

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RONALD BACALAN GABUYA AND RYANNEAL MENESES GIRON, ACCUSED-APPELLANTS.

G.R. No. 209038. June 08, 2016

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

This is an appeal from the June 20, 2013 Decision[1] of the Court of Appeals (CA) in CA-GR. CR-H.C. No. 00441, which affirmed the January 31, 2006 Decision[2] of the Regional Trial Court (RTC) of Cebu City, Branch 24, in Criminal Case No. CBU-62026, finding appellants Ronald Bacalan Gabuya (Gabuya) and Ryanneal Meneses Giron (Giron) guilty beyond reasonable doubt of the crime of robbery with rape defined and penalized in Article 294, paragraph 1 of the Revised Penal Code (RPC), and sentencing them to death.

Proceedings before the Regional Trial Court

Gabuya and Giron were charged with the crime of robbery with rape for robbing "AAA" by taking her personal belongings through violence and intimidation and thereafter taking turns raping her. The charge against them stemmed from the following Information:

That on or about the 18[th] day of March, 2002, at about 12:20 A.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with a knife, conniving and confederating together and mutually helping each other, poked said knife at one "AAA"[3] and announced a "hold-up" with deliberate intent, with violence and intimidation upon person, took turns in divesting her bag, with its contents such as wristwatch, one casio calculator; cash money and coin purse with a total value of P2,965.00 from the possession of and belonging to said "AAA" while the latter was walking along Visitacion St., a public highway against her will, to the damage and prejudice of the latter in the amount aforesated, and on the occasion thereof, dragged said victim to a vacant lot and then there take turns in having sexual intercourse with said victim while the other accused held her shoulders, without the consent and against the will of the complainant.

CONTRARY TO LAW[4]

Upon arraignment, both Gabuya and Giron pleaded not guilty to the crime charged. After pre-trial conference, trial on the merits followed.

Version of the Prosecution

The prosecution presented the following witnesses: the victim, "AAA;" the arresting officer, PO2 Albert Makinano (PO2 Makinano); the examining doctor of "AAA," Dr. Raymond Anthony Jude Maniwang (Dr. Maniwang); and the other arresting officer, PO1 Dennis Labra (PO1 Labra). Their collective testimonies tended to establish the following events:

On March 18, 2002, at around 12:20 a.m., "AAA" was walking along Visitacion Street, Cebu City on her way

home from work when she saw two men with familiar faces near a lamp post by the CAP Building. She noticed that the two men were following her.

At first, "AAA" was not alarmed as she continued on her way. However, she noticed that when she walked fast, the men who were following her picked up speed, too. As a result, "AAA" became frightened. When she turned around to see the men who were following her, she saw that they were already very close behind her. At this point, Gabuya quickly pointed a knife at her neck and held her left shoulder.[5] He told her not to shout or else he would kill her.[6] Gabuya and Giron then dragged her to a vacant lot along Visitacion Street. These two took all of her belongings which consisted of a bag; P450.00 in cash; coin purse containing P15.00; wristwatch worth P1,800.00; Casio calculator worth P700.00; ID cards; and other personal belongings.[7]

"AAA" was then pushed to the ground. Giron removed "AAA's" pants and underwear while Gabuya touched her breasts. Giron also removed his short pants and brief; went on top of "AAA;" inserted his penis into her private parts; and then pumped his lower body against her private parts. While Giron was doing this, Gabuya was over "AAA's" head, holding her, while his right hand was pointing a knife at her, threatening to kill her if she shouts for help. "AAA" tried to get Giron off her body but was no match to his strength.

After sating his lust, Giron then swapped places with Gabuya. Gabuya went on top of "AAA;" inserted his penis into the latter's private parts; and then forcibly copulated with her.

When a woman suddenly appeared in the vacant lot, Gabuya quickly stood up. Giron and Gabuya then dressed up, took "AAA's" bag and personal belongings, and left the scene of the crime. "AAA" then dressed up and asked for help from the passer-by who accompanied "AAA" to her house. Once home, "AAA" told her landlord of her harrowing experience. The latter then brought her to the Cebu City Medical Center for medical examination.

Dr. Maniwang examined "AAA." He found a punctured wound, one caused by a sharp-pointed object, at the right portion of "AAA's" neck; multiple minor superficial abrasions scattered all over her body; and a 1x1 cm. abrasion at the anterior neck, left side. Dr. Maniwang found that the wounds on the victim's body are consistent with possible struggle in a robbery with rape case. With respect to the allegation of rape, Dr. Marilee Solana (Dr. Solaria), attending physician on duty and an OB GYNE, found deep lacerations at the 4 and 7 o'clock positions of "AAA's" hymen. Dr. Solana also found traces of spermatozoa in "AAA's" private parts. After her medical examination, "AAA" went to the Fuente Osmena Police Station where she reported the robbery with rape.

PO2 Makinano was the officer on duty to whom "AAA" reported the crime. Along with PO3 Labra and other police officers, they immediately conducted a hot pursuit operation. The police officers eventually caught the appellants in an alley at the back portion of the CAP building. After being informed of their Constitutional rights, Gabuya and Giron were then arrested. The police officers recovered from their possession a Casio calculator, and two fifty peso bills. At the police station, "AAA" positively identified Gabuya and Giron as the persons who robbed and violated her.

Version of the Defense

Gabuya and Giron interposed the defense of denial and alibi.

Gabuya claimed that on March 18, 2002, around 12:20 in the early morning, he was asleep in his house in Sambag II, Cebu City. He was roused up by Police Officer Artemio Tumakay (PO Tumakay) at 6:00 in the morning in connection with a robbery with multiple rape wherein he was implicated. He was then brought to the police station where a girl was asked to point at him. The girl did not point at him, however. Instead, according to him, she just stared at him and went out. After this, he was mauled by PO Tumakay who accused him of robbing and raping the girl.

The oilier appellant, Giron, likewise claimed that he was asleep in his house in Sambag II, Cebu City at the date and time the robbery and rape were committed. Giron asserted that he woke up around 9:30 in the morning when Sambag II Barangay Councilor Wengaweng Belarmino went to his house informing him that someone had been robbed and that the robber's description provided by the victim matched his facial features. He was then invited to go to the police station. But when he and his father arrived at the police station, "AAA" merely stared at him, nodded, and then left.

Ruling of the Regional Trial Court

On January 31, 2006, the RTC of Cebu City, Branch 24, gave judgment finding both Gabuya and Giron guilty beyond reasonable doubt of the crime of robbery with rape as defined and penalized under Article 294, paragraph 1 of the RPC; this judgment was based on the positive identification by the victim "AAA" and the corroborating medical examination conducted on her. The RTC observed that:

x x x ["AAA"] positively identified the two suspects to be the same persons who robbed and raped her. She cannot be mistaken because she has been familiar with the two since they were seen by her around the vicinity of CAP and along Visitacion Street whenever she comes home from work. During that fateful evening, when she noticed that there were persons who followed her, she was frightened and when they were about 8 meters away, she turned around to have a good look at the said persons and saw the two familiar faces of the accused who were seen earlier as she passed by the CAP building. An hour after the incident, she immediately and positively identified the culprits at the police station. The police officers who responded to the alarm and in the hot pursuit operation, collared accused at an alley in the interior portion at the back of CAP. The arresting officers were able to seize from them the calculator owned by the victim and the two fifty-peso bills which is the amount left of the P480.00 cash money taken from her.

It is established in evidence that there was forceful penile penetration as shown by the medical certificate and presence of spermatozoa. The puncture wound indubitably indicates that a sharp instrument was pointed to her neck. The abrasions and hematoma found in the body of the victim [are] consistent with the struggle put up by the rape victim, as evidence of rape abound.[8]

The dispositive part of the RTC's Decision reads:

WHEREFORE, finding the two accused GUILTY beyond reasonable doubt of the crime charged, this Court hereby sentences each to suffer the supreme penalty of DEATH by lethal injection. They are jointly and solidarity adjudged liable to indemnify the victim as follows:

1. One Hundred Thousand Pesos (P100,000.00) - as civil indemnity ex delicto;
2. One Hundred Thousand Pesos (P100,000.00) - as moral damages;
3. One Thousand Pesos (P1,000.00) in medical expenses;
4. One Thousand Four Hundred Pesos (P1,400.00) unearned income;

They are also ordered to restore unto the complainant the wristwatch or if not feasible, to pay the value thereof; and to return the money taken in cash amounting to P380.00. The two fifty-peso bills, as well as the calculator, used as evidence, is released and returned to her.

SO ORDERED.[9]

Ruling of the Court of Appeals

Both appellants elevated their case to the CA. They argued that because they were not assisted by counsel at the time of their arrest and during the police line-up, it follows that their out-of-court identification by "AAA" was

inadmissible against them; and that in any event the prosecution had failed to prove beyond reasonable doubt all the essential elements of the crime of robbery with rape.

The CA gave short shrift to the appellants' argument. The CA ruled that "AAA's" identification of the appellants was convincing and credible because she was familiar with them, as indeed she had seen these appellants a number of times prior to the incident; that assuming arguendo that the out-of-court identification of these appellants by "AAA" was defective, this defect was cured by the subsequent positive identification of these appellants by "AAA" in open court. Upon this point, the CA ratiocinated as follows:

xxx Inadmissibility of these out-of-court identifications [does] not render the in-court identification of accused-appellants inadmissible for being the 'fruits of the poisonous tree.' These in-court identifications were what formed the bases of the trial court's conviction of the accused-appellants. As they were not derived or drawn from the illegal arrest of accused-appellants or as a consequence thereof, they are admissible as evidence against them.[10]

Rebuffing appellants' contention that the prosecution failed to prove the elements of robbery with rape, the CA declared thus:

In the present case, rape was undoubtedly committed by the accused-appellants when they forcibly dragged the victim to a vacant lot, removed her clothes, and took turns in raping her by placing their penis inside her vagina. Contrary to defendants-appellants' allegations that the victim did not shout or never resisted on the carnal acts, thus, there was no element of force or intimidation, records revealed and as already discussed above, the victim was continuously intimidated by accused-appellants' threat of killing her when she resists or shouts, AAA has no other recourse but to give in to accused-appellants' orders so as to preserve her life and safety. In any case, the law does not impose upon a rape victim the burden of proving resistance. Physical resistance need not be established in rape when intimidation is exercised upon the victim and she submits herself against her will to the rapist's lust because of fear for life and personal safety.

Moreover, the Supreme Court has ruled that due to its intimate nature, rape is usually a crime bereft of witnesses, and, more often than not, the victim is left to testify for herself. Thus, in the resolution of rape cases, the victim's credibility becomes the primordial consideration. It is settled that when the victim's testimony is straightforward, convincing, and consistent with human nature and the normal course of things, unflawed by any material or significant inconsistency, it passes the test of credibility, and the accused may be convicted solely on the basis thereof. The trial court's assessment of the witnesses' credibility is given great weight and is even conclusive and binding.

In the present case, the victim gave a straightforward and positive narrative of the events which only evinces the veracity of her testimony. The medical certificate issued by Dr. Maniwang is likewise consistent with the possibility that the complainant had been a victim of rape. In addition, AAA promptly reported the incident to the police further bolstering her credibility. The incident occurred in the early hours of March 18, 2002, and immediately after going to the hospital for examination, she went to the Fuente [Osmena] Police Station and exposed her ordeal in the hands of the accused-appellants.

Besides, the accused-appellants failed to prove any ulterior or improper motive which could have induced the victim and her witness to testify against or falsely implicate them in the commission of the crime. Indeed, if an accused had really nothing to do with the crime, it is against the natural order of events and human nature and against the presumption of good faith that the prosecution witness would falsely testify against the former. Thus, we adhere to the established rule that in the absence of any evidence to show that the witnesses for the prosecution were actuated by any improper motive, their identification of the accused-appellants should be given full faith and credit.[11]

The CA thus disposed decretally as follows:

WHEREFORE, premises considered, the appeal is DENIED. The January 31, 2006 Decision of the Regional Trial Court of Cebu City in Criminal Case Number CBU-62026 convicting accused-appellants for the crime of Robbery with Multiple Rape is hereby AFFIRMED with MODIFICATIONS.

Accused-appellants Ronald Gabuya and Ryanneal Giron are found guilty beyond reasonable doubt of the special complex crime of robbery with rape and are hereby sentenced to reclusion perpetua without eligibility of parole pursuant to R.A. 9346. They are ordered to make reparation for the value of the items they unlawfully took; such as the wristwatch, cash amounting to Php3 80.00, two (2) fifty peso bills, and calculator. They are solidarity liable to pay AAA Php75,000.00 as civil indemnity; Php75,000.00 as moral damages, Php30,000.00 as exemplary damages and interest at the rate of six percent (6%) per annum on all the damages awarded from date of finality of this judgment until fully paid. The award of medical expense and unearned income are DELETED.

SO ORDERED.[12]

Our Ruling

After a careful review of the records of the case, this Court finds the appeal devoid of merit. Both the RTC of Cebu City, Branch 24, and the CA correctly found the appellants guilty beyond reasonable doubt of robbery with rape under Article 294, paragraph 1 of the RPC. Indeed, the State in this case had satisfactorily established the following essential elements of that felony: "a) the taking of personal property is committed with violence or intimidation against persons; b) the property taken belongs to another; c) the taking is done with animus lucrandi, and d) the robbery is accompanied by rape." [13]

Under Article 294, paragraph 1, when robbery is accompanied by rape, the penalty is reclusion perpetua to death. Although the trial court imposed the death penalty, the CA correctly modified the penalty to reclusion perpetua, without eligibility for parole, pursuant to RA 9346.

The amount of civil damages awarded by the CA, should be modified, however. Based on prevailing jurisprudence, the awards of civil indemnity and moral damages in favor of "AAA" should be increased from P75,000.00 to P100,000.00.¹⁴ The same jurisprudential teaching also directs that the award of exemplary damages should also be upgraded from P30,000.00 to P100,000.00.

WHEREFORE, the appeal is DISMISSED. The Decision of the Court of Appeals dated June 20, 2013 in CA-GR. CR-H.C. No. 00441, is AFFIRMED, subject to the MODIFICATION that the appellants Ronald Bacalan Gabuya and Ryanneal Meneses Giron are ordered to solidarily pay "AAA" the increased amounts of P100,000.00 as civil indemnity; P100,000.00 as moral damages; and another P100,000.00 as exemplary damages.

SO ORDERED.

Carpio, Acting C.J.* (Chairperson), Mendoza, and Leonen, JJ., concur.
Brion, J., on official leave.

[*]Per Special Order No. 2353 dated June 2, 2016.

[1] CA rollo, pp. 100-117; penned by Associate Justice Carmelita Salandanan-Manahan and concurred in by Associate Justices Ramon Paul L. Hernando and Ma. Luisa Quijano-Padilla.

[2] Id. at 59-65; penned by Judge Olegario R. Sarmiento, Jr.

[3] Pursuant to Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their

Children Act of 2004" and its implementing rules, the real name of the victim, together with that of her immediate family members, is withheld and fictitious initials instead are used to represent her, both to protect her privacy. [People v. Cabalquinto, 533 Phil. 703 (2006).]

[4] Records, p. 1.

[5] TSN, September 3, 2002, p. 9.

[6] Id. at 10.

[7] Id.

[8] Records, pp. 95-96.

[9] Id. at 96-97.

[10] CA rollo, p. 109.

[11] Id. at 112-113.

[12] Id. at 116-117.

[13] People v. Amper, 634 Phil 283, 290 (2010).

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