

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REYNALDO DAGPIN Y PAUSAL, ACCUSED-APPELLANT.*G.R. No. 136254. December 04, 2000*

Ponente: BELLOSILLO, J.

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REYNALDO DAGPIN was charged with having raped Ellen Caay on 7 December 1994 in an Information filed before the Regional Trial Court of Dipolog City. It was alleged that the accused, armed with a hunting knife and by means of force, violence and intimidation, succeeded in having sexual intercourse with his victim then seventeen (17) years of age.[1]

On 2 October 1998 the accused Reynaldo Dagpin y Pausal was convicted as charged and sentenced to reclusion perpetua and ordered to indemnify the offended party Ellen Caay y Pausal P50,000.00 for moral damages, and to pay the costs. The accused was given full credit for his preventive detention provided he agreed in writing to abide by the disciplinary measures for convicted prisoners, otherwise he would be entitled only to four-fifths ([4]/5) thereof.[2]

Ellen Caay lived with her father Jesus Caay and brother Jeffrey in Sitio Celix, Brgy. Lingasad, Polanco, Zamboanga del Norte. Her mother Consorcia and another brother Herman were both working in Manila.

On 7 December 1994 at about five o'clock in the afternoon, Ellen who was a third-year high school student at the Zamboanga del Norte National High School arrived home from school. Jeffrey was then attending the fiesta in Larayan, Dapitan City, while Jesus was still in his farm. At six-thirty in the evening, Jesus arrived and they dined together. At eight o'clock that evening Jesus proceeded to his kamalig to watch over his stocks of palay being stored therein. Jeffrey did not go home that evening so Ellen had to sleep alone, which was not the first time she was left alone in the evening. Besides, the houses of their relatives were just close by. Ellen locked the main door of their house before sleeping, and placed a kerosene lamp at the altar in her room. She likewise secured the door of her room with a piece of wood.

At around eleven o'clock that same evening, Ellen was awakened. She felt that someone entered her room. She was terrified. The stranger then covered her mouth with his left hand while his right held a hunting knife. From the illumination emanating from the kerosene lamp she immediately recognized the intruder to be Reynaldo Dagpin who used to eat and sleep in their house, being a close friend of her brother Jeffrey. Reynaldo warned her not to shout or else she would be killed. He laid his knife on the side of the bed and removed her short pants and panty. She resisted but without success since she was small. Reynaldo placed himself on top of her. He removed his short pants and proceeded to have sexual intercourse with her for some ten (10) minutes. He was making "push and pull" movements. She felt pain. After satiating his lust, he left but only after warning her not to reveal the incident to her parents otherwise he would kill her. She kept her experience to herself even after her father returned the following day because of the threat to her life.

On 26 January 1995 Ellen finally disclosed the rape to her father's sister Dominga Jalapadan who immediately

relayed the information to Jesus. On 28 January 1995 Ellen, accompanied by her father Jesus and aunt Dominga, sought assistance from the police authorities of Polanco. On 30 January 1995 she was examined by the Municipal Health Officer of Polanco who issued a medical certificate containing the following pertinent finding: "x x x 5) On pelvic examination, hymen is lacerated at 3 o'clock, 5 o'clock and 8 o'clock, remnants of hymenal tissues are noted flapping around, mucoid vaginal discharge is noted at the vaginal canal, and cervix is closed and normal in appearance." [3]

The defense presented a different version. According to accused Reynaldo Dagpin, since February 1992 when he was only seventeen (17) years old he already lived with the Caays. He was a helper of Jesus in taking care of his domesticated animals as well as in planting and harvesting his crops in the field. Reynaldo and Ellen were second cousins. Notably, their maternal family names are the same - "Pausal."

In May 1994 he and Ellen attended a disco in Sitio Celix. Since then, unknown to her parents, an intimate relationship developed between them. In the evening of 22 July 1994 he and Ellen watched a show at the multipurpose building also in Sitio Celix. At about nine o'clock they went home. However, nobody was home so they found themselves alone together in her bedroom. For the first time, they engaged in sexual intercourse which was repeated five (5) times that evening. The following night they slept together again in the same room and made love four (4) times.

Accused Dagpin further claimed that in the succeeding months of August, September and November, during Saturdays and other days when they had no companions in the house, they would have sexual encounters. However, on 7 December 1994 they were caught sleeping together in Ellen's room by his brother Danilo who also used to spend nights in the same house of the Caays. Danilo shouted and woke Reynaldo up. Danilo was drunk and was holding a bolo so Reynaldo rushed to the kamalig where Jesus was sleeping. Awakened by the noise created by Danilo, Jesus asked what the commotion was all about. Reynaldo could only say that perhaps Danilo was having some problems. Reynaldo then proceeded to the house of his uncle Pedro also in Sitio Celix.

The following morning, according to Reynaldo, he and Ellen met in the place of a certain Elumbaring. There, Ellen disclosed to him that she was pregnant. He assured her that he would marry her, but she thought instead of having an abortion. From then on, he stayed with his parents in Buli, San Miguel, Polanco, Zamboanga del Norte.

Danilo Dagpin corroborated the defense of his brother, accused-appellant Reynaldo Dagpin, that Ellen was indeed his sweetheart and that he used to see them walking closely together. However, after the incident of 7 December 1994, neither accused-appellant nor Danilo returned to the house of the Caays.

The trial court found the narrations of the prosecution witnesses credible, particularly the testimony of Ellen. According to the court a quo, it was natural for her to withhold the incident from anyone in view of the death threats of the accused, only to confide to her aunt later since her mother was at that time in Manila. It was also in accord with human nature and experience that upon learning of such incident her aunt would pass the information to her father.

Indeed, Ellen would not have sought police and medical assistance if her claim of rape was a mere fabrication. At any rate, the trial court did not believe the version of the accused. It opined that the circumstance that he left Ellen in the house thus exposing her to the risk of being harmed or molested by Danilo who was drunk and armed with a bolo, was inconsistent with his "sweetheart theory." Ellen would not have prosecuted him for rape if they were really lovers and if in fact he offered to marry her. And why was it that he and Danilo never returned to the house of the Caays after the incident of 7 December 1994?

Accused-appellant Dagpin assails in this appeal Ellen's alleged feeble attempt to resist his carnal assault and

failure to make an outcry from the inception to the conclusion of the sexual assault. He makes much of the circumstance that she reported the matter to the authorities only after about two (2) months. He maintains that what actually took place between them on 7 December 1994 was a consensual act brought about by their mutual lust as sweethearts.

We sustain the conviction of accused-appellant for rape. As found by the trial court, which we find no reason to doubt, the testimony of complaining witness Ellen Caay was clear, positive, convincing and consistent with human nature and the normal course of things.[4] Otherwise stated, her credibility is the single important issue.[5] Ellen gave a candid, plain and straightforward account of her harrowing experience in a manner reflective of an honest and unrehearsed testimony.[6]

It is oft repeated in rape cases that it is highly inconceivable that a barrio lass like Ellen, inexperienced in the ways of the world, would fabricate a charge of defloration, undergo a medical examination of her private parts, subject herself to public trial and tarnish her family's honor and reputation, unless she was motivated by a potent desire to seek justice for the wrong committed against her.[7] And inasmuch as there was no showing that she was impelled by any improper motive in making the accusation against him, her complaint is entitled to full faith and credit.[8]

As for Ellen's feeble attempts to resist the accused-appellant, it is clear from the evidence that she was unsuccessful in warding off his carnal assault because, as she explained, she was too small compared to him. At any rate, physical resistance need not be established in rape when intimidation is exercised upon the victim and the latter submits herself, against her will, to the rapist's advances because of fear for her life and personal safety.[9] Intimidation is addressed to the mind of the victim and therefore subjective, and its presence cannot be tested by any hard-and-fast rule but must be viewed in the light of her perception and judgment at the time of the perpetration of the crime.[10] It may be of the moral kind, e.g., the fear caused by threatening a woman with a knife.[11] Here, accused-appellant was holding a hunting knife when Ellen was awakened, covered her mouth, then threatened her with death if she would shout. After the rape, he threatened her with death anew if she would inform her parents about the incident.

The delay and initial reluctance of a rape victim to make public the assault on her virtue is neither unknown nor uncommon.[12] Such delay and initial reluctance do not impair her credibility when satisfactorily explained.[13] A plausible reason to incur delay is the death threat from the accused[14] and in many instances, rape victims simply suffer in silence.[15] Ellen's lips were sealed for almost two (2) months due to accused-appellant's death threats. We find such circumstance an adequate reason for her delay in revealing her misfortune.

Accused-appellant's theory that he and the victim were sweethearts is unavailing and self-serving since he failed to prove the same. He did not present any evidence of such relationship, e.g., love letters, gifts, and the like, or any witness to attest to his alleged amorous affair with her.[16] The testimony of Danilo Dagpin achieved nothing for the defense as he merely based his statement on the alleged circumstance that he occasionally saw them together.[17] A man and a woman occasionally seen walking together, by itself, is not indicative of a love relationship. If such circumstance may be considered at all to support the sweetheart theory, it should be coupled with gestures displaying affection peculiar only to lovers. Moreover, accused-appellant's alleged reaction when his intimate relationship with Ellen was discovered by Danilo does not inspire belief.

We agree with the observation of the trial court that the circumstance that accused-appellant simply left Ellen alone in the house with Danilo, and instead of shielding his alleged lover who had "wholeheartedly" surrendered her body to him he abandoned her to his armed and drunk brother, are inconsistent with his "sweetheart theory." For another, accused-appellant and Danilo never returned to the house of the Caays after the 7 December 1994

incident thus strengthening the belief that he fled because of a guilty conscience.[18]

On the other hand, Ellen's actuations of disclosing the rape incident to her aunt, seeking help from the police authorities, subjecting herself to medical examination, filing a complaint for rape and recounting in court the details of her horrible experience are directly opposed to accused-appellant's claim of consented sexual relationship.

On the part of Danilo, despite his allegation that he chanced upon accused-appellant and Ellen sleeping in her room together as lovers on the night of 7 December 1994 he did not reveal the matter to the police even after learning that accused-appellant had been arrested for allegedly raping Ellen,[19] creates serious doubts on his credibility. Obviously, his testimony to this effect was clearly an afterthought, designed simply to exculpate his brother.

As a rule, the highest respect is given to the factual findings of the trial court unless it is shown that certain facts of value have been plainly overlooked which if considered would affect the result of the case.[20] None was shown; and so, the conviction of accused-appellant must stand.

The trial court correctly awarded moral damages of P50,000.00 to the victim even after dispensing with proof of mental and physical suffering. The Court recognizes her injury as being inherently concomitant with and necessarily resulting from the odious crime of rape to warrant per se an award for moral damages.[21] But the trial court should have also awarded civil indemnity to Ellen Caay as it is mandatory upon a conviction of rape. Such indemnity is distinct from moral damages and based on different jural foundations.[22] She is thus entitled to another P50,000.00 for civil indemnity.

WHEREFORE, the Decision appealed from finding accused-appellant REYNALDO DAGPIN Y PAUSAL guilty of rape and sentencing him to reclusion perpetua and to pay complaining witness ELLEN CAAY Y PAUSAL moral damages of P50,000.00 and to pay the costs is AFFIRMED with the MODIFICATION that, in addition, he is ordered to pay his victim civil indemnity of another P50,000.00. Costs against accused-appellant.

SO ORDERED.

Mendoza, Quisumbing, Buena, and De Leon, Jr., JJ., concur.

[1] Records, p. 1.

[2] Decision penned by Judge Pacifico M. Garcia, RTC-Br. 8, Dipolog City; Rollo, pp. 17-18.

[3] Exh. "A;" Records, p. 55.

[4] People v. Estrera, G. R. No. 106233, 29 January 1998, 285 SCRA 372.

[5] People v. Dacoba, G. R. Nos. 121995-96, 20 April 1998, 289 SCRA 265.

[6] People v. Gementiza, G. R. No. 123151, 29 January 1998, 285 SCRA 478.

[7] People v. Reynaldo, G. R. No. 116305, 2 July 1998, 291 SCRA 701.

[8] See Note 6.

[9] People v. Prades, G. R. No. 127569, 30 July 1998, 293 SCRA 411.

[10] People v. Luzorata, G.R. No. 122478, 24 February 1998, 286 SCRA 487.

- [11] People v. Ulzoron, G. R. No. 121979, 2 March 1998, 286 SCRA 741.
- [12] People v. Gallo, G. R. No. 124736, 22 January 1998, 284 SCRA 590.
- [13] People v. Lusa, G. R. No. 122246, 27 March 1998, 288 SCRA 296.
- [14] People v. Sta. Ana, G. R. Nos. 115657-59, 26 June 1998, 291 SCRA 188.
- [15] People v. Tabugoca, G. R. No. 125334, 28 January 1998, 285 SCRA 312.
- [16] People v. Venerable, G. R. No. 110110, 13 May 1998, 290 SCRA 15.
- [17] TSN, 5 December 1996, p. 10.
- [18] People v. Javar, G. R. No. 82769, 6 September 1993, 226 SCRA 103.
- [19] TSN, 5 December 1996, p. 11.
- [20] People v. Gaban, G. R. Nos. 116716-18, 30 September 1998, 262 SCRA 593.
- [21] People v. Perez, G. R. No. 122764, 24 September 1998, 296 SCRA 17.
- [22] People v. Ignacio, G. R. No. 114849, 24 August 1998, 294 SCRA 542.

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