

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JIMMY ANTOLIN A.K.A. JAMES ALONZO Y MARTIN, ACCUSED-APPELLANT.

G.R. No. 133880. April 12, 2000

Ponente: DAVIDE JR., C.J.

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DAVIDE JR., C.J.:

Accused Jimmy Antolin, a.k.a. James Alonzo y Martin,[1] (hereafter JIMMY) appeals from the decision[2] of the Regional Trial Court of Quezon City, Branch 86, in Criminal Case No. Q-96-66106-8,[3] promulgated on 16 December 1997, finding him guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua and to pay the complainant Betty Salayon (hereafter BETTY) and her mother the amount of P50,000 as moral damages and the costs of the suit.

On 23 April 1996, a complaint for rape against JIMMY was filed with the National Bureau of Investigation (NBI) by BETTY, a twenty-four year-old[4] mental retardate. She was assisted by Hermenigilda Salayon, her adoptive mother, in giving her sworn statement.[5]

BETTY claimed that she was twice raped by JIMMY. She had herself physically examined by Dr. Valentin T. Bernaldes, an NBI medico-legal officer, whose findings and recommendation that she should undergo a neuro-psychiatric test were contained in a medico-legal report.[6] BETTY was subjected to neuro-psychiatric and psychological tests and, in the evaluations,[7] she was diagnosed as a mental retardate with a mental age of four years and eight months and an intelligence quotient of thirty-three.

Hermenigilda Salayon also executed an affidavit,[8] wherein she declared that her daughter BETTY is a mental retardate.

On the basis of the sworn statements of BETTY and her mother, the medico-legal report, and the neuro-psychiatric evaluation of BETTY, a subpoena was issued to JIMMY. In the conference, BETTY positively identified JIMMY as her sexual assailant; and when JIMMY was asked for an identification, he presented, among other things, his NBI clearance,[9] Social Security System identification card[10] and private security license identification card[11] which all bore the name James Alonzo y Marzan. When queried, JIMMY admitted that James Alonzo y Marzan is not his real name and he uses it to conceal his true identity.[12]

JIMMY was thereafter charged with rape in Criminal Case No. Q-96-66106; violation of Commonwealth Act No. 1420, as amended by Republic Act No. 6048, otherwise known as Anti-Alias Law, in Criminal Case No. Q-96-66107; and with falsification of public documents in Criminal Case No. Q-96-66108. He moved for the consolidation of the two other criminal cases with the rape case. As the trial proceeded, the prosecution eventually moved for the withdrawal of the two criminal cases for violation of the Anti-Alias Law and for falsification of public documents. The trial court granted the motion.[13]

In Criminal Case No. Q-96-66106, the Information[14] charged JIMMY with rape allegedly committed as follows:

That sometime on (sic) March 1996 at Balara, Quezon City, and within the jurisdiction of this Honorable Court, the [a]bove-named accused did then (and there) have carnal knowledge of a woman under (sic) the person of Betty Salayon, a mental retardate, by using force and intimidation with the use of a knife.

JIMMY sought a reinvestigation of the rape case considering that he was not represented by counsel during the investigation held at the National Bureau of Investigation (NBI). The prosecutor interposed no objection. The trial court granted the motion. In the resolution[15] of 18 July 1996, the investigating prosecutor found probable cause for rape and recommended the continuance of the criminal proceedings against JIMMY.

JIMMY pleaded not guilty upon arraignment.[16]

During the trial, BETTY testified that she knew JIMMY, whom she called Kuya Jun. JIMMY was a friend of her mother and he would regularly buy from their store. When requested to tap JIMMY's shoulder to identify him in open court, BETTY refused, stating "Ayaw ko, natatakot ako." Instead, she pointed at him. She narrated that one evening, when she was fetching water from their bathroom, she was pulled away by JIMMY. He kissed her, mashed her breast, and totally undressed her. He then ordered her to hold his penis and insert it in her poday (vagina).[17]

When asked if JIMMY was able to insert his penis in her private organ, BETTY answered yes and admitted to feeling pain. The whole time they remained standing. Thereafter, she was threatened by JIMMY that he would kill her. He was then armed with a knife and a flashlight. She could no longer recall which month the incident happened.[18]

Susan Jamiro, a neighbor of the Salayons, declared that sometime in the second week of March 1996, at around the time BETTY claimed she was raped by JIMMY, she saw JIMMY jump over the fence of the Salayons and proceed to the toilet. The toilet and the nearby faucet, owned by Hermenigilda Salayon, were also used by the neighbors. Susan thought it odd for JIMMY to jump over the fence since he never did that before, and at that time, she was certain that the scheduled water supply in their area was not yet available.[19]

For her part, Hermenigilda Salayon narrated that sometime in the second week of March 1996, JIMMY came to buy something at her store. BETTY pointed him out to her and said, "Nanay, he was the one who raped me." It was only then that she learned of the rape. Hermenigilda no longer confronted JIMMY about the incident, fearing he might cause trouble. Instead, she accompanied BETTY to the NBI the following day and assisted her in filing the complaint for rape. She and BETTY gave their respective sworn statements,[20] then BETTY was physically examined.

Dr. Valentin Bernales, the NBI medico-legal officer who interviewed and physically examined BETTY noted there was an old, healed hymenal laceration which was three to four weeks old. He also observed that BETTY was incoherent and mentally imbalanced, necessitating him to obtain information from BETTY's mother. Thus, he referred BETTY to the neuro-psychiatric services for evaluation.[21] His findings are contained in his medico-legal report.[22]

Dr. Erlinda Marfil, Chief of the NBI Neuro-Psychiatric Services, examined BETTY's mental state and concluded that she was a mental retardate with a mental age of four years and eight months. With such a condition, BETTY could neither distinguish right from wrong nor tell a lie. She further explained that a retardate cannot invent or reason.[23]

While confirming that BETTY could testify with credibility, Dr. Marfil cautioned that her testimony should be limited to events pertaining to her. She further opined that BETTY will not be able to bear the rigors of trial inasmuch as her condition is characterized by a short attention span, poor comprehension, and difficulty in

communication. She based her findings on her personal examination of and interview with BETTY and the latter's psychological evaluation,[24] which she prepared.[25]

Dr. Lorinda Gozar was the NBI psychologist who conducted a psychological test on BETTY. Her findings and diagnosis are contained in the psychological evaluation report,[26] which confirmed Dr. Marfil's findings. She explained that BETTY only narrates what she actually sees, thinks, and feels. BETTY cannot be coached on what to answer in court; neither can she invent incidents.[27]

The witnesses for the defense were JIMMY and Rolando Infante.

JIMMY's sole defense is denial. He testified that in 1990, he and his spouse were hired by Hermenigilda Salayon for a year as caretakers of the latter's house in Pansol, Quezon City. The house was then under construction. He knew BETTY as the adopted daughter of Hermenigilda Salayon.[28]

From 1-15 March 1996, he worked a 7:00 a.m. to 7:00 p.m. shift as a security guard at the Duty-Free Shop in Pasay City. He lived alone and his daily routine was to wake up at 5:00 a.m., leave thirty minutes later from his home in Balara, Pansol, Quezon City, return at 10:00 p.m., and proceed to sleep. In the second half of March, he was employed as a timekeeper by Rolando Infante at a construction site in Tandang Sora, Quezon City. He worked from 8:00 a.m. to 4:00 p.m., and he would be home by 5:00 p.m. In April, he joined the security force of a bakeshop in Mandaluyong City.[29]

In denying BETTY's allegation of rape, JIMMY declared that he had never been in the toilet where she claimed she was raped. He knew of no reason why BETTY or her mother would accuse him of such a crime since he had always maintained good relations with them. Nonetheless, to cast doubt on his indictment, he said Hermenigilda bore a grudge against him because some items in her house were allegedly lost at the time he was overseeing the construction of her house. Eventually, he and his wife left the house upon Hermenigilda's demand.

During cross-examination, JIMMY admitted that his residence was just thirty meters from the Salayon residence at the time BETTY was raped. He likewise admitted using the name James Alonzo.[30]

Rolando Infante, a contractor of residential houses, and JIMMY's neighbor for eight years, testified that JIMMY was a good man who was never involved in any crime. He was aware of JIMMY's work schedule, that the latter always came home late from work, so he was surprised to learn that JIMMY was accused of rape.[31]

Hermenigilda Salayon, who was presented as rebuttal witness, denied that she hired JIMMY as caretaker of her house during its construction. On the contrary, JIMMY and his wife requested that they be allowed to dwell therein since they had no place to stay and, out of pity, she relented. She denied harboring any grudge against JIMMY on account of the missing items in her house. However, due to the misunderstanding arising therefrom, JIMMY voluntarily left her house.[32]

The trial court gave full faith and credit to the testimonies of BETTY and Hermenigilda Salayon. It also accepted the expert opinion of the doctors, who confirmed that BETTY is a mental retardate with the mental ability of a child of four years and eight months, and that she is incapable of telling a lie.

The trial court was impressed with BETTY's spontaneous and straightforward testimony, particularly during the rigorous cross-examination, where she remained steadfast and consistent in her answers. Her testimony was likewise bolstered by the medico-legal report,[33] which confirmed the injury she sustained in her vagina at about the time she was raped. It rejected JIMMY's denial of the crime and found insignificant his actuation that the complaint was filed against him due to a personal grudge harbored by Hermenigilda against him. Instead, the trial court noted her demeanor and concluded that her only motive in pursuing the case was to seek justice for the

crime committed against BETTY.

Finally, the trial court held that where rape is committed against a mental retardate, the crime is akin to statutory rape, where the element of force, violence, or intimidation may be dispensed with.

Thus, in its decision of 16 December 1997, the trial court decreed as follows:

WHEREFORE, JUDGMENT IS HEREBY RENDERED finding the accused guilty beyond reasonable doubt of the crime of rape against the person of the private complainant and hereby sentences him to suffer the penalty of RECLUSION PERPETUA and ordering the accused to pay the complainant and her mother moral damages in the amount of Fifty Thousand Pesos (P50,000.00) plus costs.

SO ORDERED.

JIMMY seasonable appealed from the decision.

In his Appellant's Brief, JIMMY claims that the trial court erred in finding him guilty beyond reasonable doubt of rape. BETTY apparently admitted that she disliked him, which may have arisen from the misunderstanding between him and her mother Hermenigilda. Moreover, it was physically impossible for him to have committed the rape because of his usual routine of proceeding home immediately to quezon City from Pasay City after his evening shift as a security guard. The long trip and his fatigue hindered him from doing anything else.

We are not convinced by JIMMY's protestations of innocence.

In a prosecution for rape the complainant's credibility becomes the most important issue since her testimony alone is sufficient for a verdict of conviction.[34] It is well established that when the credibility of a witness is questioned, the appellate courts will generally not disturb the findings of the trial court, considering that it is in a more advantageous position to determine the issue as it heard the witness and observed his deportment during trial.[35] The exceptions to the rule are when such evaluation was reached arbitrarily, or when the trial court overlooked, misunderstood or misapplied certain facts or circumstances of weight and substance which could affect the result of the case.[36]

In the instant case, we sustain the trial court's findings as to the credibility of BETTY. We see no cogent reason to apply the exceptions to JIMMY's benefit. Our careful review of BETTY's testimony leads us to conclude that BETTY was actually raped by JIMMY. We quote her testimony, thus:

Q What did Kuya Jun do to you?

A He kissed me ,sir.

Q What else, if any, Ms. Witness?

A He kissed me on my neck (witness pointing to her neck).

Q Anything else, Ms. Witness, if any?

xxx

A I was fetching water he pulled me then he mashed my breasts then took off my dress and my panty and told me to hold his penis and put it on my vagina.

xxx

Q Ms. Witness, after he removed your panty what happened next?

A After he removed my panty he put something on my poday (vagina).

Q Ms. Witness, was he able to put his penis into your poday?

A Yes, sir.

Q Ms. Witness, what is this poday?

A It was wounded.

Q Ms. Witness, please stand up and show to the Honorable Court what this poday that you are referring to?

A (Witness pointing to her private part.)

Q What happened next, Ms. Witness?

A Then after that my panty was removed.

Q What happened next, Ms. Witness?

A He said that he will kill us.

Q What happened next, if any?

A He was bringing with him a knife and a flashlight.

Q What other things did he do to you, if any?

A I was fetching water, he called me, he pulled me and after that he held my breast, removed my clothes, took off my panty and told me to hold his penis and put it into my vagina.

Q Was he able to insert his penis into your vagina?

xxx

A Yes, sir.[37]

Indeed, in light of her mental state, BETTY's simple narration of what transpired was indicative of her honesty and naivete. During a rigorous cross-examination, she remained steadfast in her account. Lapses in her account were limited to the exact date of the rape and the duration of copulation. Verily, these considerations are insignificant to cast doubt on her credibility. We cannot reasonably expect her to recount in every detail the tragic and mortifying experience in the hands of someone whom she knew and trusted. In fact, we have ruled that minor lapses strengthen, rather than weaken, the credibility of the witness for they indicate spontaneity and lack of reflection.[38]

Likewise, we respect the clinical findings of the doctors whose evaluations showed that BETTY had a mental age of four years and eight months and, as such, was incapable of lying. We reiterate that the disclosure of an innocent child whose chastity was abused deserves full credence.[39] In fact, it would have been easily determinable if BETTY conjured her own tale, for the ability to sustain such fiction would require a quick and insidious mind, and her mental condition certainly precluded such a possibility. Needless to say, even the defense did not question BETTY's mental retardation. Moreover, the medical findings established the presence of an old-healed hymenal laceration, the age of which coincided with the time BETTY was raped.

JIMMY failed to establish any plausible motive for BETTY to accuse him of rape other than the alleged animosity between him and BETTY's mother. We doubt that Hermenigilda would subject BETTY to the burden of narrating her ordeal and exposing herself to the public just to exact vengeance on JIMMY, whom she suspected of stealing from her home. On the contrary, we are convinced that Hermenigilda filed the complaint to seek justice for the abominable act committed against her mentally retarded daughter.

Anent JIMMY's defense of denial, we have consistently ruled that denial is an inherently weak defense and cannot prevail over the positive testimony of the complainant.[40] BETTY's positive identification of him was further bolstered by another witness, Susan Jamiro, who saw him in the vicinity of the crime scene at around the time BETTY was raped. Accordingly, his flippant excuse that his late arrival and exhaustion from work deterred him from engaging in any activity thereafter deserves scant consideration.

The award of damages must be modified. The trial court erred in not awarding civil indemnity, which jurisprudence has set at P50,000.[41] The award of P50,000 for moral damages should be to BETTY alone, which under current case law need not be alleged nor proved.[42] Consistent with the current policy of the Court, the accused should be ordered to indemnify the complainant in the amount of P50,000 as civil indemnity.[43]

WHEREFORE, the appealed decision of the Regional Trial Court of Quezon City, Branch 86, in Criminal Case No. Q-96-66106-8 (or Q-96-66106),[44] finding accused-appellant JIMMY ANTOLIN a.k.a JAMES ALONZO y MARTIN guilty beyond reasonable doubt, as principal, of the crime of rape, defined and penalized under Article 335 of the Revised Penal Code, and sentencing him to suffer the penalty of reclusion perpetua, is hereby AFFIRMED, with the modification that he is further ordered to pay the complainant, BETTY SALAYON, the amount of P50,000 as indemnity, and the award of P50,000 as moral damages should be in favor of the complainant alone.

Costs against accused-appellant.

SO ORDERED.

Puno, Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

[1] He also goes by the alias James Alonzo y Marzan.

[2] Original Record (OR), 152-159; Rollo, 17-24. Per Judge Teodoro A. Bay.

[3] Written as Criminal Case No. Q-96-66106 only in some pleadings, orders and notices.

[4] In the complaint sheet, BETTY's age was typed as "23"; however, in her sworn statement and in her testimony she declared her age as "24."

[5] Exhibit "C."

[6] Exhibit "D."

[7] Exhibit "A."

[8] Exhibit "B."

[9] Exhibit "E."

[10] Exhibit "F."

[11] Exhibit "G."

[12] See OR, 18-19.

[13] OR, 86.

[14] Id., 1; Rollo, 4.

[15] Id., 35-38.

[16] Id., 41.

[17] TSN, 21 October 1996, 3, 5, 7, 9, 13.

[18] Id., 8, 9, 17, 18.

[19] Id., 27-30,

[20] Exhibits "B" and "C."

[21] TSN, 8 January 1997, 3-4, 5-7.

- [22] Exhibit "D."
- [23] TSN, 14 October 1997, 3-6.
- [24] Exhibit "A."
- [25] TSN, 14 October 1996, 4, 6.
- [26] Exhibit "a-2" to "A-3."
- [27] TSN, 12 February 1997, 6-8; 20 May 1997, 7.
- [28] TSN, 27 June 1997, 4-6.
- [29] Id., 6-11.
- [30] Id., 11-13, 21, 24-25.
- [31] TSN, 20 June 1997, 41-43.
- [32] TSN, 3 September 1997, 2-5.
- [33] Exhibit "D."
- [34] *People v. Antonio*, 233 SCRA 283, 299 (1994); *People v. Lao*, 249 SCRA 137, 145 (1995); *People v. Gagto*, 253 SCRA 455, 467(1996)
- [35] *People v. Delovino*, 247 SCRA 637, 646-47 (1995); *People v. Hubilla, Jr.*, 252 SCRA 471, 178 (1996); *People v. Quijada*, 259 SCRA 191, 212-213 (1996)
- [36] *People v. Cristobal*, 252 SCRA 507, 516 (1996); *People v. Balamban*, 264 SCRA 619, 629 (1996)
- [37] TSN, 21 October 1996, 7-9.
- [38] *People v. Gomez*, 251 SCRA 455, 468 (1995), citing *People v. Jumanoy*, 221 SCRA 333 (1993) and *People v. Caco*, 222 SCRA 49 (1993)
- [39] *People v. Sulte*, 232 SCRA 421, 425 (1994); *People v. Buyok*, 235 SCRA 622, 628 (1994); *People v. Gagto*, supra note 34, 467.
- [40] *People v. Antonio*, supra note 34, 299; *People v. Delovino*, supra note 35, 649.
- [41] *People v. Malunes*, 247 SCRA 317, 327 (1995); *People v. Conte*, 247 SCRA 583, 598 (1995)
- [42] *People v. Prades*, 293 SCRA 411 (1998)
- [43] *People v. Malunes*, 247 SCRA 317, 327 (1995); *People v. Conte*, 247 SCRA 583, 598 (1995); *People v. Gagto*, supra note 34, 469.
- [44] Supra note 3.

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