

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PACIFICO SANGCAJO, JR., ACCUSED-APPELLANT.

G.R. No. 229204. September 05, 2018

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

The presumption of innocence in favor of an accused in a criminal case is a basic constitutional guarantee. It demands that the State must establish his guilt beyond reasonable doubt. To do so, the Prosecution must rely on the strength of its evidence, not on the weakness of his defense. Every reasonable doubt of his guilt entitles him to an acquittal.

The Case

Accused-appellant Pacifico Sangcajo, Jr. (Pacifico) seeks the review and reversal of the decision promulgated on March 31, 2016,[1] whereby the Court of Appeals (CA) affirmed with modifications the judgment rendered in Criminal Case No. Q-09-160890 on August 13, 2014 by the Regional Trial Court (RTC), Branch 80, in Quezon City convicting him of rape.[2]

Antecedents

The Office of the City Prosecutor of Quezon City filed in the RTC the following information charging Pacifico with rape, alleging thusly:

That on or about the 30[th] day of January 2009 in Quezon City, Philippines, the said accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously commit an act of sexual intercourse upon the person of one AAA,[3] the latter and the accused after having a drinking spree said complainant felt dizzy and asleep, after which said accused had a carnal knowledge of her, by then and there inserting his penis inside said complainant's vagina against her will and without her consent, to the damage and prejudice of the said offended party.

CONTRARY TO LAW.[4]

As summarized by the CA, the factual antecedents are as follows:

Accused-appellant is the cousin of AAA's mother. On January 30, 2009, around 10:00 P.M., then 24 year-old AAA was at accused-appellant's house located at XXX, Quezon City, where she was temporarily residing while waiting for her oath taking as new employee of the Bureau of Jail Management and Penology (BJMP). Accused-appellant and AAA were drinking beer because it was AAA's birthday. After consuming two large bottles of Red Horse beer together, AAA felt dizzy and sleepy. Accused-appellant allowed AAA to lie down on his "papag" (wooden bed), where AAA fell asleep. However, AAA was awakened when she felt someone on top of her, who turned out to be accused-appellant. AAA struggled to get up from the "papag" and from the hold of accused-appellant, but the latter held her hands and pinned down her feet with his thighs. AAA could not shout as she was so weak. Accused-appellant then pulled down AAA's shorts and panty, and spread her legs. Thereupon, accused-appellant inserted his penis into AAA's vagina, which caused her pain. Then, AAA

passed out. When AAA woke up the following day, she saw the naked accused-appellant lying beside her. AAA was trembling and felt that her private part was swollen. AAA took a bath, got her things, went to her grandmother's office and told her the incident. AAA's grandmother asked a jail officer to accompany AAA to the police station.

On February 1, 2009, AAA submitted herself to medical examination by a medico legal officer at Camp Crame, Quezon City, who issued an "Initial Medico-Legal Report" dated February 1, 2009 showing the following remarks: "fresh healing deep laceration of the hymen at eight o'clock position", "bleaded posterior position" and "findings are compatible with recent vaginal penetration".

Accused-appellant, however, denied the charges and alleged that what happened between him and AAA was a consensual sexual intercourse.

Details of the respective versions of the parties were summarized by the trial court in its Decision dated August 13, 2014 as follows:

The prosecution evidence shows that at the time of the alleged rape incident, [AAA] was living at the house of the accused located at [XXX], Quezon City as she was waiting for her oath-taking for new job with the Bureau of Jail Management and Penology (BJMP). The BJMP office is just near the house of the accused. Accused is a cousin of [AAA's] mother and she fondly calls him "Tito Cadong".

At around 10:00 p.m. of January 30, 2009, while [AAA] and the accused were at home, accused invited [AAA] to have a drink as it was [AAA's] birthday. [AAA] gave in to the invitation and they consumed two (2) large bottles of Red Horse beer. Thereafter, [AAA] felt sleepy and dizzy. She told the accused that she would go ahead and sleep. [She] asked permission from the accused to lie down on the "papag" of the accused. The accused agreed. [AAA] fell asleep. She was awoken because she felt some weight on top of her. When she opened her eyes, she saw the accused on top of her. [AAA] struggled to get up from the "papag" and from the hold of the accused but the accused held her hands. Accused pinned down the two (2) feet of [AAA] with his thigh, pulled down her panty and shorts and started kissing her. Accused opened her legs and forced his penis inside her vagina. [AAA] felt pain. [AAA] wanted to shout but she could not do so as she felt very weak. Accused put in and out his penis from her vagina for about three (3) minutes. [AAA] passed out. She woke up the following morning with the accused lying beside her and he was naked. Her body was shaking and she felt her vagina and it was swelling. She went to the bathroom, still shaking. She washed her body thoroughly and she felt as if she was floating. She took her things and called her grandmother. Her grandmother told her to go to her office. When she arrived at her grandmother's office, she asked a jail officer to accompany [AAA] to the police station. The following day, she submitted herself for medical examination at Camp Crame, Quezon City.

Medico-Legal Report No. R09-240 submitted by Dr. Del Rosario contains the following conclusion: "Findings are compatible with recent vaginal penetration".

The defense presented the accused who denied the charge and testified that [AAA] used to live in his house. On 30 January [2009], he arrived at the house at around 10:00 p.m. His wife at that time was in San Juan. [AAA] was already there preparing food. They ate at around 10:45 p.m. Thereafter, [AAA] asked him to fix her hair as according to her, her hair is not good to look at. Accused obliged and fixed [AAA's] haircut for about thirty (30) minutes. [AAA] then took a bath in the bathroom near their room. When she went out of the bathroom, she was wearing shorts, white sando without bra as he could see that her nipples were protruding from her sando. [AAA] asked him to drink with her as it was her birthday. He then learned that [AAA] had earlier bought three (3) bottles of Red Horse beer and they were already inside the refrigerator. [AAA] and the accused had a drink for one (1) hour and had consumed two (2) bottles of Red Horse Grande. When [AAA] was already tipsy, she became dizzy and asked his permission to lie on his bed as she was too lazy to arrange her own bed. Accused agreed. [AAA] lied down on his bed while accused cleared the table and washed the glasses that they used. Thereafter, he lied down next to [AAA] and he knew that [AAA] was still awake as

when he lied down beside her, she lied down on her back and their hands came into contact. Accused turned off the light, returned to the bed and embraced [AAA] who did not resist. They had sexual intercourse. Thereafter, he kissed her lips, her breast and down to her legs. [AAA] held his head and was moaning. Then, they fell asleep. When he woke up at about 4:00 a.m. the next day, the light was already turned on and [AAA] was having coffee. He said sorry to [AAA] for what happened to them, as he was having a guilty conscience. [AAA] did not reply. Accused went back to sleep and when he woke up at 8:30 a.m., [AAA] was gone.[5]

During the trial, the Prosecution presented AAA, the complainant; and Dr. Rodney G. Rosario, a Medico-Legal Officer from the PNP Crime Laboratory in Camp Crame, Quezon City; while the Defense presented Pacifico himself and his neighbor, Jelleve Loreja.[6]

Judgment of the RTC

As stated, the RTC convicted Pacifico of rape as charged. It found AAA credible and trustworthy, noting that she had even cried while recounting the details of the crime; that, accordingly, the Prosecution had established the elements of the crime by showing his having had carnal knowledge of her by force; and that his defense of her having consented to the sexual act could not be accepted considering that she would not have willingly subjected herself to the shame and scandal of testifying on her defilement unless the charge were true.

The RTC disposed:

WHEREFORE, premises considered, the court finds accused PACIFICO SANGCAJO, JR., guilty beyond reasonable doubt of the crime of RAPE and is hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to indemnify private complainant [AAA] the amount of Fifty Thousand Pesos.

SO ORDERED.[7]

Decision of the CA

On appeal, the CA affirmed the conviction, and declared that AAA had been unconscious at the time Pacifico started to ravish her. It observed that there was nothing in her testimony during the trial that would have triggered suspicion of fabrication on her part; and that the sexual intercourse could not be considered as consensual in the absence of independent evidence to establish a romantic relationship between the parties, like love notes or mementos.

The fallo reads:

WHEREFORE, the trial court's Decision dated August 13, 2014 is AFFIRMED, subject to modification that accused-appellant is further ordered to pay AAA moral damages of P50,000.00 and exemplary damages of P30,000.00. In addition, to the civil indemnity of P50,000.00 awarded by the trial court, and to pay interest at the rate of six per cent (6%) per annum on all the damages awarded, to be computed from date of finality of this judgment until full payment.

SO ORDERED.[8]

Issue

Hence, Pacifico appeals.

The Office of the Solicitor General[9] and the Public Attorney's Office[10] have manifested that neither of them is filing a supplemental brief, and that they were adopting for this appeal their respective briefs filed in the CA.

Accordingly, Pacifico contends that AAA consented to the sexual congress between them; that her testimony suffered from improbabilities, as demonstrated by her claim that he had held both of her hands with his own hands

while his thighs had pinned down her legs; that he would have been unable to undress and sexually penetrate her in that situation; that she had also not sustained any physical injuries, thereby debunking his having forced himself on her; and that the force that he had supposedly applied on her and to lay her down on his papag should have caused injuries to her.

Ruling of the Court

The Court ACQUITS Pacifico due to reasonable doubt of his guilt.

Jurisprudence has laid down guidelines on how the courts should proceed in deciding sexual abuse cases. The guidelines are: (1) an accusation of rape can be made with facility, and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove the accusation; (2) in the nature of things, only two persons are usually involved in the crime of rape; hence, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the Prosecution must stand or fall on its own merits, and cannot draw strength from the weakness of the evidence for the Defense.[11]

The scrutiny of the testimony of AAA must be carefully and thoroughly made by applying the foregoing guidelines in order to determine whether or not her testimony was credible and sufficient to produce in the mind of a neutral arbiter a finding of guilt beyond reasonable doubt against Pacifico. Indeed, the Prosecution's case should rise or fall upon the strength and reliability of her testimonial recollections.

Let us examine the version of AAA.

Pacifico invited her to have some drinks with him on January 30, 2009. After the two of them had finished two large bottles of Red Horse Grande, a well-known beer with a high alcohol content, she felt sleepy and tipsy. She asked if she could just lie down and sleep on his papag.[12] He obliged her, and she laid down and slept on his papag. She remembered waking up because she felt the weight of someone on top of her. It was Pacifico. She tried to resist him, but he held both of her hands down and pinned her legs with his thighs. He quickly removed her undergarments and forcefully inserted his penis into her. He made pumping motions for three minutes until she lost consciousness. Upon her coming to, she was surprised to see him naked and sleeping beside her. She forthwith left his house and reported the rape to the authorities.[13]

We have generally adhered to the rule that the trial court's evaluation of the evidence and of the credibility of witnesses is entitled to the highest respect by the Court on appeal on account of the trial court's better position to make such evaluation by virtue of its having heard the witnesses themselves and observed their deportment and manner of testifying during the trial. The trial judge's evaluation, once affirmed by the CA, binds the Court on appeal, leaving on the shoulders of the accused the heavy burden of bringing to our attention facts or circumstances of weight that were overlooked, misapprehended, or misinterpreted but would materially affect the disposition of the case differently if duly considered.[14] Only when we are made aware of or come across facts and circumstances of substance and value that the trial court and by the CA had overlooked that, if properly considered, might reverse the outcome, do we set the rule aside and conduct our own re-examination of the trial court's evaluation. Verily, we have never hesitated to set aside our adherence to the rule and to reopen the records and take a long hard look at them if we have reason to doubt the accuracy of the recollections of the victim in rape, or when the matter of credibility of the evidence calls for a second look. After all, the review of criminal convictions, albeit not a trial de novo, requires us not to be constricted by the rule for the sake of mere convenience only. To do justice to everyone, particularly to the man on the dock who fights for his freedom, if not his life itself, has always been our foremost task and duty.

The credibility of testimony given in judicial trials is tested by human experience and probability. For, surely:

Evidence, to be believed, must not only proceed from the mouth of a credible witness, but it must be credible in itself - such as the common experience and observation of mankind can approve as probable under the circumstances. We have no test of the truth of human testimony, except its conformity to our knowledge, observation, and experience. Whatever is repugnant to these belongs to the miraculous and is outside of judicial cognizance.[15]

As judges, therefore, we should not accord credence to and reliance on evidence that is inherently or physically improbable; instead, we should disregard such evidence even though it stands uncontradicted.[16]

Our careful and thorough review has turned up several circumstances that cast serious doubt on the finding of Pacifico's guilt for rape.

The first circumstance related to the insistence of Pacifico that AAA's testimony contained material inconsistencies that demonstrated definite improbabilities in her recollection commands our concurrence. She recalled being roused from sleep by Pacifico's holding both her hands down with his hands and pinning her legs down with his thighs, and removing her shorts and undergarments at the same time, spreading her legs, and then sexually penetrating her. The scenario thereby depicted was palpably improbable, if not physically impossible. How could he have taken off her trousers and undergarments when both his hands were then pinning her hands down, and both his thighs were also pinning her legs down? That she never stated that he had employed only one of his hands to subdue her, or that he used his other hand to undress her was quite notable. What we have, therefore, is her testimony of him using both hands to hold down both her hands. She also insisted that he succeeded in spreading her legs apart despite her attesting that he had all the time pinned her legs with his own thighs. She did not explain how she was forced to spread her legs apart, saying only that he had then forcefully inserted his penis in her vagina.

Assuming that force was the relevant element of the rape charged, we must further note that the medico-legal report did not contain any reference to any injury to her hands or any other part of her body. It appears without doubt, too, that she tendered no showing of her resistance except her bare assertion. Moreover, her testimony did not clarify if the level of her intoxication denied her the capacity to resist his advances or to fend off his sexual assault. Although the relevant law on rape did not impose on her as the victim the burden of proving the degree of her resistance in relation to the force applied on her, her allegation on the application of force against her could be open to doubt and suspicion because it did not jibe with human experience, or because no physical evidence (like bruises or scratches) that would have spoken louder than words was presented to substantiate the application of force on her.[17] Under the circumstances she described in court, there were enough by which to doubt the veracity of her version. Hence, we should not unquestioningly believe her thereon.[18]

And, thirdly, the lower courts' justification for their rejection of Pacifico's defense that the sexual intercourse had been consensual was unfair and unreasonable. The lower courts should not wonder why he did not present independent evidence of his romantic relationship with AAA, like letters or mementos. In the first place, he did not at anytime assert that they had been sweethearts. It was improbable, therefore, that they would have such letters or mementos. Moreover, consensual sexual intercourse has not always occurred during a romantic relationship; it also emanated from instant mutual lust.

Given the improbabilities detected in her recollection, albeit summarily rejected by the lower courts, the defense of consensual sexual intercourse was likelier to be true than not. Prior to the sexual intercourse, they had been drinking Red Horse Grande, a strong beer spiked with high alcohol content. With only the two of them consuming the two large bottles of the beer, she surely knew that her discernment would soon be affected. In fact, she conceded that their drinking of the beer ultimately rendered her tipsy and sleepy, and made her seek his permission to lie down and sleep on his papag. Her conduct tended to indicate that she had felt quite comfortable

to be alone with him in his own home, as if she desired to be left alone with him even in his own room. There can be no more logical and more natural inference for any neutral observer to draw from such circumstances than that what transpired between them was their having yielded to mutual lust.

We have observed on most occasions in which we ponder and adjudicate the liability of persons charged with rape and other crimes relating to sexual assault or violation of chastity that the recollections of the crimes by the victims, especially the young and the unlettered, should be accorded belief and weight because they would not be telling their stories of defloration or violation, and allow the examination of their private parts as well as permit themselves to be the central attractions during the ensuing public trials unless they were motivated by the honest desire to seek justice.[19] However, such observation should only be a mere presumption that courts have tended to as an aid in the appreciation of credibility. We should eschew the use of the presumption as a rigid and inflexible treatment of testimonial evidence, regardless of other competent proof, for the presumption is not superior to the presumption of innocence in favor of the accused. We should still demand that the State overcome the presumption of innocence,[20] for every accused has no burden to prove his innocence, and will be entitled to acquittal unless the presumption of innocence in his favor is overcome. The mere invocation of the traditional and proverbial modesty of the Filipina does not prevail over or dispense with the need to present proof sufficient to overcome the constitutional presumption of innocence.[21]

In view of the greater probability that the sexual intercourse between the victim and Pacifico was consensual, he is entitled to be acquitted and to be set free on the ground that his guilt for rape had not been established beyond reasonable doubt. Reasonable doubt of guilt, according to *United States v. Youthsey*: [22]

x x x is a doubt growing reasonably out of evidence or the lack of it. It is not a captious doubt; not a doubt engendered merely by sympathy for the unfortunate position of the defendant, or a dislike to accept the responsibility of convicting a fellow man. x x x.

WHEREFORE, the Court REVERSES and SETS ASIDE the decision promulgated on March 31, 2016 by the Court of Appeals in CA-G.R. CR-HC No. 07162 affirming the conviction for rape of accused-appellant PACIFICO SANGCAJO, JR; and, accordingly, ACQUITS him for failure of the Prosecution to prove his guilt beyond reasonable doubt.

The Court ORDERS the immediate release of accused-appellant PACIFICO SANGCAJO, JR. from the National Penitentiary unless there are other lawful causes warranting his continuing confinement thereat.

The Director of the Bureau of Corrections is directed to implement the release of the accused-appellant pursuant to this decision, and to report compliance herewith within 10 days from notice.

No pronouncement on costs of suit.

SO ORDERED.

Leonardo-De Castro, C. J., Jardeleza, and Tijam, JJ., concur.
Del Castillo, J., on wellness leave.

[1] Rollo, pp. 2-17; penned by Associate Justice Fernanda Lampas Peralta, concurred by Associate Justice Jane Aurora C. Lantion and Associate Justice Nina G. Antonio-Valenzuela.

[2] CA rollo, pp. 17-21; penned by Presiding Judge Charito B. Gonzales.

[3] The real name of the victim is withheld pursuant to Republic Act No. 9262 (Anti-Violence Against Women

and Their Children Act of 2004). Instead, a fictitious name is used to designate her. See *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[4] CA rollo, p. 17.

[5] Rollo, pp. 3-5.

[6] *Id.* at 6.

[7] CA rollo, p. 69.

[8] Rollo, p. 17.

[9] *Id.* at 27-29.

[10] *Id.* at 31-33.

[11] *People v. Salidaga*, G.R. No. 172323, January 29, 2007, 513 SCRA 306, 312.

[12] TSN, February 2, 2012, p. 5.

[13] *Id.* at 6-9.

[14] *People v. Domingo*, G.R. No. 184958, September 17, 2009, 600 SCRA 280, 288; *Gerasta v. People*, G.R. No. 176981, December 24, 2008, 575 SCRA 503, 512.

[15] Salonga, *Philippine Law on Evidence*, 3rd Ed., 1964, p. 774, quoting New Jersey Vice Chancellor Van Fleet in *Daggers v. Van Dyck*, 37 N.J. Eq. 130.

[16] *Louisville & N. R. Co. v. Chambers*, 165 Ky. 703.

[17] *People v. Cantila, Jr.*, G.R. No. 139458, December 27, 2002, 394 SCRA 393, 404.

[18] *People v. Comesario*, G.R. No. 127811, April 29, 1999, 306 SCRA 400, 406.

[19] *People v. Gecomio*, G.R. Nos. 115035-36, February 23, 1996, 254 SCRA 83, 95.

[20] *People v. Domogoy*, G.R. No. 116738, March 22, 1999, 305 SCRA 75, 89-92.

[21] *Id.*

[22] 91 Fed. Rep. 864, 868.

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