

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DARWIN BANTAYAN, APPELLANT.

G.R. No. 137693. December 14, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

It is a well-settled rule that the trial court's evaluation of the credibility of witnesses and their testimonies is binding on the appellate courts, in the absence of arbitrariness or oversight of some fact or circumstance of weight and substance. In the present case, appellant has not shown any sufficient reason to justify a departure from the factual findings of the court a quo.

Statement of the Case

Darwin Bantayan appeals before us the February 4, 1999 Decision[1] of the Regional Trial Court of Morong, Rizal (Branch 79) in Criminal Case No. 2559-M, which convicted him of rape and sentenced him to reclusion perpetua.

In an Information dated September 3, 1996, State Prosecutor Mario F.M. Clutario Jr. charged appellant as follows:

"That sometime [i]n or about the first week of May, 1993 at around 11:00 o'clock in the morning, in the Municipality of Baras, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, acting with lewd designs, and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of an 11 year old minor in the person one DYNA BUIZA Y BARTOLATA without the will and consent of said minor."[2]

When arraigned on October 23, 1996,[3] appellant, assisted by Atty. Marcosa dela Cuesta, pleaded not guilty. Trial proceeded in due course. Thereafter, the trial court rendered its Decision, the dispositive portion of which reads:

"Wherefore, x x x the guilt of the accused [having] been proven beyond reasonable doubt, said accused is hereby sentenced to [r]eclusion [p]erpetua. Accused Darwin Bantayan is further ordered to pay the victim Dyna Buiza the amount of P50,000.00 by way of civil indemnity."[4]

Hence, this appeal.[5]

The Facts

Version of the Prosecution

In its Brief,[6] the Office of the Solicitor General presented the prosecution's version of the facts as follows:

"Sometime in the morning of May 1993, Dyna Buiza, then nine (9) years old, having been born on November 28, 1984 (Exhibit A) and her brothers and sister were left home in Sitio Sinco, Pinugay, Baras, Rizal by their parents to attend the interment of a neighbor (pp. 3-5, tsn, January 29, 1997). After Dyna's parents left, she

went outside the house to play with her friend (p. 8, tsn, April 1, 1997) while her brothers and sister Daisy roamed around (p. 6, supra). Darwin Bantayan, whose wife and Dyna's mother are cousins (p. 3, tsn, January 29, 1997), lived in the same locality with the Buiza's (p. 3, supra). After Dyna was through playing, she entered the house and saw Bantayan sleeping at the sala. Dyna proceeded to an improvised comfort room (C.R.) located at the kitchen to urinate, passing thru the sala (p. 6, supra). After relieving herself, Dyna noticed Darwin behind her. Surprised, Dyna rushed towards the door but Bantayan blocked her way, held her arms, lifted and brought her to the comfort room. Dyna shouted and pleaded to Darwin to put her down. Instead, Bantayan dropped her at the place where Dyna urinated. Bantayan started to undress Dyna by removing her shorts and t-shirt. Subsequently, Bantayan undressed himself and went on top of Dyna and inserted his sex organ into Dyna's. Suddenly, the door opened as Daisy, the younger sister of Dyna, entered the house through the kitchen. Daisy saw Bantayan on top of her sister, Dyna. When Daisy ran outside the house (pp. 4-5, tsn, July 23, 1997), Bantayan threatened Dyna with death if she reported the incident to anyone and then ran after Daisy (p. 10, tsn, January 29, 1997). When Daisy stopped in front of 'Ate Leny's' house, Bantayan angrily approached and threatened to kill Daisy and her brothers and sister if she ever revealed to anybody what she saw (p. 6, tsn, July 23, 1997). Fearful of Bantayan's threat, Daisy and Dyna remained silent about the matter (p. 10, supra). However, whenever Dyna and Daisy quarreled, the latter would tease the former with what Bantayan did to her (p. 11, supra).

"[O]n the morning of May 21, 1996, a certain Lolita Pertes came to Purificacion Hernandez' house at Sitio Cinco, Puringay, Baras, Rizal about fifteen (15) meters away from the Buiza residence (pp. 2-3, sn, October 22, 1997). Hernandez is the sister-in-law of Rosemarie Buiza, Dyna's mother (p. 8, supra). Pertes told Hernandez to go to the Buiza[s'] house to pacify Dyna and Daisy who were quarreling. Pertes also informed Hernandez that she heard Daisy saying, 'Isusumbong kita kay mama, ni[-]rape ka ni Darwin Bantayan' (p. 3, supra). Hernandez pacified the two sisters and in answer to Hernandez' questions, Daisy admitted that she saw Bantayan rape his sister x x x. Hernandez, nevertheless, went to the 'Coop' about fifty meters away where Rosemarie works and advised her 'Inday umuwi ka muna sa bahay mo, may nangyari kay Dang Dang' (Dyna) (p. 4, supra). Rosemarie confronted her daughter Dyna about the incident and the latter admitted that she was raped by Bantayan (p. 4, tsn, April 15, 1997). Rosemarie brought her daughter to the police station where they were investigated and advised to submit Dyna to a medical examination (p. 5, supra). Dr. Jesusa Vergara, PNP Crime Laboratory, Camp Crame, Quezon City, examined Dyna. Dr. Vergara's Report showed that Dyna Buiza was already in a non-virgin state physically, with healed lacerations at 9:00 o'clock and shallow healed lacerations at 7:00 o'clock (Exhibit C).

"After the case was filed, the trial court issued an Order dated October 10, 1997, directing the PNP Crime Laboratory at Camp Crame, Quezon City to re-examine Dyna Buiza, which complied through Dr. Dennis Bellin whose Medical Report showed 'shallow healed laceration at 1, 5, and 7 o'clock positions and a deep healed laceration at 9:00 o'clock and that these healed lacerations could have been caused by the introduction of a hard, erect penis (p. 6, tsn, February 18, 1998). These lacerations were reflected in the earlier medical report of Dr. Jesusa Vergara (p. 7, supra).

"During the pendency of this case a quo, Bantayan's wife sought the help of Rosemarie Buiza's wedding sponsors and some of Bantayan's relatives (p. 8, tsn, April 15, 1997) in settling this case amicably by proposing to turn over to the Buizas whatever resignation benefits Bantayan's employer [would] give him (supra). Rosemarie, however, stood pat in her decision to prosecute Bantayan." [7]

Version of the Defense

Denying the charge against him, appellant narrates his version of the facts in the following manner:

"Accused Darwin Bantayan is 34 years old[,] married and presently residing at Pinugay, Baras, Rizal and [who] likewise worked with Foremost Farm at Baras, Rizal since July 27, 1991. He was a member of the Board of Director[s] of the KMU (Kilusang Mayo Uno) from 1992 up to the date he was arrested.

"[O]n October 20, 1995 and not [in] May, 1993, a neighbor named Benjamin Bello died. Accused recalled having attended the wake the night before he (Benjamin Bello) was buried. On the day of the burial of his neighbor, accused did not attend. He slept at 10:00 o'clock in the morning and woke up at 3:00 o'clock in the afternoon.

"The accused only learned of the accusation from his neighbors named Minica Morada and Mercy Barate who went to his house urging Darwin Bantayan to escape because he was being charged [with] rape. The accused [told] his neighbors not to play jokes because rape is a serious crime. And thereafter, he continued reporting to his work.

"In the afternoon of May 23, 1996 at around 1:00 o'clock in the afternoon while the accused was working at Foremost Farm, Police Chief Rolando Paz together with a policemen arrested him and brought him to Baras Municipal Hall, Baras, Rizal where he was incarcerated.

"As a result of his imprisonment, Darwin Bantayan got sick, sold his properties and lost his job. The accused even sought the assistance of Governor Casimiro M. Ynares, Jr., Provincial Governor of the Province of Rizal.

"Darwin Bantayan claimed that one of the reasons why complainant's parents were angry at him was because he was fond of singing the songs 'Singsing' by the 3 Sullivans and 'Inday ng Buhay ko' by Victor Wood, his favorites. The accused used to sing with the accompaniment of a guitar. One day complainant's parents confronted him (Darwin Bantayan) and got irritated when he sang the songs repeatedly. The accused told the parents that the song[s] were his favorites.

"Another reason why the complaint for rape was filed against Darwin Bantayan was because the parents thought that he was claiming the land and they wanted to have Darwin Bantayan's family ejected.

"The accusation lodged against him is a mere frame-up/set-up by the mother of the victim." [8]

Ruling of the Trial Court

The trial court explained the basis of its judgment in this wise:

"As between the version of the prosecution and that of the defense, the former's version is reliable and worthy of credence. Complainant was only 9 years old on the date she was allegedly raped in May, 1993. The Certificate of Live Birth, Exhibit "A", indicates that she was born on November 28, 1984. Between x x x affirmative and negative statements, the former is preferred. Positive testimony is weightier than a negative one (People vs. Macario, 240 SCRA 53).

There is no question, therefore, that the charge against the accused Darwin Bantayan constitutes statutory rape and regardless of whether there was force or none when the rape was committed, it is still rape under the provisions of the Revised Penal Code. While the complainant's version is credible and worthy of belief than x x x the defense's version, the fact is that complainant, a barrio lass, aged 9 years old at the time of rape, will not concoct statements simply to accuse Darwin Bantayan of the offense he committed against her. Motive on the part of the accused as portrayed by him of why he was being charged of rape is highly unbelievable. [sic] The claim that the parents of the complainant got angry with him because said accused used to sing the songs "Inday ng Buhay Ko" and "Singsing" cannot be believed. On the contrary, those songs when s[u]ng nicely adjusted to their tune [would] be appreciated by the hearer[s] like the parents of the complainant. Another motive given by the accused for the parents becoming angry at him was that the parents thought that the accused [was] claiming the land and even wanted them to be ejected therefrom. But that is only an afterthought on the part of the accused. In fact, there was no case of ejectment instituted against the parents of the complainant, neither was there a claim of ownership over the land owned by the parents. Records show none. Moreover, motive becomes relevant only when accused has not been positively identified. (People vs. Sarino, 221 SCRA 234). In this case, accused is positively identified by the complaining witness." [9]

Issue

In his Brief, appellant presents this lone assignment of error:

"Whether or not the prosecution has established the quantum of proof to hold the accused guilty of the charge complained of in th[is] case." [10]

In fine, the Court will determine the sufficiency of the prosecution evidence.

The Court's Ruling

The appeal is not meritorious.

Sole Issue:

Sufficiency of the Prosecution Evidence

Time and again, the Court has declared that "as a general rule, the evaluation of the credibility of witnesses is a matter that particularly falls within the authority of the trial court, as it had the opportunity to observe the demeanor of the witnesses on the stand. For this reason, appellate courts accord its factual findings and assessments of witnesses with great weight and even finality, barring arbitrariness or oversight of some fact or circumstance of weight and substance." [11]

In this case, the trial court found complainant credible and her testimony truthful. Appellant has not shown any sufficient reason to overturn this assessment. Indeed, complainant, in a clear and straightforward manner, narrated how she had been raped by appellant sometime in May 1993:

"Q

And what happened when he blocked your way?

A

He carried me.

Q

Will you describe to us the manner [in which] this Darwin Bantayan carried you? May we ask that it be demonstrated.

A

I was held by Darwin Bantayan at my arms, left and right, while facing each other.

Q

Now, after holding you at your side arms, did he lift you?

A

Yes, sir.

Q

And after lifting you, where did he bring you?

A

I was brought to the place where I urinated.

Q

Is that in the exact place?

A

Yes, sir.

Q

Now, what did you do if any while this Darwin Bantayan lifted you?

A

I shouted, sir.

Q

And what did you shout?

A

I told him to bring me down.

Q

How many times did you make that plea to Darwin Bantayan?

A

Several times, sir.

Q

Now, after bringing you to the kitchen, what did he do?

A

"Pabagsak akong inilapag".

Q

Where did he drop you?

A

To the place where I urinated.

Q

And then after dropping you, what happened next?

A

He undressed me, sir.

Q

What were you wearing at that time?

A

T-shirt and shorts.

Q

What did he remove first?

A

My shorts, sir.

Q

And after removing your shorts, what else did he remove if any?

A

My t-shirt.

Q

Now, while he was undressing you, what was your position at that time?

A

Sitting, sir.

Q

While he was in the process of removing your shorts and your t-shirt, what were you doing at that time?

A

I told him not to do this thing to me.

Q

When you said not to do this thing to me, what [did] you have in mind?

A

That he [was] going to rape me again.

Q

I would like to make it of record, Your Honor, that the witness is crying at this moment. What was the answer or reaction if any of this Darwin Bantayan to your plea?

A

He continued doing his act.

Q

Now, at the time that this Darwin Bantayan was undressing you, [was] he in full clothes at that time?

A

Darwin Bantayan was wearing x x x shorts and a t-shirt.

Q

Now, after he was able to remove your shorts and t-shirt, what did he do with [his] clothes at that time, if any?

A

Darwin undressed himself.

Q

And after undressing himself, what did he do?

A

He placed himself on top of me.

Q

And while he was on top of you, what did he do?

A

Darwin inserted his private organ into my organ.

Q

Was he able to insert his private organ?

A

Yes, sir, he was able to insert his organ.

Q

Now, when he was able to insert his private organ in your private organ, what did he do?

A

After inserting his organ into my organ, suddenly the door opened because of my sister.

Q

What is the name of your sister who entered?

A

Daisy, sir.

Q

By the way, how old were you at that time?

A

9 years old, sir.

Q

How about this Daisy who entered the house, how old was she?

A

She was 7 at that time, sir.

Q

Now, what did this Daisy do when she entered your house?

A

After entering our house and she saw us, she ran outside, sir.

Q

How about Darwin Bantayan, did he notice this Daisy when Daisy entered the house?

A

Yes, sir.

Q

Now, what did this Darwin Bantayan do when he saw that Daisy saw both of [you] and afterwards ran outside?

A

Darwin Bantayan threatened me to be killed if I reported the incident."^[12]

Significantly, the foregoing testimony of complainant was corroborated by her sister, Daisy, whom the trial court likewise found to be truthful and credible. Daisy testified thus:

"Q: Now, do you recall if there was an unusual incident that you witnessed in the year 1993 when you were in Grade II between Dyna Buiza and Darwin Bantayan?

x x x x x x x x

WITNESS:

Yes, sir.

FISCAL RAMIREZ:

What is that?

A:

The shorts of Darwin Bantayan [was] pulled down and he [was] naked, and he was on top of my sister Dyna.

Q:

How about your sister Dyna Buiza, what was her appearance at that time while Darwin Bantayan [was] on top of her?

A:

She was also naked.

Q:

Where were they at the time when they were on top of each other?

A:

At our kitchen.

Q:

In your house?

A:

Yes, sir.

Q:

Now, how far were you from Darwin Bantayan and Dyna Buiza when you saw them in that situation?

A:

(Witness is referring to a woman wearing a white blouse, which is around five to six meters more or less). [sic]

Q:

Now, where did you come from before you entered that kitchen?

A:

I came from the sampaloc tree before entering the kitchen.

Q:

Now, what did you say if any when you saw Darwin Bantayan and Dyna Buiza in that position?

A:

I did not say anything.

Q:

Now, did you notice if Darwin Bantayan and Dyna noticed your presence, your arrival in the kitchen?

A:

Yes, sir.

Q:

What made you say that they noticed your arrival at the kitchen?

A:

When I entered the room the door made a sound.

Q:

Now, while you were still at the kitchen, did Darwin Bantayan look at you?

A:

Yes, sir.

Q:

Now, what did you do when you saw this Darwin Bantayan and Dyna Buiza in that position?

A:

I ran outside, sir.

Q:

Where did you go?

A:

I went to my auntie."^[13]

Moreover, appellant has not shown that complainant or her sister had any motive to fabricate such a serious charge against him. His insistence that complainant's mother had a grudge against him for singing too loudly and disturbing her must be dismissed for being flimsy. Certainly, no mother would allow her child to be subjected to public humiliation and to undergo a trial for rape if her only desire were to settle a grudge against an irksome singer.

Appellant also questions the credibility of the testimony of the victim that she was raped in May 1993 when she was in grade 4 and during the time when her parents attended the burial of a dead neighbor. He claims that the said neighbor had actually been buried in October 1995.

This argument is not persuasive. Appellant's claim that the dead neighbor was in fact buried in 1995 does not by itself disprove her claim that she was raped by appellant in 1993 when she was in fourth grade. It must be noted further that she was still of tender age at the time, and that it was difficult for her to remember the exact date of the assault, as well as the other significant events during that period. In any case, what was clear and vivid to her recollection was that she had indeed been raped, and that it was appellant who had done so.

The Court also rejects the submission of appellant that he would have gone into hiding if he had really committed the crime. It has been held that flight is often indicative of guilt.^[14] The converse is not true, however.^[15] Hence, the failure of appellant to flee does not prove his innocence.

Likewise deserving scant consideration is the testimony of Purita Villagrancia, a defense witness, denying that she observed any commotion at the time. The victim, being young and easily frightened, would not have created much of a commotion, especially because appellant was definitely much stronger. More important, such testimony cannot prevail over complainant's credible testimony, which was corroborated by the sister.

Appellant also pointed out that the trial court failed to take note of Dr. Dennis Bellin's testimony that it was possible that no sexual intercourse had taken place. That mere possibility, however, did not negate complainant's claim that she had in fact been sexually assaulted. On the contrary, the finding of healed lacerations on the sexual organ of the victim supported her testimony, which was the primary basis for appellant's conviction.

WHEREFORE, the appeal is DENIED and the assailed Decision AFFIRMED. Costs against appellant.

SO ORDERED.

Melo, (Chairman), Vitug, and Gonzaga-Reyes, JJ., concur.

[1] Written by Judge Alejandro A. Marquez; rollo, pp. 25-29.

[2] Information, p. 1; rollo, p. 8.

[3] Certificate of Arraignment; records, p. 30.

[4] Assailed Decision, p. 5; rollo, p. 29.

[5] This case was deemed submitted for resolution on June 16, 2000, upon receipt by this Court of Appellee's

Brief. The filing of a reply brief was deemed waived, as none had been submitted within the reglementary period.

[6] The Appellee's Brief was signed by Sol. Gen. Ricardo P. Galvez, Asst. Sol. Gen. Carlos N. Ortega, Asst. Sol. Gen. Karl B. Miranda and Sol. Mauro A. Elinzano.

[7] Appellee's Brief, pp. 2-6; rollo, pp. 74-78.

[8] Appellant's Brief, pp. 1-3; rollo, pp. 45-47. The Appellant's Brief was signed by Atty. Rafael P. Mateo.

[9] Assailed Decision, pp. 4-5; rollo, pp. 28-29.

[10] Appellant's Brief, p. 5; rollo, p. 49. All in upper case in the original.

[11] People v. Perucho, 305 SCRA 770, 778, April 14, 1999 (citing several cases), per Panganiban, J. See also Cosep v. People, 290 SCRA 378, May 21, 1998; People v. Meneses, 288 SCRA 95, March 26, 1998; People v. Lagao, 286 SCRA 610, February 27, 1998; People v. Gil, 284 SCRA 563, January 22, 1998.

[12] TSN, January 29, 1997, pp. 6-10.

[13] TSN, July 23, 1997, pp. 3-5.

[14] People v. Guarin, GR No. 125964, October 22, 1999; People v. Cahindo, 266 SCRA 554, January 22, 1997.

[15] People v. Alib, GR No. 130944, January 18, 2000; People v. Desalisa, 229 SCRA 35, January 4, 1994.

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