

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ERLAND SABADLAB Y BAYQUEL, ACCUSED-APPELLANT.

G.R. No. 175924. March 14, 2012

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

On October 28, 2003, the Regional Trial Court (RTC), Branch 140, in Makati City pronounced Erland Sabadlab y Bayquel guilty of forcible abduction with rape committed against AAA,[1] a 16-year old domestic helper, and penalized him with reclusion perpetua.[2] On April 26, 2006, the Court of Appeals (CA) affirmed the conviction and the penalty, but modified the civil damages.[3] Hence, Sabadlab appeals.

Antecedents

Both the RTC and the CA agreed on the factual antecedents.

AAA was then walking at around noon of March 12, 2002 on Dapitan Street in Makati City, proceeding towards MA Montessori to fetch her employer's son who was studying there. Suddenly, a man (later identified as Sabadlab) grabbed her by the shoulder and ordered her to go with him. She recognized him to be the man who had persistently greeted her every time she had bought pandesal at 5 o'clock am near her employer's house in the past two weeks. Alarmed, she refused to do his bidding, but Sabadlab poked a gun at her throat. Two other men whom she did not recognize joined Sabadlab at that point. They forced her into the backseat of a parked car, and one of Sabadlab's cohorts blindfolded her with a handkerchief. The car moved forward, and stopped after twenty minutes of travel. Still blindfolded, she was brought out of the car. Sabadlab said that he would remove her clothes. Sabadlab then undressed her, leaving only the blindfold on her. One of them tied her hands behind her back. Sabadlab began kissing her body from the neck downwards. Although blindfolded, she knew that it was Sabadlab because his cohorts were calling out his name as he was kissing her body. Then they made her lie flat on the ground with her hands still tied behind her back. Sabadlab raped her in that position. The others took their turns in raping her after Sabadlab. To prevent her from shouting for help, Sabadlab stuffed her mouth with crumpled newspapers. The three ravished her again and again, that she could not remember the number of times they did so.

At around 3:00 o'clock pm, Sabadlab and his cohorts returned a blindfolded AAA by car back to Dapitan Street, but let her go only after sternly warning that they would surely kill her if she told anyone about the rapes. Once they left, she proceeded to MA Montessori to fetch her ward. She waited there until 5:30 pm.

Upon her arrival at the house, AAA's employer noticed the kiss marks on her neck. AAA at first lied about the kiss marks, but she ultimately disclosed the rapes because her irritated employer slapped and boxed her on the stomach to force her to disclose.

On March 13, 2002, her employer brought AAA to the Makati Police Station to report the rapes. AAA underwent medico-legal examination later that day at the PNP Crime Laboratory in Camp Crame Quezon City. The results of

the medico-legal examination were embodied in Medico-Legal Report No. M-797-02 issued by medico-legal officer Dr. Mary Ann P. Gajardo, viz:

PHYSICAL INJURIES:

1. Ecchymosis, right mandibular region, measuring 2.5 x 2.5 cm, 8 cms from the anterior midline.
2. Ecchymosis, neck, measuring 3 x 2.5 cms, 6 cms right of the anterior midline.
3. Ecchymosis, neck, measuring 3 x 2.5 cms, 4.5 cms left of the anterior midline.
4. Ecchymosis, nape, measuring 3.5 x 2.5 cms, 4 cms right of the posterior midline.
5. Ecchymosis, nape, measuring 4.5 x 3 cms, 4 cms left of the posterior midline.
6. Ecchymosis, right breast, measuring 4 x 3.5 cms. 10 cms from the anterior midline.
7. Ecchymosis, sternal region, measuring 9 x 3 cms, bisecting the anterior midline.
8. Ecchymosis, left breast, measuring 3.5 x 2.5 cms, 9 cms from the anterior midline.
9. Ecchymosis, left breast, measuring 3.5 x 3 cms, 11 cms from the anterior midline.
10. Abrasion, left scapular region, measuring 3.5 x 0.5 cms. 14 cms from the posterior midline

GENITAL:

PUBIC HAIR: Moderate

LABIA MAJORA: Full, convex and slightly gaping.

LABIA MINORA: Pinkish brown slightly hypertrophied labia minora in between.

HYMEN: Presence of shallow fresh lacerations at 7 o'clock position and deep fresh lacerations at 6 and 9 o'clock position. Congested.

POSTERIOIR FOURCHETTE: Abraded/Congested

EXTERNAL VAGINAL ORIFICE: Offers strong resistance upon introduction of the examiner's index finger.

VAGINAL CANAL: Narrow with prominent rugosities.

CERVIX: Soft and close

PERIURETHRAL AND VAGINAL SMEARS: Negative for spermatozoa and negative for gram (-) diploxocci.

CONCLUSION: Findings are compatible with recent loss of virginity. Barring unforeseen complications, it is estimated that the above injuries will heal within 3-5 days.[4]

Afterwards, AAA and the policemen went to the vicinity where she had usually bought pandesal to look for the suspects. She spotted Sabadlab in one of the nearby restaurants and pointed to him. The policemen apprehended Sabadlab and brought him to the station, where he gave his name as Erland Sabadlab y Bayquel. That was her first time to know the name of Sabadlab.

These antecedents impelled the Office of the City Prosecutor of Makati to immediately charge Sabadlab and two John Does with forcible abduction with rape via the information dated March 13, 2002, alleging:

That on or about the 12[th] day of March of 2002, in the City of Makati, Philippines a place within the jurisdiction of this Honorable Court, the above-named accused together with two (2) John Does whose names and whereabouts are still unknown, with lewd designs and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously take and carry away AAA, 16 years of age, against her will from Dapitan St., Barangay Guadalupe, Makati City and brought her to an undisclosed place, where accused by means of force, violence and intimidation had carnal knowledge of complainant against her will.

CONTRARY TO LAW.[5]

In his defense, Sabadlab denied the charge and asserted alibi, claiming that on March 12, 2002, he was at Billiard M where he worked as a spotter; that he stayed there until noon, leaving the place only to have lunch; and that he returned to Billiard M at 12:30 pm and stayed there until he was arrested at 7:00 pm of March 12, 2002. Frederick Dionisio and Nathaniel Salvacion corroborated Sabadlab's alibi.

As stated, the RTC convicted Sabadlab for forcible abduction with rape as charged based on AAA's positive identification of him as one of the rapists, observing that her physical injuries and fresh hymenal lacerations were consistent with her account of the rapes, decreeing:

WHEREFORE, finding accused ERLAND SABADLAB y BAYQUEL GUILTY BEYOND REASONABLE DOUBT as principal of the crime of forcible abduction with rape charged in this case, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to pay the costs.

On the civil aspect, the accused is ordered to pay AAA the sum of FIFTY THOUSAND PESOS (P50,000.00) as EXEMPLARY DAMAGES and ONE HUNDRED THOUSAND PESOS (P100,000.00) as MORAL DAMAGES.

SO ORDERED.[6]

On appeal in the CA, Sabadlab assigned the following errors,[7] to wit:

I.

THE TRIAL COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE HIGHLY INCREDIBLE AND INCONSISTENT TESTIMONY OF THE PRIVATE COMPLAINANT.

II.

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

Nonetheless, the CA sustained his conviction and the penalty of reclusion perpetua, holding that the supposed inconsistencies referred to trivial matters or innocent lapses that did not affect the credibility of AAA as a witness but were instead badges of veracity or manifestations of truthfulness of the material points of her testimony. The CA thus disposed:

WHEREFORE, premises considered, the appeal is hereby DENIED. The Decision of the RTC dated October 28, 2003 is AFFIRMED with MODIFICATION as follows:

- The award of moral damages is REDUCED to P50,000.00;
- The award of exemplary damages is DELETED;
- Appellant is ordered to pay the amount of P50,000.00 as civil indemnity.

Pursuant to Section 13 (C), Rule 124 of the Revised Rules of Criminal Procedure, appellant may appeal this case to the Supreme Court via a Notice of Appeal filed before this Court.

SO ORDERED.[8]

Upon the denial of his motion for reconsideration on August 2, 2006, Sabadlab is now before the Court to seek the final review.

In addition to the arguments and submissions made in his appellant's brief in the CA, Sabadlab indicates in his supplemental brief[9] that AAA's version was ambiguous and implausible, and conflicted with human experience as borne by the following, namely: (a) the State did not present any torn apparel; (b) no bodily injuries were shown to prove that AAA had resisted the sexual intercourse; (c) AAA did not cry for help; and (d) AAA did not escape despite several opportunities to do so. He contends, moreover, that the State's evidence established only simple seduction.[10]

Ruling

We affirm the conviction.

First of all, Sabadlab continues to assail the credibility of AAA's recollections. We understand why he does so, because the credibility of the victim's testimony is a primordial consideration in rape.[11] Yet, because both the RTC and the CA unanimously regarded AAA as a credible and spontaneous witness, he has now to present clear and persuasive reasons to convince us to reverse both lower courts' determination of credibility and to resolve the appeal his way.

Our review reveals, however, that Sabadlab has not tendered any clear and persuasive reasons that may warrant the reversal or modification of the findings of both lower courts on the credibility of AAA and his criminal liability. The supposed inconsistencies dwelled on minor details or collateral matters that the CA precisely held to be badges of veracity and manifestations of truthfulness due to their tendency of demonstrating that the testimony had not been rehearsed or concocted. It is also basic that inconsistencies bearing on minor details or collateral matters should not adversely affect the substance of the witness' declaration, veracity, or weight of testimony.[12] The only inconsistencies that might have discredited the victim's credible testimony were those that affected or related to the elements of the crime. Alas, that was not true herein.

The supposed inconsistencies were inconsequential to the issue of guilt. For one, the matter of who of the three rapists had blindfolded and undressed AAA was trifling, because her confusion did not alter the fact that she had been really blindfolded and rendered naked. Nor did the failure to produce any torn apparel of AAA disprove the crime charged, it being without dispute that the tearing of the victim's apparel was not necessary in the commission of the crime charged. In fact, she did not even state that her clothes had been torn when Sabadlab had forcibly undressed her. Verily, details and matters that did not detract from the commission of the crime did not diminish her credibility.

We hardly need to remind that the task of assigning values to the testimonies of witnesses and of weighing their credibility is best left to the trial judge by virtue of the first-hand impressions he derives while the witnesses testify before him.[13] The demeanor on the witness chair of persons sworn to tell the truth in judicial proceedings is a significant element of judicial adjudication because it can draw the line between fact and fancy. Their forthright answers or hesitant pauses, their quivering voices or angry tones, their flustered looks or sincere gazes, their modest blushes or guilty blanches - all these can reveal if the witnesses are telling the truth or lying in their teeth.[14] As the final appellate reviewer in this case, then, we bow to the age-old norm to accord the utmost respect to the findings and conclusions on the credibility of witnesses reached by the trial judge on account of his unmatched opportunity to observe the witnesses and on account of his personal access to the various indicia available but not reflected in the record.[15]

Secondly, AAA's recollection of the principal occurrence and her positive identification of the rapists, particularly Sabadlab, were firm. It is reassuring, too, that her trustworthiness in identifying Sabadlab as one of the rapists rested on her recognition of him as the man who had frequently flirted with her at the store where she had usually bought pandesal for her employer's table. As such, the identification of him as one of the rapists

became impervious to doubt.

Thirdly, AAA's failure to shout for help and her failure to escape were not factors that should diminish credibility due to their being plausibly explained, the first by the fact that her mouth had been stuffed by Sabadlab with crumpled newspaper, preventing her from making any outcry, and the second by the fact that the culprits had blindfolded her and had also tied her hands behind her back.

And, lastly, Sabadlab's allegation that AAA did not sustain any bodily injuries was actually contrary to the medical certification showing her several physical injuries and the penetration of her female organ.[16] This should debunk without difficulty his submission that she did not offer any resistance to the sexual assaults she suffered. Her resistance to Sabadlab's order for her to go with him was immediately stifled by his poking of the gun at her throat and by appearance of his two cohorts. At any rate, it is notable that among the amendments of the law on rape introduced under Republic Act No. 8353 (The Anti-Rape Act of 1997) is Section 266-D, which adverts to the degree of resistance that the victim may put up against the rapist, viz:

Article 266-D. Presumptions. - Any physical overt act manifesting resistance against the act of rape in any degree from the offended party, or where the offended party is so situated as to render her/him incapable of giving valid consent, may be accepted as evidence in the prosecution of the acts punished under Article 266-A.

We next deal with the characterization of the crime as forcible abduction with rape. The principal objective of Sabadlab and his two cohorts in abducting AAA from Dapitan Street and in bringing her to another place was to rape and ravish her. This objective became evident from the successive acts of Sabadlab immediately after she had alighted from the car in completely undressing her as to expose her whole body (except the eyes due to the blindfold), in kissing her body from the neck down, and in having carnal knowledge of her (in that order). Although forcible abduction was seemingly committed,[17] we cannot hold him guilty of the complex crime of forcible abduction with rape when the objective of the abduction was to commit the rape. Under the circumstances, the rape absorbed the forcible abduction.[18]

The penalty of reclusion perpetua was correctly prescribed. Article 266-A and Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353,[19] respectively define and punish simple rape as follows:

Article 266-A. Rape; When and How Committed. – Rape is committed –

1) By a man who shall have carnal knowledge of a woman under any of the circumstances:

- a) Through force, threat, or intimidation;
- b) When the offended party is deprived of reason or otherwise unconscious;
- c) By means of fraudulent machinations or grave abuse of authority; and
- d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

Article 266-B. Penalties. – Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

xxx

Although the CA deleted the RTC's award of exemplary damages because of the "absence of aggravating circumstance (sic),"[20] we reinstate the award in view of the attendance of the aggravating circumstance of use of a deadly weapon in the commission of the crime. The Civil Code provides that exemplary damages may be imposed in a criminal case as part of the civil liability "when the crime was committed with one or more aggravating circumstances." [21] The Civil Code allows such damages to be awarded "by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages." [22]

Present here was the need for exemplarity. Thus, the CA should have recognized the entitlement to exemplary damages of AAA on account of the attendance of use of a deadly weapon. It was of no moment that the use of a deadly weapon was not specifically alleged in the information. As fittingly explained in *People v. Catubig*:^[23]

The term “aggravating circumstances” used by the Civil Code, the law not having specified otherwise, is to be understood in its broad or generic sense. The commission of an offense has a two-pronged effect, one on the public as it breaches the social order and the other upon the private victim as it causes personal sufferings, each of which is addressed by, respectively, the prescription of heavier punishment for the accused and by an award of additional damages to the victim. The increase of the penalty or a shift to a graver felony underscores the exacerbation of the offense by the attendance of aggravating circumstances, whether ordinary or qualifying, in its commission. Unlike the criminal liability which is basically a State concern, the award of damages, however, is likewise, if not primarily, intended for the offended party who suffers thereby. It would make little sense for an award of exemplary damages to be due the private offended party when the aggravating circumstance is ordinary but to be withheld when it is qualifying. Withal, the ordinary or qualifying nature of an aggravating circumstance is a distinction that should only be of consequence to the criminal, rather than to the civil, liability of the offender. In fine, relative to the civil aspect of the case, an aggravating circumstance, whether ordinary or qualifying, should entitle the offended party to an award of exemplary damages within the unbridled meaning of Article 2230 of the Civil Code.

Accordingly, the Court grants the amount of P30,000.00 as exemplary damages in addition to the civil indemnity of P50,000.00 and the moral damages of P50,000.00 the CA awarded to AAA. Sabadlab is further liable for interest of 6% per annum on all the civil damages.

WHEREFORE, we AFFIRM decision of the Court of Appeals promulgated on April 26, 2006, with the MODIFICATION that ERLAND SABADLAB y BAYQUEL is: (a) DECLARED GUILTY BEYOND REASONABLE DOUBT of SIMPLE RAPE as defined under Article 266-A and as penalized with reclusion perpetua pursuant to Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353; and (b) ORDERED TO PAY to the victim P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages, plus interest of 6% per annum on each of the amounts reckoned from the finality of this decision.

The accused shall pay the costs of suit.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Villarama, Jr., and [*]Perlas-Bernabe, JJ., concur.

[*] Vice Associate Justice Mariano C. Del Castillo, who is on sick leave, per Special Order No. 1203 dated February 17, 2012.

[1] The real name of the victim is being withheld pursuant to Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act) and Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004). See *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[2] Records, pp. 108-114.

[3] CA rollo, pp. 93-100; penned by Associate Justice Juan Q. Enriquez, Jr., with Associate Justice Godardo A. Jacinto (retired) and Associate Justice Vicente Q. Roxas, concurring.

[4] Records, p. 59.

[5] Records, p. 1.

[6] Records, pp. 113-114.

[7] CA rollo, pp. 37-47.

[8] CA rollo, pp. 99-100.

[9] Rollo, pp. 14-20.

[10] Id., p. 19.

[11] *People v. Quiachon*, G.R. No. 170236, 31 August 2006, 500 SCRA 704, 714.

[12] *People v. Castro*, G.R. No. 172370, October 06, 2008, 567 SCRA 586.

[13] *People v. Del Rosario*, G.R. No. 189580, February 9, 2011, 642 SCRA 625.

[14] Id.

[15] *People v. Sanchez*, G.R. Nos. 121039-45, January 25, 1999, 302 SCRA 21.

[16] *People v. Bation*, G.R. No. 123160, March 25, 1999, 305 SCRA 253, 269.

[17] Article 342, Revised Penal Code, provides:

Article 342. Forcible abduction. – The abduction of any woman against her will and with lewd designs shall be punished by reclusion temporal.

The same penalty shall be imposed in every case, if the female abducted be under twelve years of age.

[18] *Garces v. People*, G.R. No. 173858, July 17, 2007, 527 SCRA 827; *People v. Muros*, G.R. No. 142511, February 16, 2004, 423 SCRA 69; *People v. Egan*, G.R. No. 139338, May 28, 2002, 382 SCRA 326; *People v. Mejorada*, G.R. No. 102705, July 30, 1993, 224 SCRA 837, 852; *People v. Godines*, G.R. No. 93410, May 7, 1991, 196 SCRA 765, 773.

[19] Effective October 22, 1997.

[20] CA rollo, p. 99. The use of a deadly weapon is a qualifying circumstance in rape pursuant to the second paragraph of Article 266-B of the Revised Penal Code.

[21] Article 2230, Civil Code, states:

Article 2230. In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.

[22] Article 2229, Civil Code.

[23] G.R. No. 137842, August 23, 2001, 363 SCRA 621, 635.

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