PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MARIO DUMAGAY TUADA, APPELLANT.

G.R. No. 143486. October 18, 2001

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The trial court's assessment of the credibility of witnesses and their testimonies is entitled to great respect, because it had the opportunity to observe up close their demeanor and conduct during the trial -- an opportunity that is not accorded appellate tribunals.

Statement of the Case

Mario Tuada appeals the March 8, 2000 Decision[1] of the Regional Trial Court (RTC)[2] in Criminal Case No. Q-99-86505, in which he was found guilty beyond reasonable doubt of rape.

In an Information dated September 2, 1999, Assistant City Prosecutor Alessandro D. Jurado charged appellant as follows:

> "That on or about the 29[th] day of August 1999, in Quezon City, Philippines, the said accused by means of force and intimidation, to wit: [did] then and there wilfully, unlawfully and feloniously undress said LILIA SARAYAN-LOGONIO inside the room of their residence located at No. 810 Penthouse[,] Aurora Boulevard, Cubao, this City, and thereafter have carnal knowledge [of] her against her will and without her consent."[3]

Upon his arraignment on November 10, 1999,[4] appellant, assisted by Counsel de Oficio Raul Rivera of the Public Attorney's Office, pleaded not guilty. After trial in due course, the lower court rendered its Decision, the dispositive portion of which reads:

> "WHEREFORE, finding the accused Mario Tuada guilty beyond reasonable doubt of the crime of rape described and penalized under Chapter Three Sec. 266-A of the Revised Penal Code, as amended by the Anti-Rape Law of 1997, there being no modifying circumstance, [this Court hereby sentences him] to suffer imprisonment of reclusion perpetua and to pay Lilia Sarayan the amount of P50,000.00 as moral damages and to pay the costs."[5]

The Facts:Version of the Prosecution

In its Brief,[6] the Office of the Solicitor General presents the following narration of facts:

> "Victim Lilia Sarayon-Logonio, a 44-year old housemaid from Davao and mother of nine children, was employed by spouses Jose and Magdalene Villasi at their residence located at the City Towers Condominium, Aurora Boulevard, Cubao, Quezon City. Lilia, who arrived in Manila on July 21, 1999, was hired through an employment agency.
>
> "Around 2:00 in the afternoon of August 29, 1999, Lilia was sitting on a chair inside her bedroom, located at the 8[th] Floor of the building, resting when appellant Mario Tuada entered her room. Lilia knew appellant because the latter was also a houseboy of her employers and he delivered bread to her every morning. At the

time, Lilia's employers were in their room located at the 10[th] Floor.

"Immediately upon entering the room, appellant locked the door, pulled Lilia towards her bed, held her shoulders, and pushed her down on the bed. He then proceeded to undress her. Lilia was unable to resist because of appellant's strength. Moreover, appellant boxed her right arm, pressed her chest and held her arm. Appellant took off Lilia's t-shirt, pants and panty. The zipper of her pants broke and her panties were torn in the process. Appellant held Lilia down with his right hand and with his left hand, forcibly inserted his penis into her vagina and had sex with her. Appellant, who was wearing no underwear, did not even bother to take off his t-shirt and shorts. Lilia, who was crying, pleaded [with] him to stop. Appellant left after satisfying his lust.

"Lilia immediately told the nanny of her employer's child, a certain Yaya Christie, about the rape. She initially wanted to kill appellant to avenge her honor but, remembering her family, thought better of it. She instead opted to inform her employer of the rape on August 31, 1999, or two days after the incident. Upon being informed about what happened, Ms. Villasi asked Lilia if she wanted to press charges. Ms. Villasi told her son and the latter called the police. Appellant was arrested and brought to the police station.

"Lilia executed a sworn statement at the Police Station. She was thereafter brought by her employer to the PNP Crime Laboratory for medical examination. Dr. James Belgria, the Medico-Legal Officer who examined the victim, found the following contusions on the victim's body: a 2 x 1 cm. contusion on the deltoid region; a contusion at the middle of the right arm, 3 cm. from the anterior midline; contusion on the right lumbar region, measuring 2 x 2 cm. and 17 cm. from the posterior midline. The victim also complained of pain [i]n the nasal region and [i]n the right scapular region of the back. The injuries sustained by the victim had a healing time of 12 to 14 days."[7]

Version of the Defense

Denying the charge of rape and claiming consensual sexual intercourse with the victim, appellant narrates his version of the facts in the following manner:

"MARIO TUADA, the accused-appellant in the case at bar is a 29 year old janitor with address at Daang Hari, Bicutan, Metro Manila and working at City Towers Condo in Quezon City under the employ of Mrs. Villasi. His duties were the following: throwing out the garbage, buying bread and washing the car. He does not know the name of Mrs. Villasi's housemaid but he knows her face. (referring to private complainant Lilia Logonio) (TSN, Jan. 19, 2000, pp. 2-5). He normally addresses the private complainant as `Manang'. On August 29, 1999, at 2 P.M., he confirmed that he was at the City Towers. `Manang' called him and told him `Oo na. Sinasagot na kita.' He explained this by saying that on August 18, he was kidding Manang why [was] she staying [in] their marriage (referring to Lilia's husband) if her husband was beating her, anyway, he [was] there for her. Manang replied that there [were] other girls younger than her to which he answered `Kalabaw lang ang tumatanda.' After saying `Oo na, sinasagot na kita', they went inside the room, kissed each other, removed their clothes and [lay] down on the folding bed naked. They did not lock the door. Suddenly, one of the maids went inside the room and saw them. She was Yaya Christie who immediately went downstairs. He stood up wearing shorts and [ran after her] and told her not to report it because he might lose his job. The private complainant at that time was left in the room. He went back to the private complainant in the room and she was already dressed. They undressed again, kissed each other and it happened. He had sexual intimacy with the complainant. They stayed in bed for a while. He suspects that the reason why complainant charged him [with] rape is because one of the yayas told Lilia that she was the one who need[ed] him. He did not say these words but he admitted that he [did] not love her and he [was] just kidding. (TSN, January 26, 2000, pp. 2-6)

"On cross examination, he testified that he [did] not love the complainant. He made advances and preliminaries on her but it was a joke for he ha[d] a habit of teasing women. Since it was the private complainant who made the first move for them to have sex, he also gave in. He was hesitant to tell the private complainant that he

> [did] not love her. He admits that he took advantage of the private complainant's weakness and that what they did was a consensual act."[8]

Ruling of the Trial Court

In its Decision, the RTC found the testimony of the victim to be short and simple, without any hint of fabrication or falsity. The trial court added that the victim would not have come to court "to suffer the ridicule and nasty snickers from the listeners as she bared her story of embarrassment and shame," unless it was true.

Consensual sex as claimed by appellant is belied by the various injuries found on the victim's body. Convinced of his guilt, the RTC convicted him of rape.

Hence, this appeal.[9]

Issues

In his Brief,[10] appellant presents the following issues:

> "I
>
> The court a quo erred in finding accused guilty beyond reasonable doubt of the crime of rape despite the incredible testimony of the private complainant regarding the alleged rape incident.
>
> "II
>
> The court a quo erred in not believing the testimony of the accused that there was no rape that happened between him and the private complainant, and that indeed, they had sexual intercourse but it was a consensual act."[11]

In brief, appellant assails the credibility of complainant and her testimony.

The Court's Ruling

The appeal is devoid of merit.

Main Issue: Credibility of the Witness

Appellant contends that it was impossible for him to have forcibly undressed the victim completely in a span of one minute, because she had actively resisted his advances. He admits to having had carnal knowledge of her, but claims that it was consensual.

We disagree. Time and time again, this Court has ruled that the evaluation of the credibility of witnesses is a matter that falls particularly within the authority of the trial court, because it had the opportunity to observe their demeanor and conduct on the stand. For this reason, appellate courts accord great weight and even finality to its factual findings, especially its assessments of witnesses and their credibility, barring arbitrariness or oversight of some fact or circumstance of weight and substance.[12]

In the case at bar, the trial court was convinced of the victim's sincerity and credibility. Her testimony was simple, straightforward and corroborated by the evidence. At the witness stand, she testified how appellant suddenly entered the condominium room where she was and forced himself upon her, thus:

> "Q What happened when Mario entered the room?
> A He pulled me towards my bed and undressed me.
>
> Q You said Mario pulled you towards the bed and undressed you, is that correct?
> A Yes, sir.

Q While Mario was doing that to you, what did you do to him, if any?
A I wanted to resist him but he was strong.

Q Why? What did he do to you, if any, the reason why you were not able to resist him?
A He was boxing me and pressing my chest and holding my arm.

Q What part of [your] body [was] x x x boxed by Mario?
A My right arm.

Q And you said Mario undressed you?
A Yes, sir.

Q What articles were [removed] by him?
A T-shirt, pants, and panty.

Q What happened to your [clothing] when Mario undressed you?
A The zipper of my pants broke and my panties were torn.

Q Where are these articles now?
A With the police.

Q After Mario undressed you, what did Mario do to himself?
A He forcibly inserted his penis into my vagina.

x x x x x x x x x

Q And you said he was able to insert his penis into your organ?
A Yes, sir.

Q What did you do while he was doing that?
A I was crying pleading for him to stop.

Q Did you make any noise?
A Yes, sir.

Q What did you utter?
A I asked him why he did that to me and I continued crying.

Q What was his response?
A He just left."[13]

Appellant tries to discredit the victim by pointing out certain alleged improbabilities in her testimony. His attempt, however, is futile because there is nothing incredible about her story that he was able to forcibly undress her in one minute. It is obvious that this time frame was a mere estimate. Also, he was obviously in a hurry.

Appellant argues that he could not have forced and intimidated the victim, because he was unarmed. Further, she had ample opportunity to scream for help. We are not convinced. She readily testified that she had tried to scream but failed, because he covered her mouth. Also, being much stronger than she, he did not need any weapon. In fact, he was able to pin down her arms and even box her to accomplish his dastardly deed. Moreover, the medical evidence corroborates the use of force on her. The testimony of the medicolegal officer who conducted the examination verifies appellant's manhandling of the victim, as follows:

"Q What were your findings beginning with the extragenital area?
A I found contusions on different parts of the body.

Q What were the different parts of the body?

A I found out there was a contusion which measure[d] 2 x 1 on the deltoid region.

Q Where is that located in layman's terms?
A On the right shoulder.

COURT:

Q It was not a kiss mark? A contusion?
A Yes, your honor, and another contusion on the middle part of the right arm, 3 cm. from the anterior midline and another contusion on the right lumbar region measuring 2 x 2 cm. and 17 cm. from the posterior midline and the subject also complained of pain in the nasal region and right parietal region of the head and on the right scapular region of the back.

Q Doctor, in your opinion, what could have brought about these contusions?
A The possible instrument may have been a hard, broad and blunt object being struck on different parts of the body.

Q You are saying it could have been brought about by an exertion of physical force?
A Yes, sir, specifically a hard, broad or blunt object or instrument.

Q Would the contusions be consistent with a fistic blow?
A It is possible."[14]

The trial court correctly awarded moral damages to the victim. As held in People v. Bañago,[15] however, the award of "moral damages is separate and distinct from the civil indemnity awarded to rape victims. The moral damages cannot take the place of the civil indemnity. While the award of moral damages is discretionary on the part of the court, the civil indemnity, which is actually in the nature of actual or compensatory damages, is mandatory upon the finding of [the] fact of rape."[16]

WHEREFORE, the appeal is hereby DENIED. The assailed Decision is AFFIRMED with the MODIFICATION that an additional amount of P50,000 is awarded to the victim as civil indemnity ex delicto.Costs against appellant.

SO ORDERED.

Melo, (Chairman), and Sandoval-Gutierrez, JJ., concur.
Vitug, J., on official leave.

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[1] Penned by Judge Monina A. Zenarosa; rollo, pp. 17-21.

[2] National Capital Judicial Region, Branch 76, Quezon City.

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

[4] Certificate of Arraignment; records, p. 13.

[5] Assailed Decision, p. 5; rollo, p. 21.

[6] Appellee's Brief was signed by Assistant Solicitor Generals Carlos N. Ortega and Magdangal M. de Leon and Solicitor Leonor Meliza P. Serrano-Filio.

[7] Appellee's Brief, pp. 2-4; rollo, pp. 81-83.

[8] Appellant's Brief, pp. 6-7; rollo, pp. 58-59. Appellant's Brief was signed by Attys. Bartolome P. Reus, Teresita

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S. de Guzman and Carolina N. Hacbang-Tagapan, all from the Public Attorney's Office.

[9] This case was deemed submitted for resolution on July 10, 2001, upon receipt by this Court of the Appellee's Brief from the Office of the Solicitor General. The filing of a Reply Brief was deemed waived, as none had been filed within the reglementary period.

[10] Rollo, p. 60.

[11] Appellant's Brief, p. 8; rollo, p. 60.

[12] People v. Perucho, 305 SCRA 770, 778, April 14, 1999 (citing several cases). 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.

[13] TSN, December 1, 1999, pp. 4-6.

[14] TSN, January 12, 2000, pp. 3-4.

[15] 309 SCRA 417, June 29, 1999.

[16] People v. Banago, 309 SCRA 417, 423, June 29, 1999, per Puno, J.

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