

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REFORMADOR VIDAL Y BALLADARES, ACCUSED-APPELLANT.

G.R. No. 137946. February 28, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision[1] of the Regional Trial Court, Branch 6, Dipolog City, finding accused-appellant Reformador Vidal y Balladares guilty of rape against Imelda Magbojos and sentencing him to suffer the penalty of reclusion perpetua and to indemnify complainant in the amount of P50,000.00.

The information against accused-appellant alleged ^¾

That in the evening, on or about the 27th day of March 1987, in Sulangon, Dapitan City, within the jurisdiction of this Honorable Court, the above-named accused moved by lewd and unchaste designs, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously hold, hug, kiss, pull down, removed the panty, lay on top and have sexual intercourse with one IMELDA MAGBOJOS y Anghag against her will and without her consent.

CONTRARY TO LAW.[2]

Upon being arraigned, accused-appellant pleaded not guilty, whereupon he was tried.

The evidence for the prosecution is as follows:

In the evening of March 27, 1987, a dance and amateur singing contest was held at Purok Molave, Sitio Mantutugas, Barangay Sulangon, Dapitan City. Complainant Imelda Magbojos, then 24 years old, was at the place tending a "sari-sari" store. Accused-appellant Reformador Vidal, a relative of complainant, was also there. At around 7 p.m., complainant's mother, Cresencia Magbojos, arrived to take the place of complainant so she could eat supper at home. Accused-appellant asked Cresencia for permission to have supper with complainant. After getting permission, accused-appellant bought a can of sardines and went to complainant's house, and the two had supper together. Complainant's brother Diosdado was there but, having eaten supper earlier, left and went to the dancing hall. After clearing the table and washing the dishes, complainant, after leaving her slippers on the ground, went up the stairs to put out the light and close the bedroom door as she prepared to return to the dance hall. She locked the door inside and passed through the window to get out, but accused-appellant held her as she was getting out. The window where complainant got out was just a meter high from the ground. Accused-appellant embraced her and started kissing her. Complainant told him to stop, saying that she was getting married soon, but accused-appellant did not heed her. Complainant was able to free herself and run, but accused-appellant caught her shirt, and she fell back. Complainant struggled with accused-appellant, but in the end, accused-appellant prevailed. He carried her towards a grassy place, about 50 meters from the back of her house, where he succeeded in having sexual intercourse with her. After accused-appellant had left, complainant went to the house of her aunt Patricia Magbojos and reported what had happened to her.[3]

Complainant's mother Cresencia became worried because her daughter had not returned from their house. She decided to go home. On her way, she met accused-appellant. When she reached their house, she found complainant's slippers on the ground, but complainant was not there. With the help of her son-in-law, Adan Esmade, they found complainant in the house of Patricia Magbojos. Adan Esmade brought complainant home where she told her mother what happened to her. Cresencia took her daughter to the barangay captain to report the incident. As the barangay captain was not in his house, they proceeded to the Philippine Army detachment in Antipolo, Dapitan City, where complainant reported the incident.[4] The following morning, complainant also made a report to the police. She was examined at the Rizal Memorial Hospital, Dapitan City by Dr. Lolita N.V. Hamoy who later issued a medical certificate containing the following findings:

- Contusion back, and right buttocks
- I E - Hymen - old laceration 3 o'clock position
- Vagina - Admits 2 fingers with ease

Note: Vaginal smear for spermatozoa taken - NEGATIVE.[5]

After receiving the results of the medico-legal examination, complainant and her mother gave their sworn statements.[6]

In his defense, accused-appellant admitted having sexual intercourse with complainant on the night of March 27, 1987 but claimed that the same was consensual. He alleged that after having supper with him, complainant went upstairs to put out the light in the bedroom. She was going back to the dance hall and told accused-appellant she was going to pass through the window after locking the bedroom door from inside. For this purpose, she asked accused-appellant to catch her as she jumped to the ground. Accused-appellant said he agreed and caught complainant in his arms as she jumped out of the window. Then he embraced and kissed her. She did not complain and even embraced and kissed him back, according to accused-appellant. They then walked to a place about 20 meters from complainant's house where complainant allowed herself to be undressed by accused-appellant. The two engaged in sexual intercourse, but afterwards, according to accused-appellant, complainant felt guilty and started crying because she was getting married soon. Accused-appellant said he assured her that he would marry her and that he would bring his mother with him to ask for her hand in marriage. After complainant stopped crying and dressed herself, accused-appellant returned to the dance hall and took part in the singing contest. According to him, he did not know where complainant went after their tryst. Without waiting for the announcement of the winners in the contest, accused-appellant went home and arrived there at around 10 p.m. At dawn the next day, he was awakened by some men from the military who were looking for him. He was told that there was a complaint for rape filed by complainant against him. His hands were then tied behind his back and he was brought to the Sulangon market. He was taken to the residence of the barangay captain and then to the police station in Dapitan City where he was detained. The following Monday, he was released as there was no case filed against him.[7]

On the basis of the evidence presented by the parties, the trial court rendered its decision on October 14, 1998, the dispositive portion of which reads:

WHEREFORE, finding the accused Reformador Vidal y Balladares guilty beyond reasonable doubt of the crime of Rape as defined and penalized under Article 335 of the Revised Penal Code, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA and ordered to pay the private offended party Imelda Magbojos civil indemnity in the sum of fifty thousand pesos (P50,000.00).

SO ORDERED.[8]

Hence, this appeal. Accused-appellant contends:

- THAT THE LOWER COURT ERRED IN FINDING THAT ACCUSED-APPELLANT RAPED IMELDA MAGBOJOS;
- THAT THE LOWER COURT ERRED IN THE APPRECIATION OF THE SUBSTANTIAL CONFLICTING TESTIMONIES OF PROSECUTION WITNESSES;
- THE LOWER COURT FAILED TO APPRECIATE THAT REFORMADOR'S JOINING THE SINGING CONTEST AND IMELDA'S RETURN TO THE MARKET PLACE AND BECAME A HAPPY AUDIENCE BELIE THE ALLEGATION OF RAPE;
- THAT THE LOWER COURT ERRED WHEN IT FAILED TO APPRECIATE THAT THERE WAS NO RESISTANCE AND/OR INSUFFICIENT RESISTANCE ON THE PART OF IMELDA;
- THAT THE LOWER COURT ERRED IN NOT APPRECIATING THAT EXHIBITS "A", "B", "C", AND "D" DO NOT CORROBORATE WITH THE TESTIMONY OF THE COMPLAINANT;
- THAT THE LOWER COURT ERRED IN NOT APPRECIATING THE FACT THAT THE PROSECUTION FAILED TO PROVE THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT.[9]

The issues raised by accused-appellant boil down to a question of the credibility of the complainant's testimony. After a perusal of the records, we find the above contentions to be without merit.

First. Accused-appellant admitted that he had sexual intercourse with complainant on the date and time alleged in the information. He claims, however, that it was consensual. Thus, the question is anchored on whether or not there was consent on the part of complainant to the sexual intercourse. We find no reason to reverse the findings of the trial court that complainant was raped. It is settled that the evaluation by the trial court of the testimony of a witness is accorded the highest respect because the trial court had the opportunity to observe the facial expression, gesture, and voice tone of a witness while testifying and, therefore, competent to determine whether or not the witness is telling the truth.[10] Complainant's testimony on how she was raped is straightforward and direct and bears the earmarks of truthfulness.

Accused-appellant's counsel points out that complainant stated during her direct examination that she was completely naked when accused-appellant had sexual intercourse with her,[11] while during her cross-examination she claimed that her pants were pushed down up to her legs.[12] He thus seeks to impeach complainant's credibility. To do this, however, accused-appellant's counsel should have first asked complainant during the trial to explain the differences in her statements. This is required by Rule 132, §13, but counsel for accused-appellant failed to do so. Hence, he cannot raise the point for the first time in this appeal. For aught counsel knows, what complainant meant when she said she was completely naked was that she had nothing on to cover her private parts. With her pants and panties pulled down her legs, although not removed by accused-appellant, she still considered herself completely naked.

Furthermore, the alleged inconsistency is minor and inconsequential in nature and does not detract from the fact that complainant was raped. In fact, this even strengthens her credibility as this shows that she is not a rehearsed witness.[13] Also, the variance in her statements is but natural considering that the cross-examination of complainant took place almost 11 years after her direct examination.

For the same reason, the alleged inconsistency between the testimonies of complainant and that of her mother as to whether or not complainant returned to the dance and watched the singing contest is insignificant and does not negate the existence of rape. It remains undisputed that complainant reported the matter to the police authorities

and allowed herself to be physically examined and be subjected to interrogation concerning delicate matters in order to vindicate her honor. Accused-appellant's contention that complainant accused him because she felt remorse for having sex with him in spite of her engagement to another man is simply preposterous. No decent woman in her right mind would tell a tale that could sully her reputation and bring undue embarrassment and shame to herself and expose her family to all sorts of public aspersions if it is not the truth.[14]

Second. Accused-appellant contends that the prosecution's failure to present complainant's aunt Patricia Magbojos and brother-in-law Adan Esmade to corroborate complainant's testimony puts doubt in her claim that she had been raped. This is untenable. In rape cases, the prosecution is not bound to present witnesses other than complainant herself, as accused-appellant may be convicted solely on the testimony of complainant, provided the same is credible, natural, convincing, and otherwise consistent with human nature and the normal course of things.[15] The testimony of complainant complied with such standards.

Third. The failure of complainant to shout or offer tenacious resistance does not imply her submission to accused-appellant's desires.[16] To be sure, it is not required that the victim of rape resist her assailant unto death. All that is necessary is that the force or intimidation employed against complainant enabled the assailant to effect sexual penetration.[17]

Accused-appellant questions the lack of bruises on several parts of complainant's body to show resistance to the sexual assault. But neither is it necessary for complainant to show physical injuries.[18] In this case, the evidence shows that complainant resisted the advances of accused-appellant. She tried to run from accused-appellant but the latter was able to catch her shirt and once again hold her against her will. Likewise, her testimony that accused-appellant pushed her to the ground was corroborated by the contusion on her back. The damaged bra and the torn pants and panties further attest to the use of force in undressing her.[19] That the undergarments were clean when presented in court was amply explained by complainant who said she washed them before presenting them in evidence.[20]

Fourth. The absence of fresh injuries in complainant's private part does not negate rape as proof of hymenal lacerations is not an element of rape.[21] Moreover, if as accused-appellant contends, complainant had sexual relations with another man and in fact had previously given birth, which facts were admitted by complainant,[22] then it would be absurd for him to demand that the prosecution prove that complainant's hymen suffered laceration as a result of the rape.

Fifth. Accused-appellant's contention that he and complainant were lovers is not worthy of any consideration at all. He presented no witness to corroborate his claim. He showed no love letters, pictures, or other mementoes to prove that he and complainant were sweethearts.[23] Neither does the fact that complainant had given birth to a child by another man negate rape in this case. Even a woman of loose morals could still be the victim of rape, the essence thereof being carnal knowledge of a woman without her consent.[24]

Sixth. While it is true that flight raises the presumption of guilt on the part of an accused, the converse does not necessarily mean innocence. There is no rule that, in every instance, the fact that the accused did not flee is a proof of his innocence.[25] It is not unnatural for a criminal, as in this case, to desist from leaving the place where the crime was committed to feign innocence.

Considering the foregoing reasons, the assailed decision must be upheld. However, the decision of the trial court must be modified as complainant should be awarded moral damages in addition to the indemnity given by the trial court. This does not need to be alleged, much less proved, because it is presumed that complainant has sustained mental, physical, and psychological sufferings as a result of the rape.[26]

WHEREFORE, the decision of the Regional Trial Court, Branch 6, Dipolog City, finding accused-appellant Reformador Vidal y Balladares guilty of rape of Imelda Magbojos y Anghag and sentencing him to suffer the penalty of reclusion perpetua, is AFFIRMED, with the MODIFICATION that accused-appellant is ordered to pay the additional amount of P50,000.00 as moral damages.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Buena, and De Leon, Jr., JJ., concur.

- [1] Per Judge Primitivo S. Abarquez, Jr.
- [2] Rollo, p. 9.
- [3] TSN, pp. 2-9, Sept. 8, 1987; TSN, pp. 2-19, Oct. 27, 1987.
- [4] TSN, pp. 3-7, Nov. 24, 1994.
- [5] Exh. D.
- [6] Exh. F; Records, p. 5.
- [7] TSN, pp. 22-35, Aug. 19, 1998.
- [8] Rollo, p. 26.
- [9] Id., pp. 46-47.
- [10] People v. Cortes, G.R. No. 129693, Jan. 24, 2000.
- [11] TSN, p. 11, Oct. 27, 1987.
- [12] TSN, pp. 19-20, Mar. 24, 1998.
- [13] People v. Padilla, 301 SCRA 265 (1999).
- [14] People v. Roman, 314 SCRA 425 (1999).
- [15] People v. Lusa, 288 SCRA 296 (1998).
- [16] People v. Vergel, 316 SCRA 199 (1999).
- [17] People v. Macosta, 320 SCRA 668 (1999).
- [18] People v. Lucban, 322 SCRA 313 (1999).
- [19] Exhs. A, B, and C.
- [20] TSN, p. 14, Mar. 24, 1998.
- [21] People v. Dizon, 309 SCRA 669 (1999).
- [22] TSN, p. 27, Mar. 24, 1998.
- [23] People v. Palma, 308 SCRA 466 (1999).
- [24] People v. Bernaldez, 322 SCRA 462 (1999).
- [25] People v. Arafiles, G.R. No. 128814, Feb. 9, 2000.

[26] People v. Baygar, 318 SCRA 358 (1999).

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