

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODOLFO BATO ALIAS "RUDY BATO"; ACCUSED-APPELLANT.

G.R. No. 134939. February 16, 2000

Ponente: PARDO, J.

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PARDO, J.:

The case before us is an appeal from a decision^[1] of the Regional Trial Court, Branch 71, Iba, Zambales, convicting accused-appellant Rodolfo Bato alias "Rudy Bato" of rape and sentencing him to suffer imprisonment of reclusion perpetua.

On February 21, 1995, Assistant Provincial Prosecutor Benjamin A. Fadera of Zambales filed with the Regional Trial Court, Zambales an Information charging accused-appellant with rape, as follows:

"That on or about the 5th day of October, 1994, at around 3:00 in the afternoon, at Brgy. Burgos, in the municipality of San Antonio, province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one Delia Hernandez, a minor of nine (9) years old, against her will, to the damage and prejudice of the latter.

"Contrary to law."^[2]

At the arraignment on March 29, 1995, accused pleaded not guilty to the crime charged.^[3] Trial thus followed.

The prosecution's account^[4] of the commission of the rape of the nine (9) year old Delia Hernandez is as follows:

Delia was one of the wards at the Shepherd of the Hills Compound (hereafter "compound") in Brgy. Burgos, San Antonio, Zambales which serves as a home for orphans and street children. Just across a narrow street and a mere five (5) meters away from the "compound" is accused's property which is bordered by a one meter high wooden fence. At around 3:00 in the afternoon of October 5, 1994, Delia, together with her friends Rosenda and Jelyn, was at the piggery house of the "compound" feeding the pigs. Accused, who was at the wooden fence, called Delia. She climbed the fence and then he proposed, in the very words of Delia, "na magdikitan kami." Accused led Delia to a grassy place at the back of his house where he removed his clothes, undressed her, laid on top of her, kissed and embraced her, and inserted his penis in her vagina which caused Delia much pain. Accused threatened Delia not to shout and promised to give her P10.00 and guava fruits later on. After satisfying his lust, which lasted for a few minutes, accused helped Delia put on her clothing, then both walked away.

At the same time, prosecution witness Maryjane Olympia, a friend and co-ward of Delia, was looking for Delia. When Maryjane searched the back portion of the "compound" at around 3:10 in the afternoon, she saw Delia and accused inside the latter's property. Delia was crying while accused was trying to pacify her. Maryjane approached and took Delia back to the "compound." Not for long, staff-members of the "compound" milled around Delia who narrated the bestiality committed on her by accused. They noticed that Delia's dress and underwear were soiled, and that her private part was reddish. Delia was brought to the San Marcelino

District Hospital for medical examination.

The Medico-Legal Certificate[5] prepared by Delia's attending physician, Dr. Ferdinand M. Llanes, revealed that Delia's vagina suffered lacerations at 3 o'clock and 6 o'clock positions and abrasion in the labia minora, though tests yielded negative for the presence of spermatozoa.

Accused for his part had an alibi to tell.[6] He claimed that the lot near the "compound" was not his property but that of his brother Ricardo Bato. At around 3:00 p.m. of October 5, 1994, accused was resting with his wife and children in his house near the barangay plaza which is about one half (1/2) kilometer away from the "compound", although he was at his brother's lot from 6:30 to 11:00 in the morning of the same day planting vegetables. Accused frequented his brother's property only in the morning, as he rested in the afternoon in his own house before discharging his duties as barangay tanod on the graveyard shift. He did not know Delia until the prosecution of this case, and that he was "framed up" because some of the wards in the "compound" on previous occasions had been caught breaking electric bulbs, stealing goats and engaging in sexual trysts. However, accused could not name any of the erring wards nor could he recall the dates when these alleged escapades took place.

Ricardo Bato[7] corroborated his brother's alibi. Ricardo also recalled that at around 3:00 p.m. of October 5, 1994, he scolded some of the wards of the "compound" whom he caught climbing the guava trees on his lot without permission.

Accused's daughter, Lea Grace Bato,[8] also supported her father's alibi and testified on the wards' propensity to steal fruits from her uncle's property.

The trial court rejected accused's alibi and on April 17, 1998, rendered decision convicting him on the basis of the prosecution's evidence which it found convincing and credible. The dispositive portion of the trial court's decision, reads:

"WHEREFORE, premises considered, accused RODOLFO BATO is found guilty beyond reasonable doubt to have committed statutory rape against Delia Hernandez defined and penalized under paragraph 3, Article 335 of the Revised Penal Code. Consequently, he is sentenced to suffer imprisonment of Reclusion Perpetua.

"SO ORDERED."[9]

Hence, this appeal.

In seeking acquittal, accused-appellant claims that the trial court erred (a) in giving weight and credence to the testimonies of the prosecution witnesses and (b) in disregarding accused-appellant's defense of denial and alibi.

We sustain accused-appellant's conviction.

Accused-appellant assails the credibility of the prosecution witnesses by focusing on the following inconsistencies:

- Prosecution witnesses Maryjane Olympia and Myrna Ballatan testified that Ricardo Bato's property and the "compound" are separated only by a fence, while an ocular inspection of the premises revealed that in between the two property is a lot owned by one Rodolfo Mata;
- The victim Delia said that she was in the "compound" premises when accused-appellant called her, while prosecution witness Maryjane Olympia testified that Delia was already inside Ricardo Bato's property when accused-appellant called her;
- Prosecution witness Maryjane Olympia said that when she saw Delia with accused-appellant, Delia was crying. Delia, however, did not mention that she cried after the rape;

- No spermatozoa was found in Delia's hymen; and
- It is difficult to commit rape in the presence of three (3) other men inside Ricardo Bato's property.

The perceived contradictions in the testimonies of Delia and the other prosecution witnesses refer only to minor matters that do not touch upon the commission of the crime itself. Inconsistencies in the testimony of witnesses when referring only to minor details and collateral matters do not affect the substance of their declaration, their veracity, or the weight of their testimony. Although there may be inconsistencies on minor details, the same do not impair the credibility of the witnesses^[10] where, as in this case, there is no inconsistency in relating the principal occurrence and positive identification of the assailant.^[11] The failure of Delia to recall some details of the crime, instead of suggesting prevarication, precisely indicates spontaneity and is to be expected from a witness who is of tender age and unaccustomed to court proceedings.^[12] "A rapist cannot expect the hapless object of his lechery to have the memory of an elephant and the cold precision of a mathematician because total recall of an incident is not expected of a witness especially if it is the victim herself who is on the witness stand."^[13]

Neither is the absence of spermatozoa in Delia's genitalia fatal to the prosecution's case. The presence or absence of spermatozoa is immaterial in a prosecution for rape. The important consideration in rape cases is not the emission of semen but the unlawful penetration of the female genitalia by the male organ.^[14]

Contrary to accused-appellant's contention, the presence of other people in the vicinity does not deter the commission of rape. There is no rule that rape can be committed only in seclusion.^[15] It can be committed in places where people congregate, in parks, along the roadside, within school premises, inside an occupied house and even in a room where other members of the family are also sleeping.^[16]

We thus affirm the findings of the trial court on the credibility of Delia's narration of her defilement not only because of the settled rule that the trial court's assessment of the credibility of witnesses is entitled to great respect on appeal because it had the opportunity to observe the witness' demeanor and deportment while testifying, but more so because it is unnatural and highly improbable that a young girl would come out with such serious accusation, risking not only her honor and reputation but her family's as well.^[17] Delia was only nine (9) years old when she was raped. At such tender age, she could not be expected to weave with uncanny recollection such a complicated tale as the sexual assault that accused-appellant unconscionably perpetrated on her.^[18] The revelation of an innocent child, like Delia, whose chastity was abused deserves full credit, as the willingness of the complainant to face police investigation and to undergo the trouble and humiliation of a public trial is eloquent testimony of the truth of her complaint.^[19] Thus, testimonies of rape victims who are of tender age demand full credence.^[20] "Youth and immaturity are generally badges of truth and sincerity."^[21] And the credibility of a rape victim is augmented when, as in this case, she has no malevolent motive to testify against the accused-appellant or where there is absolutely no evidence which even remotely suggests that she could have been actuated by such motive.^[22]

Consequently, accused-appellant's alibi cannot prevail over the positive identification by Delia that he committed the rape against her person.^[23] The defense of alibi is further demolished by the fact that it was not physically impossible for accused-appellant to have been at the property (which is just a stone's throw away from the "compound") where Delia was raped, considering that accused-appellant's house (near the barangay plaza) where he was then staying is just half a kilometer away from the "compound." Such a short distance can easily be negotiated in a few minutes, even by foot. And the testimonies of accused-appellant's brother (Ricardo Bato) and daughter (Lea Grace Bato) did little to fortify his alibi. Alibi becomes less plausible as a defense when it is corroborated by relatives whose motive is suspect, for it must receive credible corroboration from disinterested witnesses.^[24]

The crime committed is statutory rape, defined and penalized under paragraph 3 of Article 335 of the Revised Penal Code, as amended by Section 11, R. A. 7659, which reads:

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

x x x

"3. When the woman is under twelve years of age or is demented.

"The crime of rape shall be punished by reclusion perpetua."

"This Court has held that if the woman is under twelve (12) years of age, proof of force and consent becomes immaterial, not only because force is not an element of statutory rape but the absence of free consent is presumed when the woman is below such age. The two (2) elements of statutory rape are: (1) that the accused had carnal knowledge of a woman; and (2) that the woman is below twelve (12) years of age. Sexual congress with a girl under twelve (12) years old is always rape." [25]

While the trial court properly imposed the penalty of reclusion perpetua on accused-appellant in accordance with the then prevailing law, Article 335 of the Revised Penal Code, as amended by R. A. 7659, it erred in not awarding civil indemnity and moral damages. Civil indemnity of P50,000.00 is mandatory upon the finding of the fact of rape.[26] Moral damages of P50,000.00 is also awarded without need of proof of basis or pleading.[27]

WHEREFORE, the Court AFFIRMS the appealed decision with MODIFICATION. Accused-appellant Rodolfo Bato alias "Rudy Bato" is hereby sentenced to reclusion perpetua, with all its accessory penalties, and to indemnify the victim Delia Hernandez in the amount of P50,000.00 as civil indemnity and another P50,000.00 as moral damages.

With costs.

SO ORDERED.

Davide, Jr., C.J., Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] In Criminal Case No. RTC-1713-1, Judge Romulo M. Estrada, Rollo, pp. 21-32.

[2] Rollo, pp. 10-11.

[3] Original Record, p. 23.

[4] TSN, June 28, 1995, pp. 3-15; TSN, July 6, 1995, pp. 2-9; TSN, March 21, 1996, pp. 5-20; TSN, August 8, 1996, pp. 4-19.

[5] Original Record, p. 15.

[6] TSN, April 3, 1997, pp. 3-20.

[7] TSN, September 11, 1997, pp. 4-12.

[8] TSN, October 9, 1997, pp. 3-12.

[9] Original Records, p. 195.

[10] People vs. Lampaza, G. R. No. 138876, November 24, 1999; People vs. Palma, G. R. Nos. 130206-08, June 17, 1999; People vs. Abangin, 297 SCRA 655 (1998).

- [11] *People vs. Sanchez, et al.*, 302 SCRA 21 [1999]; *Sumalpong vs. Court of Appeals*, 268 SCRA 764 [1997].
- [12] *People vs. Narido*, G. R. No. 132058, October 1, 1999.
- [13] *People vs. Traverro*, 276 SCRA 301, 310 [1997], citing *People vs. Mandap*, 244 SCRA 457 [1995].
- [14] *People vs. Juntilla*, G. R. No. 130604, September 16, 1999; *People vs. Sacapaño*, G. R. No. 130525, September 3, 1999; *People vs. Manuel*, 298 SCRA 184 [1998].
- [15] *People vs. Batoon*, G. R. No. 134194, October 26, 1999; *People vs. Burce*, 269 SCRA 293 [1997]; *People vs. Talaboc*, 256 SCRA 441 [1996].
- [16] *People vs. Gabayron*, 278 SCRA 78 [1997]; *People vs. Devilleres*, 269 SCRA 716 [1997]; *People vs. De Guzman*, 265 SCRA 228 [1996]; *People vs. Leoterio*, 264 SCRA 697 [1999]; *People vs. Alimon*, 257 SCRA 658 [1996]; *People vs. Gecomio*, 254 SCRA 82 [1996].
- [17] *People vs. Juntilla*, G. R. No. 130604, September 16, 1999.
- [18] *People vs. Baygar*, G.R. No. 132238, November 17, 1999.
- [19] *People vs. Mosqueda*, G.R. Nos. 131830-34, September 3, 1999.
- [20] *People vs. Saban*, G.R. No. 110559, November 24, 1999; *People vs. De los Santos*, G.R. No. 120235, September 30, 1999; *People vs. Manuel*, 298 SCRA 184 [1998]; *People vs. Abangin*, 297 SCRA 655 [1998].
- [21] *People vs. Lusa*, 288 SCRA 296 [1998]; *People vs. Escobar*, 281 SCRA 498 [1997].
- [22] *People vs. Gayomma*, G.R. No. 128129, September 30, 1999.
- [23] *People vs. Rosales*, G.R. No. 124920, September 8, 1999; *People vs. Tresballes*, G.R. No. 126118, September 21, 1999; *People vs. Mosqueda*, G.R. Nos. 131830-34, September 3, 1999.
- [24] *People vs. Cabanela*, 299 SCRA 153 [1998], citing *People vs. Anonuevo*, 262 SCRA 22 [1996]; *People vs. Danao*, 253 SCRA 146 [1996]; *People vs. Ligotan*, 262 SCRA 602 [1996].
- [25] *People vs. Bolatete*, 303 SCRA 709 [1999], citing *People vs. Ligotan*, 262 SCRA 602 [1996].
- [26] *People vs. Agunos*, G.R. No. 130961, October 13, 1999; *People vs. Reyes*, G.R. No. 113781, September 30, 1999; *People vs. Mosqueda*, G.R. No. 131830-34, September 3, 1999.
- [27] *People vs. Celis*, G.R. Nos. 125307-09, October 20, 1999; *People vs. Ramilla*, G.R. No. 127485, July 19, 1999; *People vs. Cantos*, G.R. No. 129298, April 14, 1999.

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