

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ERMILITO ALEGRE Y LAMOSTE, APPELLANT.

G.R. No. 184812. July 06, 2010

Ponente: ABAD, J.

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ABAD, J.:

This case shows a stark contrast in credibility between the testimony of the complainant who was raped and left for dead and that of the accused who offered only an uncorroborated alibi.

The Facts and the Case

The City Prosecutor of Manila charged accused Ermelito L. Alegre (Alegre) before the Regional Trial Court (RTC) of that city with frustrated murder in Criminal Case 03-213343 and with qualified rape in Criminal Case 03-213344.[1]

The evidence for the prosecution shows that VON[2] and the accused Alegre were acquaintances.[3] Alegre owned the house where his family and VON's relatives lived. On the evening of September 14, 2002 VON went to Alegre's house to visit her relatives. In the course of that visit, Alegre asked her to join him for drinks inside a jeep. After finishing a small bottle of gin pomelo, VON returned to her relatives' quarters and told her cousin that she was going home. But, as VON stepped out, Alegre invited her to meet his girl friends.[4] She could not say whether he was under the influence of drugs at that time.[5]

Alegre and VON walked along a nearby street until they reached a fenced house. Alegre climbed the fence and told VON to do likewise as his girl friends were in the house. But when she entered the house, it was empty. She hastily went out when Alegre did not respond to her query about his girl friends who were supposed to be there. She tried to go over the fence to get to the street but Alegre warned her that the barangay tanods might see her. When VON did not heed Alegre's warning, he punched her on the back and repeatedly stabbed her with an ice pick until she fell to the ground on her back.[6]

Alegre tore VON's polo and sando and then stripped her of shorts and underwear. She fought back and succeeded in grabbing the ice pick but he choked her, forcing her to drop the weapon. He picked it up and proceeded to sexually ravish her. She felt pain. Afterwards, he stabbed her again on her chest and arms. She had become so weak at this point that she ceased to fight back. Alegre stopped assaulting her when she turned over, facing the ground. VON did not move for some time but, as she coughed, Alegre returned and stabbed her thrice on the back. She suppressed her cough so he would not return.[7]

When VON felt that Alegre had left, she tried to stand but could not because of muscle cramps in her left leg. She shouted for help but nobody responded. She watched vehicles pass by the street. Finally, in the early morning of the following day, September 15, 2002, she spotted two barangay tanods and they heard her shouts for help.[8]

Romeo dela Cruz, a barangay kagawad, testified that at about 2:00 in the morning of September 15, 2002, he got a call, informing him that shouts for help had been heard from an abandoned house. Dela Cruz hastily went to the

site. He found VON lying naked on the ground, covered with mud and blood. He called the police and, with his nephew's help, got VON into a police car. They brought VON to the Lourdes Hospital, where they did a life-saving procedure on her before moving her to the Philippine General Hospital (PGH)[9] for surgical operation.[10]

Dr. Edwin Paul Lagapa, the doctor who attended to VON at the PGH, found 18 stab wounds all over her body, four of which pierced her heart, caused by a very small, fine pointed instrument. Her forehead suffered injury from a fall. Dr. Lagapa said that she could have died had she not been treated on time. Indeed, he had to perform several life-saving operations on VON.[11]

On the same day, upon an inter-departmental referral, Dr. Claire Aguirre conducted a gynecological examination of VON. Dr. Aguirre found several abrasions and hymenal lacerations. She found no sperm. Although she could not identify the age of the lacerations, she explained it would take at least seven days for them to heal.[12]

For his defense, Alegre claimed that he was at Abad Santos, Bacood, Sta. Mesa, on September 14, 2002 with the owner of a jeepney he was repairing. After taking a bath, he rode with his brother in a jeepney that the latter was driving. They went home together at about 10:30 in the evening. After eating, Alegre went to her sister's house, just next to his brother's house, and watched television there. Contrary to VON's story, it was she who invited Alegre to a drink. Consistent with VON's testimony, he said that they pooled their money to buy a bottle of gin pomelo, which they drank in front of his sister's house. He went home afterwards to sleep. VON did not return to his sister's or brother's house.[13]

Alegre claims that at 4:30 in the morning of September 15, 2002 (about three hours after he left VON), he went with his brother to Mindoro as earlier planned. In Mindoro, his uncle, Ronald Rom, arrested him without a warrant allegedly for a robbery case. He later learned at the police precinct that they were charging him with frustrated murder and rape. Alegre believed that VON filed the cases because he had stabbed her cousin a long time ago. Further, VON's brother had accused him of theft of his VCD player, resulting in his arrest and detention.[14]

On September 25, 2006 the RTC found Alegre guilty beyond reasonable doubt of frustrated murder and sentenced him to suffer a minimum indeterminate penalty of 9 years and 4 months of prision mayor in its medium period to 17 years and 4 months of reclusion temporal in its medium period as maximum. The RTC also ordered him to indemnify VON in the amount of P25,000.00 as moral damages and P25,000.00 as temperate damages.

The RTC also found Alegre guilty beyond reasonable doubt of the rape of VON and sentenced him to suffer the penalty of reclusion perpetua and to pay VON P50,000.00 in civil indemnity and P50,000.00 in moral damages.

On appeal to the Court of Appeals (CA) in CA-G.R. CR-HC 02583, the latter court rendered judgment on April 28, 2008, affirming in toto the decision of the RTC.[15] This prompted Alegre to appeal to this Court.[16]

The Issue Presented

The sole issue presented in this case is whether or not the CA erred in affirming the RTC's finding that there is sufficient evidence to show that Alegre raped and nearly murdered VON as she claimed.

The Ruling of the Court

The cornerstone of Alegre's appeal is the lack of credibility of VON, given the contradictions in her testimony.[17] But the settled rule based on reason and experience is that the trial court's findings respecting the credibility of witnesses and their testimonies deserve the highest respect. Since the trial judge saw and heard the

witnesses and observed how they testified under intense questioning, he was in a better position to weigh what they said.[18] Here, the trial court, concurred in by the CA, found VON's testimony credible. It was, according to the trial court, "clear, direct, honest and could only inspire belief." [19] Dr. Lagapa and Dr. Aguirre also bolstered her testimony.

On the other hand, the RTC found Alegre's testimony too weak and insufficient to overcome that of VON. His alibi and his claim that VON filed the charges in retaliation for a past offense he committed against a relative remained uncorroborated or supported by some other evidence. There is also no showing that the trial court overlooked, misunderstood, or misapplied facts or circumstances which would affect the outcome of the case.

The conflict in VON's testimony that Alegre refers to concerns the position of her body when she fell on the ground and the order that the rape and the stabbing followed.[20] Alegre points out that, on direct examination, VON said that she fell to the ground on her back and that Alegre stabbed her on the chest after raping her but, on cross-examination, she said that she fell to the ground on her stomach and Alegre stabbed her on the chest only after he stripped her of clothing.

But Alegre improperly appreciated VON's testimony. Actually, she maintained that he raped her before stabbing her on the chest. In any case, any error in the sequence in which the rape victim narrated these two successive turn of events cannot erode the value of her testimony. For the most part, VON remained consistent under repeated questioning regarding these details. One must understand that rape is not just an assault upon a woman's body; it is also a derogation of her dignity. If there were inconsistencies in minute details, they may be attributed to the emotions brought to the surface by the need for her to repeatedly narrate in detail the brutality inflicted on her.

The Court's impression is that VON never once faltered in her declaration that Alegre sexually molested her. Dr. Aguirre corroborated her claim with her testimony regarding VON's hymenal lacerations. Dr. Lagapa testified on her multiple stab wounds. Inevitably, when the rape victim's straightforward testimony is consistent with the physical evidence of the injuries she received, sufficient basis exists for concluding that she has told the truth.[21]

Notably, Alegre did not present any evidence, other than his testimony denying the grave charges against him. But to be believed, his denial needed to be buttressed by strong evidence of non-culpability or by the essential weakness of the complainant's allegations.[22] These do not exist here.

Regarding the penalty, both the CA and the RTC failed to take into account Alegre's use of a deadly weapon in the rape case, a fact specifically averred in the information and proved during the trial. This qualifies the rape he committed. Article 266-B of the Revised Penal Code provides that the penalty for rape committed with the use of a deadly weapon should be reclusion perpetua to death. But in view of the enactment of Republic Act 9346 which prohibits the imposition of the death penalty, the penalty of reclusion perpetua without eligibility for parole as provided by Act 4103 should instead be imposed.

With regard to the damages, in line with recent jurisprudence the civil indemnity must be increased from P50,000.00 to P75,000.00 and the moral damages from P50,000.00 to P75,000.00.[23]

WHEREFORE, the Court DENIES the appeal and AFFIRMS the decision of the Court of Appeals in CA-G.R. CR-HC 02583 dated April 28, 2008, which upheld the decision of the Regional Trial Court of Manila in Criminal Cases 03-213343 and 03-213344, with the MODIFICATIONS a) that the penalty of reclusion perpetua be without eligibility for parole and b) that the award of P50,000.00 in civil indemnity and P50,000.00 in moral damages in relation to the case of qualified rape be both increased to P75,000.00.

SO ORDERED.

Carpio, (Chairperson), Velasco, Jr.,[*] Nachura, and Peralta, JJ., concur.

[*] Designated as additional member in lieu of Associate Justice Jose Catral Mendoza, per raffle dated June 16, 2010.

[1] Records, p. 2.

[2] Pursuant to *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, the real name and address of the victim and her relatives have been replaced with fictitious initials.

[3] TSN, October 15, 2003, p. 3; TSN, February 3, 2004, p. 19.

[4] *Id.* at 4-5; *id.* at 24.

[5] TSN, February 3, 2004, p. 25.

[6] TSN, October 15, 2003, pp. 5-8.

[7] *Id.* at 9-12.

[8] *Id.* at 13.

[9] TSN, May 24, 2004, pp. 3-4; TSN, October 15, 2003, p. 13; TSN, February 3, 2004, p. 9.

[10] TSN, October 15, 2003, p. 13; TSN, February 3, 2004, pp. 9-10.

[11] TSN, February 3, 2004, pp. 8-13.

[12] TSN, November 4, 2004, pp. 3-7.

[13] TSN, March 28, 2005, pp. 2-4.

[14] *Id.* at 4-6.

[15] Rollo, pp. 12-13. Penned by Associate Justice Andres B. Reyes, Jr. and concurred in by Associate Justice Jose C. Mendoza (now a member of this Court) and Associate Justice Arturo G. Tayag.

[16] *Id.* at 22.

[17] CA rollo, p. 41.

[18] *People of the Philippines v. Ofemiano*, G.R. No. 187155, February 1, 2010.

[19] CA rollo, p. 52.

[20] *Id.* at 42-43.

[21] *People of the Philippines v. Ofemiano*, supra note 18, citing *People v. Malibiran*, G.R. No. 173471, March 17, 2009, 581 SCRA 655, 668-669; *People v. Corpuz*, G.R. No. 168101, February 13, 2006, 482 SCRA 435, 448; *People v. Bañares*, G.R. No. 127491, May 28, 2004, 430 SCRA 81, 92-93.

[22] *People of the Philippines v. Estrada*, G.R. No. 178318, January 15, 2010.

[23] *People v. Araojo*, G.R. No. 185203, September 17, 2009, 600 SCRA 295, 309.

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