PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMON ROMAN Y BERNALDEZ, ACCUSED-APPELLANT.

G.R. No. 130947. September 14, 1999

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Accused-appellant Ramon Roman y Bernaldez assails the decision dated March 18, 1997 of the Regional Trial Court of Iriga City, Branch 37, finding him guilty beyond reasonable doubt of the crime of rape committed against complainant Milan G. Salcedo and sentencing him to suffer the penalty of reclusion perpetua with all the accessory penalties provided by law and to indemnify the complainant the sum of P50,000.00 by way of moral damages as well as costs.

The facts of the case are as follows:

On June 26, 1991, at around 3:00 o'clock in the afternoon, 18 year-old Milan Salcedo asked permission from her mother to take a bath at the public pumpwell located 150 to 200 meters away from their house in Barangay Cabungan, Balatan, Camarines Sur, since there was no water in their house. While Milan was filling the basin with water, accused-appellant, Ramon Roman y Bernaldez, arrived, placed his hand on her shoulder and started kissing her while at the same time professing his love for her. Milan resisted accused-appellant's advances but he dragged her 50 meters away from the pumpwell to a grassy area. Milan started to cry and shout, and accused-appellant poked a short handgun at her which frightened her and deterred her from further making any noise.[1]

Accused-appellant kissed Milan again and removed her blouse, bra, shorts and underwear. He spread her towel on the ground and lay Milan on top of it as he continued to caress her. Then, he inserted his penis into her private organ causing her excruciating pain. After accused-appellant ejaculated, Milan lay crying and trembling with fear. He had his gun poked at her the whole time while his other arm held her. After about 25 minutes, accused-appellant again started kissing her and had sexual intercourse with her for the second time. His bestial lust still not having been satisfied, accused-appellant, after another interval of 25 minutes, had sexual congress with Milan for the third time. He then instructed her to dress up and warned her not to tell anyone about the incident otherwise he will kill her and her family.[2]

It was past 5:00 o'clock in the afternoon when Milan, accompanied by accused-appellant, returned home. Accused-appellant is known to the family of Milan because he is the brother of the wife of Milan's maternal uncle. Upon their arrival, Milan hastily proceeded to her room and cried. Her mother, Virginia, who noticed Milan's reddish face followed her and saw her crying. When she asked Milan what happened, Milan did not say anything. Milan told her mother about the grim incident only at around 9:00 o'clock in the evening when she thought that accused-appellant had left. Unknown to Milan, however, accused-appellant stayed on and even slept in her house that night. Milan's family decided not to confront accused-appellant out of fear since he carried a gun with him. Milan's brother, Carlito, who slept beside accused-appellant noticed that the latter had a short

handgun with him. Accused-appellant was reportedly restless throughout the night and kept on looking at the wall clock.[3]

Meanwhile, Milan, who was engaged to be married to her fiance Amado Nillo, could not sleep as she felt deeply humiliated by the incident. She was worried that her fiance might cancel their scheduled wedding if he found out that she was sexually abused by accused-appellant. Nevertheless, Milan and her mother reported the incident to the police the following day. Thereafter, Milan submitted herself to a medical examination, which was conducted by Dr. Luis Taburnal and the said examination revealed the following findings:

1. Hematoma, middle portion of upper lip about 3x2 cm in size;

2. Fresh Hymenal Lacerations at 3 o'clock and 9 o'clock locations;

3. Fresh mucocutaneous abrasions, labia minora left and right side;

4. No other physical injuries noted.[4]

A month after her harrowing experience, Milan got married to her fiance Amado Nillo. On the same day, however, that Milan reported the crime of rape to the police, accused-appellant left for Manila. Hence, when a formal complaint was filed with the Municipal Trial Court of Balatan on June 27, 1991 and a warrant of arrest issued on June 28, 1991, accused-appellant could no longer be found. He was only arrested by virtue of an alias warrant of arrest when he returned to Balatan in 1994.

On September 14, 1995, an information was filed against accused-appellant in the Regional Trial Court of Iriga, Branch 37, for the crime of rape committed against Milan G. Salcedo. The information reads as follows:

> "The undersigned, upon prior complaint signed by the offended party, accuses RAMON ROMAN y BERNALDEZ of Barangay Cabungan, Balatan, Camarines Sur, of the crime of RAPE, defined and punished under Article 335 of the Revised Penal Code, committed as follows:
> "That on or about the 26th day of June, 1991, in Barangay Cabungan, Balatan, Camarines Sur, and within the jurisdiction of this Honorable Court, the above-named accused, by means of intimidation, force and violence and use of a firearm (Handgun), did then and there willfully, unlawfully and feloniously have carnal knowledge with one Milan G. Salcedo, against her will, to her damage and prejudice in such amount as may be proven in court.
>
> "ACTS CONTRARY TO LAW."

Upon arraignment, accused-appellant pleaded not guilty. He did not deny having carnal knowledge of complainant but interposed the defense that the three encounters of sexual congress were consensual.

Accused-appellant maintains that he and the complainant were sweethearts and he had been living with the family of the complainant for over a month before the incident in question. He claims that he and Milan had sexual relations even before June 26, 1991. As proof that he and Milan were sweethearts, accused-appellant presented a handkerchief allegedly given to him by Milan with the embroidered initials MS, a heart and the letter R.[5] Accused-appellant alleged that on June 26, 1991, at around 3:00 o'clock in the afternoon, Milan wanted to take a bath and she asked him to accompany her to a public pumpwell located about 150–200 meters away from her house. When they reached the said place, accused-appellant pumped water for Milan to use in taking a bath. When Milan finished taking a bath, accused-appellant asked if he could have sex with her and she readily consented. The sexual congress was repeated for two more times on the same afternoon. At around 5:00 o'clock in the afternoon, accused-appellant and Milan proceeded to the latter's house. When they reached the house, Milan prepared some snacks while accused-appellant chatted with her brother, Carlito. As Milan prepared coffee, accused-appellant and Carlito continued chatting and thereafter spent some time at a nearby highway.

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Accused-appellant later returned to Milan's house ahead of Carlito. When he reached the house, he was met by Milan who told him that rumors started circulating about their sexual encounter at the pumpwell. Milan was apparently worried that the rumors might jeopardize her impending wedding to her fiance Amado Nillo. Accused-appellant was surprised to discover that Milan was already engaged to be married to someone else.[6] The next day, he left for a trip to Manila. Accused-appellant claims his trip was scheduled months beforehand.

Accused-appellant's claim that he and the complainant were sweethearts was supported by his cousin Romeo Roman who testified in open court that at around 4:00 o'clock in the afternoon of June 26, 1991, he accidentally chanced upon accused-appellant and Milan having a tryst in a secluded spot of a grassy field. Milan allegedly had her legs wrapped around those of the accused with both arms embracing the latter's head as they made love.[7] Romeo decided not to tell anyone of the incident since one of the parties involved was his cousin who at that time was already a married man.[8]

Accused-appellant's story that his trip to Manila a day after the fateful incident had been planned months before the incident was corroborated by another cousin, Charlie Talagtag who said that in the late afternoon of June 26, 1991, he went to complainant's house to verify from accused-appellant when are they going to Manila. Accused-appellant and Charlie apparently had a previous agreement to go to Manila supposedly to fix someone's car, Charlie being a mechanic by profession.[9] Charlie stated that he proceeded directly to Milan's house to talk to accused-appellant since he knew that he had been living with the family of Milan two or three months before June 1991.[10]

Finally, accused-appellant's wife, Evangeline Pacer-Roman, testified that her husband admitted having an affair with complainant Milan, and that he and Milan were living together. Evangeline claimed that Milan herself admitted having a "good relationship" with accused-appellant.[11] Evangeline, out of hurt and sheer desperation, allegedly filed a complaint with the Barangay Captain and was supposed to have a confrontation with the lovers in the presence of the Barangay Captain on June 28, 1991 but Milan had already filed a complaint for rape against accused-appellant by then.[12]

On March 18, 1997, the trial court rendered a decision finding accused-appellant guilty beyond reasonable doubt of the crime of rape committed against complainant Milan G. Salcedo, the dispositive portion of which reads as follows:

> "Wherefore, the Court finds accused Ramon Roman guilty beyond reasonable doubt of the crime of rape as defined and penalized under Article 335 of the Revised Penal Code, as amended, as principal, without any aggravating or mitigating circumstance attending the commission of the crime, and hereby sentences the accused to suffer the penalty of reclusion perpetua, with all the accessory penalties provided by law, and to indemnify Milan Salcedo Nillo, the sum of P50,000.00 as moral damages and to pay the costs.
>
> "In the service of his sentence, accused is credited with the full period of his preventive imprisonment should there be a written compliance with Article 29 of the Revised Penal Code.
>
> "SO ORDERED."[13]

In his appeal before us, accused-appellant interposes the defense that the trial court erred in finding him guilty beyond reasonable doubt of the crime of rape inasmuch as the three encounters of sexual congress between him and complainant were consensual. Accused-appellant contends that it would have been improbable for anyone not to have heard Milan's cries for help since the public pumpwell is situated near a foot path and there are houses nearby.

We find no merit in accused-appellant's appeal.

Accused-appellant's theory that he and Milan were sweethearts is much too inane to be worthy of any credence. The handkerchief presented by accused-appellant as proof of his relationship with Milan is of no probative value inasmuch as anybody could just obtain it with ease and have it embroidered with the corresponding initials. Complainant, at the time of the incident, was an eighteen year-old college student engaged to be married to her fiance Amado Nillo. There is no indication of her being of ill repute or loose morals so as to readily consent to have intimate relations with a married man who is related by affinity to her maternal uncle. If she and accused-appellant were indeed sweethearts, she would not have gone through the rigors of public trial, the embarrassment of having her private parts examined and the utter degradation of describing to total strangers the humiliating experience of not one but three sexual assaults from a married man at the risk of facing rejection from her own fiance to whom she was engaged to be married. In the case of People vs. Roncal,[14] we have held that, "Considering the inbred and consequent revulsion of the Filipina against airing in public things that affect her honor, it is hard to conceive that complainant would reveal and admit the ignominy she had undergone if it was a mere fabrication. Besides, by publicly testifying, she has made public a painful and humiliating secret which others would have simply kept to themselves forever because it would jeopardize her chances of marriage or foreclose the possibility of a blissful married life. Her husband may not fully understand the excruciatingly painful experience which would always haunt her."

Despite the painful possibility that her fiance might break their engagement, Milan, however, took courage to report the grim incident to the authorities the very next day, and to submit herself to medical examination. Fortunately for Milan, Amado Nillo's love for her was strong enough for both of them to overcome the unhappy episode in her life and to continue with their wedding plans as scheduled. Milan's relentless pursuit of the case even after three (3) long years lends more credence to her story that she was indeed violated by accused-appellant, for no decent woman in her right mind would fabricate a story that could sully her reputation and bring undue embarrassment and shame to herself as well as to her family unless she was motivated by a strong desire to seek justice for the wrong committed against her.

We likewise find no merit in the testimony of the witness for the defense, Romeo Roman, that the sexual congress was consensual, complainant having lovingly embraced and kissed accused-appellant during the incident. During trial, Roman claimed that while he saw the two making love in the open field, he did not tell anyone about it. Nevertheless, despite his claim that he told no one about the incident, he contradicted himself in open court when he said that the wife of accused-appellant approached him to testify for the defense.[15] If the witness never told anyone about having seen the accused-appellant and the complainant making love on the date in question, then why was he approached by accused-appellant's wife to testify for the defense? How could accused-appellant's wife have known what he witnessed if Romeo never disclosed it to anyone, much less accused-appellant's wife?

The testimony of the witness Charlie Talagtag that he and herein accused-appellant planned months beforehand to leave for Manila sometime in June 1991 deserves scant consideration. Despite their supposed plan to leave together for Manila on June 27, 1991, accused-appellant left by himself on the said day. Neither Charlie nor accused-appellant offered any explanation for accused-appellant's sudden change of plan to go to Manila alone. The only probable explanation that can be drawn from the hasty departure of the accused-appellant a day after the incident would be his overwhelming desire to evade punishment at the hands of the law. Settled is the rule that the flight of an accused is competent evidence to indicate his guilt and flight, when unexplained, is a circumstance from which an inference of guilt may be drawn.[16]

Charlie's assertion that accused-appellant was already living with Milan's family two or three months prior to June 1991 is devoid of any basis inasmuch as his conclusion was merely derived from the allegation that he often saw accused-appellant in complainant's house. It must be noted that accused-appellant is known to the family of

Milan since he is the brother of Milan's maternal uncle and, therefore, it would not be unusual for him to visit Milan's family every now and then, considering the hospitality among people living in the rural areas. Curiously, Charlie admitted not having had any communication with accused-appellant two or three months prior to June 1991, hence, it would not have been possible for him to know that accused-appellant had been staying with the family of Milan two or three months prior to June 1991, as he claims.[17]

Neither does Evangeline Roman's testimony that accused-appellant and complainant are sweethearts merit any credence. Evangeline's testimony is obviously an afterthought that was meant to save her husband from inevitable imprisonment. It is at best a self-serving testimony without any factual basis inasmuch as no proof was presented regarding the alleged complaint that she filed against accused-appellant and complainant before the barangay captain. Even the barangay captain was not presented to testify on the existence of the alleged complaint filed by Evangeline.

As regards accused-appellant's contention that it is highly improbable for anyone not to have heard complainant's cries for help because the pumpwell is near a footpath and there are adjacent houses, complainant herself testified that when she started crying and shouting for help, accused-appellant poked a handgun at her which deterred her from making any more noise.[18] In any case, it is a hornbook doctrine that rape can be committed in places where people congregate, in parks, along the roadside, within the school premises, inside the house where there are occupants and even in the same room where the members of the family are also sleeping.[19]

At this point, we note that although it is not disputed that accused-appellant had carnal knowledge of complainant thrice on that same afternoon, since the information only charged accused-appellant of one act of rape, the lower court did not err in ruling that accused-appellant can only be held liable for one act of rape.[20] However, we note that the trial court failed to award civil indemnity to complainant. Under existing jurisprudence, the amount of P50,000.00 as indemnity ex delicto is automatically granted to the offended party without need of further evidence other than the fact of the commission of rape.[21]

WHEREFORE, the decision of the Regional Trial Court of Iriga, Branch 37 finding accused-appellant RAMON ROMAN y BERNALDEZ guilty beyond reasonable doubt of the crime of rape committed against Milan Salcedo Nillo and sentencing him to suffer the penalty of reclusion perpetua with all the accessory penalties provided by law and to pay the complainant the sum of P50,000.00 as moral damages and to pay the costs is AFFIRMED with the MODIFICATION that accused-appellant is ordered to pay the complainant the additional sum of P50,000.00 as indemnity.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

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[1] TSN, May 22, 1996, p. 5.

[2] TSN, May 22, 1996, p. 8.

[3] TSN, April 17, 1996, p. 3.

[4] Exhibit "1."

[5] Records, 146.

[6] TSN, January 28, 1997, p. 17.

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[7] TSN, June 18,1996, p. 20.

[8] TSN, June 18,1996, p. 11.

[9] TSN, August 27, 1996, p. 17.

[10] TSN, August 27, 1996 p. 7, 14.

[11] TSN, February 19, 1997, p. 10.

[12] TSN, February 19, 1997, p. 7.

[13] Rollo, p. 172.

[14] 272 SCRA 242 [1997].

[15] TSN, June 18, 1996, pp. 11-12.

[16] People vs. Gomez, 251 SCRA 455 [1995].

[17] TSN, August 27, 1996, p. 12.

[18] TSN, May 22, 1996, p. 5.

[19] People vs. Devilleres, 269 SCRA 716 [1997].

[20] People vs. Venerable, 290 SCRA 15 [1998].

[21] People vs. Pili, 289 SCRA 118 [1998]; People vs. Balmona, 287 SCRA 687 [1998]; People vs. Caballes, 274 SCRA 83 [1997].

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