PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICHARD SULIMA Y GALLANO, ACCUSED-APPELLANT.

G.R. No. 183702. February 10, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For review is the Decision[1] dated 16 January 2008 of the Court of Appeals in CA-G.R. CR-H.C. No. 02074, which affirmed in toto the Decision[2] dated 1 February 2006 of the Regional Trial Court (RTC) of Parañaque City, Branch 260, in Criminal Case No. 00-0180, finding herein appellant Richard Sulima y Gallano guilty beyond reasonable doubt of the crime of rape committed against AAA[3] and sentencing him to suffer the penalty of reclusion perpetua. The appellant was also ordered to pay AAA civil indemnity in the amount of P50,000.00 and moral damages also in the amount of P50,000.00.

Appellant Richard Sulima y Gallano was charged before the RTC of Parañaque City with raping AAA in an Information which reads:

> That on or about the 13[th] day of January 2000, in the City of XXX, Philippines, and within the jurisdiction of this Honorable Court, the above-named [appellant], by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the [private] complainant AAA, a minor, against her will and consent.[4]

Upon arraignment, the appellant, assisted by counsel de oficio, pleaded NOT GUILTY to the crime charged. The pre-trial was terminated upon agreement of the parties. Thereafter, trial on the merits ensued.

The prosecution presented the testimonies of the following witnesses: AAA, the private complainant; Police Senior Inspector (P/Sr. Insp.) Mary Ann Fajardo, Medico-legal officer at the Philippine National Police (PNP) Crime Laboratory, Camp Crame, Quezon City, who submitted before the court a quo the medico-legal report on AAA; Joseph Monteclaro, the person implicated by the appellant as the one who really raped AAA; Alfredo Guadez, the barangay tanod to whom the rape incident was first reported; and BBB, the father of AAA.

The evidence for the prosecution, culled from the testimonies of the aforesaid witnesses, established the following facts:

On 25 December 1999, AAA, then 14 years old, her father, BBB, and her older sister were outside their house located at XXX Compound, XXX, Barangay XXX, XXX City. Suddenly, the appellant arrived, introduced himself and invited BBB for a round of drink which the latter declined.[5] When the appellant, however, told BBB that his other friends were also invited, BBB then accepted the appellant's invitation.[6] AAA's older sister then told AAA to go inside their house.[7]

At around midnight of 13 January 2000, AAA, together with her younger siblings, were inside their house sleeping. AAA's father, BBB, was then in the hospital attending to his wife who was about to give birth. While AAA was asleep, she was awakened by the weight of a person who was on top of her. The man threatened AAA

not to shout; otherwise, he would kill her. Out of fear, AAA did not shout. The man began to undress AAA and thereafter succeeded in inserting his penis into AAA's vagina. After satisfying his lust, the man stood up momentarily and then again inserted his penis into AAA's vagina, threatening AAA that he would kill her if she would not submit to his desires. Thereafter, the man stood up and went out of the house. At this juncture, AAA vividly recognized the man as the appellant, whom she first saw on Christmas day, because of the light coming from the post outside their house.[8]

After that harrowing experience, AAA could not do anything but cry. When her father, BBB, arrived at around 3:00 o'clock in the morning of 14 January 2000, AAA told her father that she was raped by the appellant. Immediately thereafter, AAA and BBB went out of their house to look for the appellant. Unfortunately, they did not find him.[9]

On the evening of 14 January 2000, AAA and BBB went to the house of Alfredo Guadez, a barangay tanod, to report the rape incident. Alfredo Guadez then accompanied them to the barangay hall where their barangay chairman made an initial investigation of what had happened and took AAA's statements. On their way home, AAA and BBB saw the appellant in a gambling house. They returned to the barangay hall and told the barangay chairman of the whereabouts of the appellant. As a result, the appellant was fetched and invited to the barangay hall where he was identified by AAA as her assailant.[10]

On 15 January 2000, the appellant was brought to the Parañaque Police Station for investigation.[11] AAA also went to the said Police Station where she executed a sworn statement and identified the appellant as the person who raped her at midnight of 13 January 2000.[12] On the same day, AAA was advised by the police investigator to go to the PNP Crime Laboratory at Camp Crame, Quezon City, for her medical examination.[13] Medico-Legal Report No. M-196-00 issued on AAA contained the following findings and conclusion:

> PHYSICAL INJURIES: 1) Area of multiple contusion, proximal third of the right arm, measuring 2.0 x 5 cm. bisected by its anterior midline. 2) Contusion proximal third of the right arm, measuring 0.9 x 1.2 cm, 2 cm medial to its anterior midline.
>
> GENITAL:
>
> x x x x
>
> HYMEN: Elastic, fleshy with shallow fresh laceration at 3 o'clock position.
>
> x x x x
>
> PERIURETHRAL AND VAGINAL SMEARS: Positive for spermatozoa but
>
> negative for gram negative diplococci.
>
> CONCLUSION: Findings are compatible with recent sexual intercourse. Barring
>
> unforeseen complications, it is estimated that the above injuries will resolve in 5 to 7 days.[14] [Emphasis supplied].

For its part, the defense presented the testimony of Lucita Vergara, neighbor of the appellant; and the appellant himself, who interposed the defenses of denial and alibi.

Lucita Vergara testified that at midnight of 13 January 2000, while she was outside her house, she saw Michael Halaan, Rey Justiniano, Joseph "Ogie" Monteclaro and a certain Eric having a drinking session. When the appellant arrived, he was invited to join the group but he declined. The appellant went home. Lucita Vergara disclosed that she was not sure if the appellant stayed at home the whole day. On 16 January 2000, she went

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around their area requesting women to sign up as she was a leader of the women's group. She then saw AAA and her friend with the latter telling her that AAA was raped. When she asked AAA who raped her, AAA replied that she did not know as it was dark during that time, and she only pointed to the appellant because her father told her to.[15]

The appellant denied having raped AAA. He averred that on the date of the rape incident, he was inside his house resting because he still had to go to work the following day. The appellant also stated that he only met AAA at the barangay hall when he was informed that there was a complaint for rape against him. He claimed that when AAA could not identify her rapist, AAA's father brought her outside the barangay hall and when they came back, AAA already pointed to him as the culprit.[16]

After trial, a Decision was rendered by the court a quo on 1 February 2006 finding the appellant guilty beyond reasonable doubt of the crime of rape. The trial court found AAA's testimony on how she was raped by the appellant at midnight of 13 January 2000 to be straightforward, credible and truthful. Moreover, AAA's positive identification of the appellant as her ravisher completely overturned appellant's defenses of denial and alibi. The trial court thus decreed:

> WHEREFORE, finding the [appellant] Richard G. Sulima y Gallano, guilty beyond reasonable doubt of the crime of rape, the Court hereby sentences him to suffer the penalty of reclusion perpetua. He is ordered to pay the victim moral damages in the amount of P50,000.00 and civil indemnity also in the amount of P50,000.00.[17]

The appellant appealed the aforesaid Decision of the trial court to the Court of Appeals. In his brief, the appellant assigned the following errors:

> - THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE [APPELLANT] OF THE CRIME CHARGED, WHEN HIS GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.
>
> - THE TRIAL COURT GRAVELY ERRED IN GIVING CREDENCE TO THE CONTRADICTORY EVIDENCE OF THE PROSECUTION.[18]

On 16 January 2008, the Court of Appeals rendered a Decision affirming in toto the Decision of the trial court.

The appellant filed a Notice of Appeal.[19] Thereupon, the Court of Appeals forwarded the records of this case to this Court.

This Court required the parties to simultaneously submit their respective supplemental briefs. In compliance therewith, the Office of the Solicitor General submitted its Supplemental Brief dated 24 October 2008. The appellant, on the other hand, made a Manifestation adopting his Appellant's Brief filed before the Court of Appeals as his Supplemental Brief.

Essentially, the appellant assails the credibility of the victim, as he asserts that his guilt of the crime of rape was not proven beyond reasonable doubt.

The appellant contends that AAA merely claimed that she was raped, but she did not narrate in detail how the crime was committed; thus, what happened at midnight of 13 January 2000 was consensual sex. Moreover, AAA's reaction during and after the rape was consummated was contrary to human experience and quite unbelievable. AAA neither resisted nor woke up her siblings who just slept right next to her while she was being raped. She did not do anything after the rape incident, considering that the house of the barangay tanod was just 10 steps away from their house. Also, the appellant pointed out that the reaction of AAA's father -- sleeping soundly despite the fact that his daughter has been just raped, instead of immediately reporting the matter to the authorities -- was quite unusual. Thus, AAA's testimony cannot be regarded as credible and truthful, and the prosecution failed to

prove his guilt beyond reasonable doubt.

Similarly, the appellant maintains that AAA's testimony is full of inconsistencies, and it even contradicts the testimony of her own father, as well as the result of her medical examination contained in the Medico-Legal Report No. M-196-00. The appellant emphasized that while AAA testified that her father came from work in the early morning of 14 January 2000, her father, on the other hand, stated that he came from the hospital as his wife just gave birth. Also, AAA's statement that she did not resist her ravisher when she was raped runs counter to the medico-legal report that she sustained several contusions caused by a probable physical resistance against the assailant.

The appellant's contentions are bereft of merit.

In reviewing rape cases, the Court has always been guided by three well-entrenched principles: (a) that an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (b) that in view of the intrinsic nature of the crime which usually involves two persons, the complainant's testimony must be scrutinized with extreme caution; and (c) that the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of evidence of the defense. In addition, it is well-nigh to stress over and over again, that no woman would concoct a story of defloration, allow the examination of her private parts and subject herself to public trial or ridicule if she has not, in truth, been a victim of rape and impelled to seek justice for the wrong done to her. It is settled jurisprudence that when a woman says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed. A woman would think twice before she concocts a story of rape, unless she is motivated by a patent desire to seek justice for the wrong committed against her.[20] Accordingly, the primordial consideration in a determination concerning the crime of rape is the credibility of the complainant's testimony.[21]

After a close and careful scrutiny of the records, this Court finds no compelling reason to disturb and depart from the aforesaid findings and conclusion of the trial court, which findings were also affirmed by the Court of Appeals.

It is a fundamental rule that the trial court's factual findings, especially its assessment of the credibility of witnesses, are accorded great weight and respect on appeal. This is so because the trial court was in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying during the trial. The appellate courts will generally not disturb such findings, unless the trial court plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.[22]

In this case, the trial court found AAA's testimony to be credible and truthful. It even described AAA's testimony as positive, straightforward and able withstand the test of credibility. In AAA's narration of the manner in which the appellant took advantage of her, she never wavered in her testimony. In fact, she even exemplified the details of the incident without flourish and innuendo. AAA also positively identified the appellant before the court a quo as her abuser. The trial court also observed that even on cross-examination, AAA maintained that the appellant sexually molested her while threatening her not to shout, otherwise, she would be killed by him.[23] This finding of the trial court clearly overthrows the appellant's assertion that his identification as AAA's abuser was merely instigated by AAA's father.

Further, contrary to appellant's contention, the records revealed that AAA narrated in detail how the appellant ravished her at midnight of 13 January 2000. AAA bravely declared before the court a quo that at midnight of 13 January 2000, she was awakened when she felt that someone was on top of her. The man then told her not to shout; otherwise, he would kill her. The man removed her clothes and inserted his penis into her vagina.

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Thereafter, the man momentarily stood up and then again inserted his penis into her vagina and threatened to kill her if she would not submit to his desire. After satisfying his lust, the man stood up and went out of the house. AAA vividly recognized the man as the appellant because of the light coming from the post outside their house.[24]

With the foregoing, it has been clearly shown that AAA did not simply make a general statement on the manner in which the appellant raped her. Instead, AAA took courage in giving a detailed account of her painful experience in the hands of the appellant. Thus, it is beyond any cavil of doubt that indeed, AAA was raped by the appellant, and what happened between them was not consensual sex as the appellant claimed it to be.

AAA's failure to offer any kind of resistance to her abuser is of no moment and cannot in any way affect the credibility of her testimony. Rape is perpetrated when the accused has carnal knowledge of the victim through the use of force or threats or intimidation. It must be stressed that the resistance of the victim is not an element of the crime, and it need not be established by the prosecution. In any event, the failure of the victim to shout or to offer tenacious resistance does not make the sexual congress voluntary. Indeed, rape victims have no uniform reaction: some may offer strong resistance; others may be too intimidated to offer any resistance at all.[25]

In the present case, AAA categorically testified that she was cowed into submission because the appellant threatened to kill her if she would not submit to his bestial desire. Considering the age of AAA at the time she was raped, i.e., 14 years old, such threat made by the appellant upon her life was sufficient to produce fear in the victim. This sufficiently explains the seeming lack of resistance by AAA when the offense was being perpetrated. Moreover, AAA's failure to wake up her siblings who were just sleeping right next to her was understandable. As stated by the Court of Appeals, AAA's siblings who were with her at the time she was raped were young, aged one, three, five and seven. Aside from the fact that the said children were incapable of protecting AAA, their safety might also be endangered should they be awakened.[26]

Appellant claims that AAA's behavior after the commission of the crime, i.e., not doing anything considering that the house of the barangay tanod was just 10 steps away from their house, was contrary to human experience and quite unbelievable. The Court has repeatedly observed, however, that there is no standard form of behavior that can be anticipated of a rape victim following her defilement, particularly of a child who could not be expected to fully comprehend the ways of an adult. People react differently to emotional stress, and rape victims are no different from them.[27]

The appellant was mistaken in saying that AAA's father did not immediately report the rape incident to the authorities after being informed thereof and, instead, slept soundly. As can be gleaned from AAA's testimony, when her father arrived at around 3:00 o'clock in the morning of 14 January 2000, she immediately told her father that she was raped. Thereafter, she and her father wasted no time in searching for the appellant.[28] Unfortunately, they did not find him. Considering the wee hours, AAA's father who was weary and sleepy from attending to his wife who was in the hospital took some time to sleep. As the appellate court stated in its Decision, the fact that it was already in the evening of 14 January 2000 that BBB accompanied AAA to the barangay hall to report the rape incident could have been due to the fact that BBB still had to attend to his wife who had just given birth in the hospital.

The appellant's allegation that AAA's testimony was full of inconsistencies as it contradicted the testimony of her own father, as well as the result of her medical examination, is just appellant's futile attempt to escape the consequences of the crime he committed. Here we quote with authority the pronouncements made by the appellate court on the matter, thus:

> It should be noted that AAA testified during the direct examination that BBB was not in their house when she

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> was raped by [appellant] because he was in the hospital as her mother was about to give birth. However, on cross-examination, AAA was asked by the defense counsel the following question, which she answered in the affirmative.
> "Q: Samakatwid nang sinabi mo sa tatay nang galing sa trabaho, natulog siya?
>
> A" Opo."

It appears that the affirmative answer of AAA actually referred to the question that her father slept. It should be noted that prior to said question of the defense counsel as to whether BBB slept, the defense counsel had already asked AAA several questions. It has been held that a witness may contradict himself on the circumstances of an act or different acts due to a long series of questions on cross-examination during which the mind becomes tired to such a degree that the witness does not understand what he is testifying about, especially if the questions, in their majority are leading and tend to make him ratify a former contrary declaration.[29] Moreover, the alleged inconsistency pertains to a matter extraneous to the crime of rape and does not detract from the fact that AAA had indeed been sexually defiled.[30] Thus, it is immaterial where BBB came from when he arrived in his house at about 3:00 o'clock in the morning of [14 January 2000].[31] (Emphasis supplied.)

In contrast, the evidence presented by the defense consisted mainly of bare denials and alibi. Denial and alibi are inherently weak defenses; unless supported by clear and convincing evidence, the same cannot prevail over the positive declaration of the victim,[32] who in a simple and straightforward manner convincingly identified the appellant who sexually molested her at midnight of 13 January 2000. Further, for the defense of alibi to prosper, it must be sufficiently convincing as to preclude any doubt on the physical impossibility of the presence of the accused at the locus criminis or its immediate vicinity at the time of the incident.[33] The appellant in this case admitted that his residence was just 30 houses away from that of AAA;[34] thus, it was not physically impossible for him to be at the locus criminis at the time of the rape incident. More so, appellant's defenses of denial and alibi run counter to his own argument that what happened between him and AAA was consensual sex.

Given the foregoing, this Court is convinced that the trial court and the appellate court correctly convicted the appellant of the crime of rape,[35] which is punishable by reclusion perpetua.[36]

This Court affirms the award of P50,000.00 as civil indemnity given by the lower courts to the victim. Civil indemnity, which is in the nature of actual or compensatory damages, is mandatory upon the finding of the fact of rape.[37]

Moral damages in rape cases should be awarded without need of showing that the victim suffered the trauma of mental, physical, and psychological sufferings constituting the basis thereof. These are too obvious to still require their recital at the trial by the victim, since we even assume and acknowledge such agony as a gauge of her credibility.[38] Thus, this Court finds the award of moral damages by both lower courts in the amount of P50,000.00, proper.

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 02074 dated 16 January 2008 finding herein appellant guilty beyond reasonable doubt of the crime of rape is hereby AFFIRMED in toto.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Velasco, Jr.,[*] and Peralta, JJ., concur.

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[*] Associate Justice Presbitero J. Velasco, Jr. was designated to sit as additional member replacing Justice

Antonio Eduardo B. Nachura per Raffle dated 8 December 2008.

[1] Penned by Associate Justice Marina L. Buzon with Associate Justices Rosmari D. Carandang and Mariflor P. Punzalan Castillo, concurring, rollo, pp. 2-14.

[2] Penned by Judge Jaime M. Guray, CA rollo, pp. 15-21.

[3] This is pursuant to the ruling of this Court in People of the Philippines v. Cabalquinto (G.R. No. 167693, 19 September 2006, 502 SCRA 419), wherein this Court resolved to withhold the real name of the victim-survivor and to use fictitious initials instead to represent her in its decisions. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed. The names of such victims, and of their immediate family members other than the accused, shall appear as "AAA," "BBB," "CCC," and so on. Addresses shall appear as "XXX" as in "No. XXX Street, XXX District, City of XXX."

The Supreme Court took note of thelegal mandate onthe utmost confidentiality ofproceedings involving violence against women and children set forth in Sec. 29 ofR.A. No. 7610, otherwise known as Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act; Sec. 44 of R.A. No. 9262, otherwise known as Anti-Violence Against Women and Their Children Act of 2004;and Sec. 40 of A.M. No. 04-10-11-SC, known as Rule on Violence Against Women and Their Children effective November 15, 2004.

[4] CA rollo, pp. 13-14.

[5] AAA's Testimony, TSN, 31 July 2000, pp. 3-5.

[6] BBB's Testimony, TSN, 24 October 2001, p. 4.

[7] AAA's Testimony, TSN, 31 July 2000, p. 5.

[8] Id. at 8-12.

[9] Id. at 13-14.

[10] Id. at 15-18.

[11] Testimony of Alfredo Guadez, TSN, 25 June 2001, p. 21.

[12] AAA's Testimony, TSN, 31 July 2000, pp. 22-23.

[13] Supra note 11.

[14] Records, p. 11.

[15] Testimony of Lucita Vergara, TSN, 14 October 2002, pp. 9-13, 17-21.

[16] Appellant's Testimony, TSN, 12 May 2005, pp. 3-4, 9.

[17] CA rollo, p. 21.

[18] Id. at 33.

[19] Rollo, pp. 15-16.

[20] People v. Bontuan, 437 Phil. 233, 241 (2002).

[21] People v. Dizon, 453 Phil. 858, 881 (2003).

[22] People v. Jose, 367 Phil. 68, 76 (1999).

[23] CA rollo, p. 20.

[24] AAA's Testimony, TSN, 31 July 2000, pp. 8-12.

[25] People v. Buendia, 373 Phil. 430, 442 (1999).

[26] Rollo, p. 12.

[27] People v. Iluis, 447 Phil. 517, 528 (2003).

[28] AAA's Testimony, TSN, 31 July 2000, p. 13-14.

[29] Philippine Airlines, Inc. v. Court of Appeals, 462 Phil. 649, 669-670 (2003).

[30] People v. Suarez, G.R. No. 153573-76, 15 April 2005, 456 SCRA 333, 346.

[31] CA rollo, pp. 8-9.

[32] People v. Agravante, 392 Phil. 543, 551 (2000).

[33] People v. Andal, 344 Phil. 889, 908 (1997).

[34] Appellant's Testimony, TSN, 12 May 2005, p. 12.

[35] ART. 266-A. Rape: When and How Committed.-Rape is committed:

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

a) Through force, threat or intimidation;

x x x x. (Revised Penal Code).

[36] ART. 266-B. Penalties.-Rape under paragraph 1 of the next preceeding article shall be punished by reclusion perpetua. (Revised Penal Code).

[37] People v. Callos, 424 Phil. 506, 516 (2002).

[38] People v. Docena, 379 Phil. 903, 917-918 (2000).

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