

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REYNALDO TOLENTINO Y SANTOS, ACCUSED-APPELLANT.

G.R. No. 139834. February 19, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision[1] of the Regional Trial Court, Branch 55, Macabebe, Pampanga, finding accused-appellant Reynaldo Tolentino y Santos guilty of rape of Elena D. Duncil and sentencing him to suffer the penalty of reclusion perpetua and to indemnify the offended party in the amount of P75,000.00.

The information against accused-appellant alleged —

That on or about the 23rd day of January 1998, at Sitio Cabio Bacal, in Barangay Balucuc, Municipality of Apalit, Province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, REYNALDO TOLENTINO y SANTOS, with lewd design, by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge with one Elena D. Duncil, 15 years old, against her will and without her consent.

Contrary to law.[2]

Upon being arraigned, accused-appellant pleaded not guilty whereupon he was tried. The facts found during the trial are as follows:

On January 23, 1998, at around 11 p.m. to midnight, while complainant Elena D. Duncil, then 15 years old, was sleeping with her brother and sister in their house in Sitio Cabiong-Bakal, Balucuc, Apalit, Pampanga, she was awakened by a kick from her brother and found accused-appellant, her uncle, beside her. Accused-appellant, armed with a knife, pointed it at her and told her not to shout, otherwise he would kill her. Accused-appellant then punched her in the stomach and legs, rendering her unconscious. When complainant regained consciousness at 6:30 a.m. the next day, accused-appellant was gone. She found that her shorts and panties had been pulled down and her vagina was bleeding. She did not immediately report to anyone what happened to her as her parents were both away and accused-appellant threatened to kill her and her family if she did so.

On February 27, 1998, complainant finally told her aunt what accused-appellant had done to her. With her aunt's assistance, complainant thereafter reported the matter to the police and submitted herself to examination by Dr. Annanina S. Tagle. In her report, Dr. Tagle found incompletely healed lacerations at 3 and 5 o'clock positions and a completely healed laceration at 9 o'clock position in complainant's genitals.[3] On March 4, 1998, she executed her affidavit[4] on the basis of which this case was filed against accused-appellant.[5]

Accused-appellant denied the accusation against him. He claimed that at around 6 p.m. of the day in question, he was in the house of his cousin Teodoro Cortez, about 500 meters away from complainant's residence, where he stayed for about an hour before going home to Cabio Bacal, Apalit, Pampanga. His house and complainant's were only one house apart.

Accused-appellant claimed that complainant filed this case against him upon the instigation of Ernesto Duncil, who lost in his bid for the position of barangay captain because accused-appellant and his family campaigned for Duncil's opponent.[6]

In spite of the failure of Dr. Annanina S. Tagle to testify on her medico-legal report, accused-appellant admitted her findings in his memorandum.[7]

On May 25, 1999, the trial court rendered its decision, the dispositive portion of which reads:

WHEREFORE, in view of all the foregoing, the Court finds the accused Reynaldo Tolentino y Santos guilty beyond reasonable doubt of the crime of rape and as a consequence of which, he is hereby sentenced to suffer the penalty of reclusion perpetua and to indemnify the offended party the amount of P75,000.00.

SO ORDERED.[8]

Hence this appeal by accused-appellant who contends that —

- THE PROSECUTION MISERABLY FAILED TO PROVE THE GUILT OF THE ACCUSED.
- THE HONORABLE LOWER COURT ERRED IN CONVICTING THE ACCUSED.[9]

Accused-appellant argues that if complainant lost consciousness because she had been punched in the stomach and legs, then she cannot possibly say that he was the person who thereafter raped her.

The contention is without merit.

The rule is that the findings of trial courts on credibility of witnesses are entitled to great respect and should not be disturbed upon appeal unless it is shown that a material fact has been overlooked or misappreciated. The trial judge is in the best position to evaluate the declarations and deportment of witnesses because of his opportunity to observe them on the witness stand.[10]

The court a quo did not err in giving credence to complainant's testimony. No person would submit herself to medical examination and undergo the humiliation of a public trial to testify on her ordeal if it is not because she is seeking vindication for an injustice.[11] There was no showing that complainant was impelled by ill motive to testify falsely against accused-appellant, who is her uncle.

Accused-appellant's claim that the charge is politically motivated is untenable. It is not only self-serving but also uncorroborated to merit any consideration at all. There is thus no basis for finding the trial court to have been moved by bias, partiality, or grave abuse of discretion in giving credence to the testimony of complainant.

The alleged inconsistencies in complainant's affidavit dated March 4, 1998 are but minor and inconsequential. They bolster the truthfulness of her claim rather than detract from it.[12] In any event, it has been held that whenever there is inconsistency between the affidavit and the testimony of a witness in court, the testimony commands greater weight. This is because affidavits, which are taken ex parte, are inferior to testimony given in court, the former being incomplete and oftentimes inaccurate because of suggestions or want of specific inquiries.[13]

Moreover, conviction for rape may be based on circumstantial evidence when the victim cannot testify on the actual commission of the rape because she was unconscious when the act was committed, provided that more than one circumstance is duly proved and the totality or the unbroken chain of the circumstances proven lead to no other logical conclusion than appellant's guilt.[14] In this case, complainant's positive identification of accused-appellant as her assailant leaves no doubt of the fact that accused-appellant violated her while she was unconscious. The use of force and intimidation, as alleged in the information, in committing the crime has been

sufficiently established. The evidence shows that accused-appellant poked a knife at complainant, warning her not to shout or else she would be killed, then boxed her in the stomach and legs, and succeeded in ravishing her. It has been held that the display of a knife is sufficient to bring a woman to submission, much more so when actual force is applied on her.[15]

Nor is there merit in accused-appellant's alibi considering his positive identification by complainant as the latter's assailant, let alone the fact that his residence, where he claimed he was on the night in question, is only one house away from that of his victim. For alibi to prosper, it is not enough for the accused to prove that he was somewhere else when the crime was committed. He must prove that it was physically impossible for him to have been at the scene of the crime.[16]

For the foregoing reasons, we find no reason to reverse the appealed decision. However, in line with the current rulings, the indemnity awarded to complainant should be reduced to P50,000.00.[17] On the other hand, moral damages in the amount of P50,000.00 should also be awarded to complainant.[18]

WHEREFORE, the decision of the Regional Trial Court, Branch 55, Macabebe, Pampanga, finding accused-appellant Reynaldo Tolentino y Santos guilty of rape of Elena D. Duncil and sentencing him to suffer the penalty of reclusion perpetua, is **AFFIRMED**, with the **MODIFICATION** that the award of indemnity is reduced to P50,000.00 and 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 Reynaldo V. Roura.

[2] Rollo, p. 9.

[3] Exh. C.

[4] Exhs. A and A-1.

[5] TSN, pp. 4-11, Sept. 28, 1998.

[6] TSN, pp. 4-9, Apr. 12, 1999.

[7] Records, p. 105.

[8] Rollo, p. 15.

[9] Id., p. 33.

[10] People v. Dizon, 309 SCRA 669 (1999).

[11] People v. Sevilla, 320 SCRA 107 (1999); People v. Lacaba, 318 SCRA 301 (1999).

[12] People v. Padilla, 301 SCRA 265 (1999).

[13] People v. Estorco, G.R. No. 111941, Apr. 27, 2000.

[14] People v. Perez, 307 SCRA 276 (1999).

[15] People v. Reyes, 315 SCRA 563 (1999).

[16] People v. Rabang, Jr., 315 SCRA 451 (1999).

[17] E.g., *People v. Lustre*, G.R. No. 134562, Apr. 6, 2000; *People v. Ferolino*, G.R. No. 131730-31, Apr. 5, 2000.

[18] *People v. Batoon*, 317 SCRA 545 (1999).

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