

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDUARDO “EDDIE” BUENAFLO, ACCUSED-APPELLANT.

G.R. No. 140001. June 27, 2001

Ponente: BUENA, J.

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BUENA, J.:

This is an appeal from the Decision of the Regional Trial Court of Alaminos, Pangasinan, Branch 54, in Criminal Case No. 3548-A, finding the accused guilty beyond reasonable doubt of the crime of rape, and sentencing him to suffer the penalty of reclusion perpetua, and awarding the offended party moral damages in the sum of P50,000.00.

On March 14, 1998, then 14-year old Lourdes Lausin went to Lucap, Alaminos, Pangasinan to attend a fiesta upon the invitation of her half-brother, Arman Abella. Lourdes went with her older sister, 15-year old Flordeluna, and 8-year old brother Ricky. Upon arrival at Arman's house, Lourdes saw one Eduardo Buenaflor cooking.[1]

After dinner, Arman and his wife went to the dance hall. They left their four (4) children in the care of the Lausin siblings. The youngsters all slept in the only bedroom in the house, with Lourdes on the bed, while Flordeluna, Ricky and the Abella children slept on the floor.[2] While sleeping, Buenaflor entered the room and sat on the edge of Lourdes' bed.[3] Buenaflor, according to Lourdes, threatened to kill her if she attempted to shout.[4] Buenaflor proceeded to strip Lourdes, removing her jeans, T-shirt, bra and panties.[5] Buenaflor did all this while lying beside Lourdes.[6] He then kissed Lourdes on the lips, mashed her breasts, sucked the right one, and licked her vagina. He inserted his finger into her vagina followed by his penis.[7] Lourdes felt Buenaflor's pumping action ("upward and downward") that culminated in the release of a hot liquid that seeped into her womanhood.[8] Throughout this ordeal, Lourdes felt pain. Her pain, however, was not of such intensity as to make her shout or make any other sound that could have aroused her six other bedroom companions.[9] She cried a lot though.[10]

The Abella couple later arrived from the dance hall, saw Lourdes' swollen eyes but never asked why. Lourdes' older sister and brother also eventually saw her swollen eyes but likewise exhibited the same kind of indifference. Eventually, back at Paitan West, Sual, Pangasinan, Lourdes' mother also saw her swollen eyes but still, no questions were asked.[11]

After the March 14 alleged rape, Buenaflor would visit Lourdes' house to play cards with Lourdes' mother. He would go there every Sunday to gamble as he always did in the past.[12]

Finally, on June 26, 1998, or three months after the "rape," Lourdes divulged to her mother what Buenaflor did to her. What prompted her, in part, to disclose this incident was her sister Flordeluna's revelation (to her mother) of what happened between them (Lourdes and Buenaflor).[13]

The complainant submitted herself for medical examination at the Western Pangasinan District Hospital. The Medico-Legal Certificate[14] states in part: "With healed hymenal laceration at 2, 5, 7 & 9 o'clock position."

Eventually, Buenaflor was charged with Rape before the Regional Trial Court in Alaminos, Pangasinan, Branch 54 in an Information that reads:

"That on or about March 14, 1998 at around 12:00 midnight at Brgy. Lucap, Municipality of Alaminos, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force or intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with LOURDES A. LAUSIN, a 14-year old girl, against her will and consent, to her damage and prejudice.

"Contrary to Art. 335 of the Revised Penal Code as amended by R.A. 7659."

Two other criminal cases were filed against him before the Regional Trial Court in Lingayen, Branch 39, also for the rape of Lourdes on March 18, 1998, and April 10, 1998 at places coming within that court's jurisdiction.

The cases filed before the Regional Trial Court in Lingayen, docketed as Criminal Case Nos. L-5894 and L-5895, were tried ahead. On April 21, 1999, said trial court rendered a decision^[15] that found Buenaflor not guilty and acquitting him. However, three months later or on July 27, 1999, the Regional Trial Court, Branch 54 at Alaminos, Pangasinan, rendered a judgment in Criminal Case No. 3548-A, finding Buenaflor guilty. The dispositive portion of the Decision states:

"WHEREFORE, in consideration of the foregoing premises, judgment is hereby rendered declaring the accused GUILTY beyond reasonable doubt of the crime of rape as defined under Art. 335 as amended by RA 7659 and sentences the accused the penalty of reclusion perpetua and awarding the offended party moral damages in the sum of FIFTY THOUSAND (P50,000.00) PESOS.

"The bailbond posted by the accused for his provisional liberty is hereby ordered cancelled and the accused should now be committed to the National Penitentiary, pending the review of this case by the Honorable Supreme Court.

"Let a commitment order be issued as against the person of the accused, addressed to the Director of the National Penitentiary, Muntinlupa.

"IT IS SO ORDERED."^[16]

The trial court made the following findings from the evidence adduced in support of the above-quoted dispositive portion:

"The alleged crime took place on March 14, 1998 while the offended party was sleeping in the house of Arman Abella, her half-brother.

"Allegedly, Arman Abella and his wife went to attend the barangay dance celebration and so she was left with the four children of her half-brother. While sleeping in bed, the accused allegedly went inside the room where she was sleeping and she noticed the accused removing her pants and she looked at the fellow who was trying to remove her pants and she was able to recognize the accused; that while the accused was trying to remove her pants and her shirt and bra and her panty, the accused allegedly threatened her in whisper that if she shouts she would be killed, but she did not notice the accused carrying with him a weapon. This incident of March 14, 1998 when the offended party was merely going fifteen as she was born on December 7, 1983 was allegedly the first time that she had a sexual intercourse with a man; and while she did not notice the accused carrying a weapon, but because of her being threatened by the accused, she did not shout despite the pain she suffered. In her narration, by way of testimony in Court, Lourdes testified that in order that the accused could insert his penis into her vagina, the accused had to separate her legs and despite the fact that it was very dark, she was able to recognize the accused because of his voice since she usually hear (sic) his voice when talking with her brother even before the incident; and further testified that accused kissed her lips, the accused's hands touching

her private part, the accused inserting his finger into her vagina, the accused not contented in kissing her lips, but also her breast as in fact her breast was sucked by the accused and when the accused mashed her breast, Lourdes did not shout because she was threatened that she will be killed if she shouts, and also that the accused kissed her vagina. Because of her sufferings from the pain, the emotional as well as the physical stress that she suffered and the trauma created by the intimidation and the experience itself which petrified her and rendered her defenseless, she could not do otherwise but cry and so her eyes were swollen. The Court takes note during the initial reception of evidence for the prosecution that she did not know the accused as in fact it was her first time to see the face of the accused at the time the incident took place, but later on cross-examination, she admitted that what she said was false because actually the accused is their neighbor at Paitan, Sual and that the accused in fact, went often to their house to gamble 41 which is a kind of gambling using cards. To the mind of the Court, considering that the offended party is a very young girl of 15 years, it is not uncommon for the young girl to conceal the assaults of their virtue because of the rapist's threats on her life (Pp. Vs. Devilleres, 269 SCRA 716). If the offended party said that it was her first time to see and know the name of the accused on the date of the incident, this to the mind of the Court is still a part of the trauma that she suffered when she was threatened by the accused that she will be killed. In that denial of her knowledge of the name of the accused during the direct examination, to the mind of the Court, is still a part of the offended party's defense mechanism to preserve her life and personal safety after the threat was made on her life by the accused." [17]

For his part, accused-appellant denied the accusations against him. He also testified that all of them, including Arman Abella and his wife and their children, Lourdes, Lausin, Shelyn Dacones, Flordeluna Abella and Ricky Dacones went to the dance hall and they all went home together on the night in question.

Accused-appellant is now before us, praying for his acquittal on the following grounds:

- "1. The trial court erred in convicting the accused-appellant of the crime of rape despite the fact that the prosecution has failed to prove his guilt beyond reasonable doubt;
- "2. The trial court erred in giving full faith and credence to the testimonies of the prosecution witnesses and completely ignoring that of the defense;
- "3. The trial court erred in concluding that the material inconsistencies, contradictions and improbabilities in the testimony of Lourdes Lausin were caused by the traumatic experience that she allegedly underwent;
- "4. The trial court erred in holding that the accused impliedly admitted as true the accusation in question when he adopted the sworn statement of the offended party (Exh. `A') as part of his defense (Exh. `1'); and
- "5. The trial court erred in sentencing the accused-appellant to suffer the penalty of reclusion perpetua and awarding the offended party moral damages in the sum of P50,000.00."

The Office of the Solicitor General filed a Manifestation and Motion In Lieu of Appellee's Brief recommending the reversal of the trial court's decision and the acquittal of the accused, essentially, on the grounds that the rape account is unreliable; the complainant is not credible because of her consistent inconsistencies and continuous contradictions in her testimony; and unexplained delay in reporting the incident.

We reverse the trial court's decision on grounds of reasonable doubt.

On the first and second assigned errors, we find accused-appellant's arguments correct. The trial court indeed erred in giving full faith and credence to the testimony of the complainant and completely ignoring that of the defense.

Crucial in the prosecution for rape is the credibility of the complaining witness for that alone is sufficient to convict the accused.[18] In a prosecution for rape, the complainant's credibility becomes the single most important issue.[19] In this case, we find the testimony of the complainant and the complainant herself to be not

credible, the latter's testimony being replete with inconsistencies, and narrations that are contrary to common experience, human nature and the natural course of things.

It is true that inconsistencies in the testimony of a rape victim do not necessarily impair her credibility. A rape victim need not accurately remember every ugly detail of her ordeal. However, for said inconsistencies to be dismissed so as to give full credence to the alleged victim, they must be minor, trivial and as far as practicable, few and far between.

We now enumerate the inconsistencies and improbabilities in the testimony of the complainant:

Complainant initially testified that she was alone in the room when she was allegedly raped.[20] However, she contradicted herself later when she testified that her siblings and the Abella children were also in the same room.[21]

Complainant felt pain throughout the ordeal but not of such intensity as to make her shout or even utter a whimper of protest that could have aroused her six (6) companions in the bedroom.

Complainant initially declared that she was not acquainted with appellant; that the first time she saw his face was when she was allegedly raped on March 14, 1998.[22] When confronted, however, with her sworn statement (Exh. "A"),[23] she changed her mind and admitted knowing Buenaflor even before the incident.[24] As to how well she knew him, complainant revealed that before the alleged rape, Buenaflor would often go to their house on Sundays to gamble.[25]

Complainant said that her sister did not know what happened to her and appellant Eddie Buenaflor on March 14, 1998, but changed it and admitted that it was her sister Flordeluna who told their mother about her and the accused.[26] In one instance, the trial court expressed disbelief, thus:

"COURT

"Q:

By the way, the court is a little puzzled. You testified before the Court that Flordeluna, your sister, know (sic) of the incident of March 14, 1998, and this March 14, 1998 incident took place in Lucap, you want to tell the Court that you told Flordeluna about the incident in Lucap, or Flordeluna knows about it because she was awake?

"A:

I do not know, sir.

"Q:

When did you know that Flordeluna knows about the incident of March 14, 1998?

"A:

I forgot, sir.

"Q:

Is it the following day which is March 15, 1998?

"A:

I don't know, sir."[27]

Complainant cried while the accused was sexually abusing her[28] so that her eyes got swollen.[29] Her brother Arman and sister-in-law saw her swollen eyes but they did not ask what happened. Neither did she tell them what happened to her.[30] The following morning, March 15, 1998, Flordeluna and Ricky saw her swollen eyes but they never asked her any question.[31] Her parents also did not ask any question when they saw her swollen eyes.[32] This defies logic.

The complainant's overall demeanor, the serious gaps in her testimony, her uncertainties in identifying the accused during the testimony, her fickleness in answering the questions hardly give the kind of credence to her supposed "positive testimony." [33]

The supposed rape victim did not testify in a categorical, straightforward, spontaneous and frank manner, and did not remain consistent, such that she cannot be said to be a credible witness.[34] Because of this the prosecution's case must perforce fall.

The trial court also erred in faulting the accused for the non-presentation of Arman Abella. Blood is thicker than water, as the saying goes. Arman is the half-brother of complainant while appellant Eddie Buenaflor is his cousin. If Arman believed in the story of the complainant, he would have been presented with ease because the accused was detained at the provincial jail. It should not be considered as suppression of evidence and should not be taken against the appellant because Arman Abella was also available to the prosecution. It could likewise be asked of the prosecution why said Arman Abella was not presented to corroborate complainant's declaration to the effect that appellant and Arman Abella did not arrive at the house together on the night of the alleged rape. The adverse presumption arising from suppression of evidence is not applicable when the evidence is likewise available to the other party.[35]

While it may be argued that uncorroborated defense of denial is weak, it is a hornbook precept that the evidence for the prosecution must stand or fall on its own merit and cannot be allowed to draw strength from the weakness of the defense' evidence.[36]

On the third assigned error, appellant states that in defending the contradictions, inconsistencies and improbabilities in the testimony of the complainant, the trial court said that it is part of the trauma created by the intimidation and the experience itself as well as the threat that she will be killed.

We agree with the appellant that the alleged threat, if any, on the life of the complainant when the incident took place could not have caused trauma on the complainant. On the night of the alleged rape, the accused was not carrying any weapon. No threat was made after the alleged molestation. On this score, the complainant testified, thus:

"Q:

Only that date and time when you were raped that was the only time when he threatened you?

"A:

Yes.

"Q:

And the following Sunday that you were there, you were there in Paitan, Eddie Buenaflor went to your place to gamble again?

"A:

Yes, sir.

"Q:

And every Sunday, thereafter. After the incident Eddie Buenaflor went to your house to gamble?

"A:

Yes, sir.

"Q:

And despite the fact that you know him to have violated your womanhood, you did not have the courage to tell your parents while he was there playing, gambling in your house, and you could have been protected already by your parents; you did not tell your parents that Eddie Buenaflor violated you because you told only your parents on June 26, or three months thereafter?

"A:

Yes, sir.

"COURT:

"Q:

What prompted you to tell your parents on June 26, 1998, and not before that date?

A:

"I was afraid to report that to my parents, sir, that my parents might kill me, sir." [37]

There is no evidence on record that the complainant was suffering from trauma as a result of the alleged sexual abuse. No medical or psychological evidence was adduced by the prosecution. On the contrary, the complainant freely and fully testified on her behalf in the prosecution of the case.

On the fourth assigned error, the appellant states that the trial court erred in holding that the accused impliedly admitted as true the accusation in question when he adopted the sworn statement of the offended party (Exh. "A") as part of his defense (Exh. "1"). We are convinced with appellant's argument that the reason for the offer of Exh. "1" is to prove that if indeed the act complained of was committed, it has the element of voluntariness; that the court a quo misappreciated the purpose of the offer of Exh. "1"; and that the offer was made on the premise that the act really happened but it was never impliedly admitted by the accused.

With the foregoing discussion, it is no longer necessary to touch on the fifth assigned error.

The Manifestation and Motion of the Office of the Solicitor General brings to our attention the alleged "recurring" rapes for which the accused-appellant was charged, thus:

"Barely a week after her 'rape' (on March 14), or on March 21, Lourdes would again accept an invitation to attend a fiesta in Kawayan, Sual in Lingayen from no less than her alleged rapist's daughter. There, she would again cry rape, this time, in the house of the cousin of Buenaflor. Three weeks later, or on April 10, she would again be 'raped,' this time, in her own house in Paitan West, Sual, Pangasinan (TSN, p. 39-42, Feb. 23, 1999). Appropriate charges for these two rapes were filed before the Regional Trial Court in Lingayen, Branch 39. There, Lourdes exhibited again the same serious contradictions and inconsistencies that only made the Lingayen court gravely doubt her stories of defloration. One then wonders if the consistent apathy of Lourdes' half-brother, sister and the initial indifference of her parents to her plight have something to do with her peculiar familiarity with Buenaflor and somehow caused her unexplained delay in reporting the incident." [38]

The presumption of innocence provides the fulcrum from where the scales of justice can be balanced and allowed to take its course.[39] Considering that the prosecution was not able to prove the appellant's guilt beyond reasonable doubt, this Court is constrained to rule for an acquittal. In all criminal cases, all doubts should be resolved in favor of the accused on the principle that it is better to liberate a guilty man than to unjustly keep in prison one whose guilt has not been proven by the required quantum of evidence.

WHEREFORE, the appealed decision is hereby REVERSED and the appellant is ACQUITTED of the crime charged.

SO ORDERED.

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

[1] TSN, pp. 2-3, 9, 12-13, Feb. 23, 1999.

[2] Ibid., pp. 11-12, 16-17.

[3] Ibid., pp. 17, 29.

[4] Ibid., p. 15.

[5] Ibid., pp. 15, 17.

[6] Ibid., p. 21.

[7] Ibid., pp. 19-20, 21-23.

[8] Exhibit "A."

[9] TSN, p. 17, Feb. 23, 1999.

[10] Ibid., p. 14.

[11] Ibid., pp. 22-27, 33-34.

[12] Ibid., pp. 35-37.

[13] Ibid., pp. 38-39.

[14] Original Record, p. 5.

[15] Appellant's Brief, Annex 1, Rollo, pp. 85-94.

[16] Original Records, p. 126.

[17] Original Records, pp. 120-121, Decision, pp. 7-8.

[18] *People vs. Fundano*, 291 SCRA 356 [1998].

[19] *People vs. Lacaba*, 318 SCRA 301 [1999]; *People vs. Dacoba*, 289 SCRA 265 [1998].

[20] TSN, p. 14, Feb. 23, 1999.

[21] Ibid., p. 16.

[22] Ibid., p. 10.

- [23] Original Records, pp. 9-10.
- [24] TSN, p. 11, Feb. 23, 1999.
- [25] Ibid., p. 31.
- [26] Ibid., p. 38.
- [27] Ibid., p. 39.
- [28] Ibid., p. 24.
- [29] Ibid., p. 26.
- [30] Ibid., p. 27.
- [31] Ibid., p. 33.
- [32] Ibid., p. 34.
- [33] *People vs. Vidal*, 308 SCRA 1 [1999].
- [34] Cf. *People vs. Perez*, 296 SCRA 17 [1998].
- [35] Cf. *People vs. Mallari*, 310 SCRA 621 [1999].
- [36] *People vs. Vidal*, 308 SCRA 1 [1999].
- [37] TSN, pp. 35-36, Feb. 23, 1999.
- [38] *Manifestation and Motion of the OSG*, Rollo, pp. 124-125.
- [39] *People vs. Lagmay*, 306 SCRA 157 [1999].

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