony itself demonstrates the untenability of his alibi. First, his declaration that he was in another room of the clinic is uncorroborated. Second, the room in which he said he was sleeping at that time of the incident was only a few meters away from the patients' room where complainant was confined. Third, he admitted that, as a nurse-aide, he was allowed to enter the patients' room anytime for purposes of checking on the patients. Above all, his alibi cannot be given credence because complainant has pointed to him as the culprit of the rape. In cases in which the accused-appellant was identified by the victim herself who harbored no ill motive against him, the defense of alibi was rejected.[42]

The trial court correctly awarded moral damages in the amount of P50,000.00, in accordance with our recent

rulings that moral damages may be awarded in rape cases without any need of proof of moral suffering. However, in addition, civil indemnity in the amount of P50,000.00 should have been awarded the complainant consistent with the ruling that rape victims are entitled to such an award without need of proof except the fact of the commission of the offense.[43] On the other hand, the plea of the prosecution that the indemnity should be raised to P75,000.00 cannot be granted because such amount is awarded only in cases of qualified rape. In this case, there were no qualifying circumstances raising the penalty to death.[44]

WHEREFORE, the decision of the Regional Trial Court, Branch 95, Quezon City is AFFIRMED with the modification that, in addition to the award of P50,000.00 for moral damages made by the trial court, complainant should be indemnified in the amount of P50,000.00.

SO ORDERED.

Quisumbing, Buena, and De Leon, Jr., JJ., concur.
Bellosillo, J., (Chairman), on leave.

[1] Per Judge Diosdado Madarang Peralta.

[2] Rollo, pp. 12-13.

[3] TSN (Dr. Salangad), pp. 5, 12, April 23, 1997.

[4] TSN (Nieva Garcia), pp. 4-9, April 10, 1997; TSN (Nieva Garcia), p. 3, April 27, 1997; Exhibit D; Records, pp. 5-6.

[5] Exhibit B-2.

[6] Exhibit A.

[7] TSN (Dr. E. Reyes), pp. 2-8, March 17, 1997.

[8] TSN (Eric Baid), pp. 2-6, May 22, 1997.

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

[10] Id., pp. 8-11.

[11] Rollo, pp. 14-22.

[12] Id., p. 42.

[13] WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY (unabridged) 2030 (1993).

[14] 2 A. TASMAN, G. KAY, & J. LIEBERMAN, PSYCHIATRY 930 (1997), citing THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS by the American Psychiatric Association (1994).

[15] Id., pp. 931-932.

[16] Id.; TSN (Dr. Salangad), p. 8, April 23, 1997.

[17] Rollo, pp. 42-49, 107-115.

[18] Rule 130, §§20-21.

[19] TSN (Nieva Garcia), pp. 3-8, April 10, 1997.

- [20] TSN, (Nieva Garcia), pp. 7-8, April 24, 1997.
- [21] TSN (Dr. Salangad), pp. 10 and 16, April 23, 1997.
- [22] PSYCHIATRY, supra, 947-948.
- [23] People v. Almacin, 303 SCRA 399 (1999); People v. Atuel, 261 SCRA 339 (1996).
- [24] Exhibits D and D-1; Records, pp. 5-6.
- [25] People v. Padilla, 301 SCRA 265 (1999); People v. Atuel, 261 SCRA 339 (1996).
- [26] People v. Yabut, 311 SCRA 490 (1999); People v. Lozano, 310 SCRA 707 (1999).
- [27] People v. Gondora, 265 SCRA 558 (1996).
- [28] People v. Dizon, 309 SCRA 669 (1999).
- [29] People v. Yabut, supra.
- [30] People v. Abuan, 284 SCRA 46 (1998).
- [31] People v. Lacaba, G.R No. 130591, Nov. 17, 1999.
- [32] People v. Bation, 305 SCRA 253 (1999).
- [33] The complainant's medico-legal examination and her sworn statement before the police were both done on December 22, 1996. Her direct testimony was presented on April 10, 1997. The rest of her testimony was proffered on April 24, 1997.
- [34] TSN, (Dr. Salangad), pp. 8-9, 16-17, April 23, 1997.
- [35] Espiritu v. Court of Appeals, 242 SCRA 362, (1995); Solomon v. Intermediate Appellate Court, 185 SCRA 352 (1990).
- [36] People v. Almacin, 303 SCRA 399 (1999).
- [37] Id.
- [38] People v. Atuel, 261 SCRA 339 (1996).
- [39] Exhibit D-1; Records, p. 6.
- [40] TSN (Dr. Salangad), p. 18, April 23, 1997.
- [41] People v. Magpantay, 284 SCRA 96 (1998).
- [42] People v. Luzorata, 286 SCRA 487 (1998).
- [43] People v. Capillo, G.R. No. 123059, Nov. 25, 1999.
- [44] People v. Lasola, G.R. No. 123152, Nov. 17, 1999.

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