

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LUCAS RAMOS Y MACASIRAY, ACCUSED-APPELLANT.

G.R. No. 50450. March 16, 1984

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

LUCAS RAMOS was found guilty of rape by the defunct Court of First Instance of Cagayan in Criminal Case No. 436 and sentenced to suffer an indeterminate penalty. He appealed to the defunct Court of Appeals. In a decision promulgated on December 11, 1978, that court with Escolin, J. as ponente, said at the end thereof:

"However, since the imposable penalty for the crime of rape is reclusion perpetua (Art. 335 Revised Penal Code, as Amended by R.A. 4111), this Court, instead of entering judgment, hereby certifies this case to the Supreme Court for final determination, pursuant to the provision of Section 12, Rule 124 of the Rules of Court." (Rollo, p. 89.)

In *People vs. Ramos*, G.R. No. L-49818, February 20, 1979, 88 SCRA 486, We returned the case to the Court of Appeals with a directive that said court should "render judgment expressly and explicitly imposing the penalty of either death or reclusion perpetua as circumstances warrant, [but] refrain from entering judgment, and forthwith certify the case and elevate the entire record thereof to this Court for review."

On March 27, 1979, the Court of Appeals promulgated an Amended Decision likewise penned by Justice Escolin. The Amended Decision is similar in all respects to the original decision except with regard to the dispositive portion. The Amended Decision reads:

"Charged with the crime of rape in the Court of First Instance of Cagayan, Branch V, Lucas Ramos y Macasiray was found guilty and sentenced to 'a prison term ranging from eight (8) years and one (1) day of prison mayor, as minimum, to four-teen (14) years and eight (8) months of reclusion temporal, as maximum; to indemnify the offended party Elisa Malana the amount of P10,000.00 as moral damages, without subsidiary imprisonment in case of insolvency taking into consideration the principal penalty imposed, and to pay the costs of this suit.'

"The evidence adduced by the prosecution, culled from the composite testimonies of Elisa Malana, Romeo Saguing, Enrique Malana and Teofilo Blanca, is summarized by the trial court as follows:

"The incident started when on December 25, 1972, the accused, who was known as a quack doctor in the locality, was summoned by the father of the victim to administer medication or heal the ailment of the victim, who was suffering from sleepless nights. It was made to appear that the accused examined the victim and after making the examination, told her to buy two (2) bottles of gin and coconut, promising to return three (3) days after.

"True to his commitment, the accused returned in the later afternoon of December 28, 1972. With what he ordered to be used in the rites he will celebrate to cure the ailment, he invited the victim to go with him across the river, which is in barrio Dassun, in the municipality of Solana. As it was already getting late, the father of

the victim manifested a desire to accompany them. The accused, however, inform him that he could not go along because the effects of the rites he was to celebrate would be rendered ineffective if anyone was going to witness the same.

'As the accused was a nephew-in-law, his wife being a niece, the father of the victim acceded, giving his full trust and confidence to the accused.

'Crossing the river, the accused and the victim rode on the banca. It was the accused who rowed up to the other side of the river. There he burned a straw and produced what is locally known as 'gogo', mixed it with coconut oil and poured it on the head of the victim, together with the two (2) bottles of wine which they brought along with them.

'After the celebration, the accused told the victim that she has to attend a church rite at barrio Dassun, to lave her completely cured from her ailment. Without suspecting any sinister plan to abuse or take advantage of her, the victim, without the least hesitation obligingly followed. On their way, with the accused leading and the victim following from a distance of about half a meter away from behind, the accused suddenly embraced her and pinned her down to the ground. His left arms pressed the victim down on her breast and his right hand held a small sharp pointed bolo, about one (1) and a half (1/2) feet long, which was thrust at the throat of the victim, saying that if she does not submit to his desires, he was going to kill her.

'All that the victim could do was to wiggle her body and made motions to resist, but the accused pressed on his threat to kill her. Simultaneously, the accused pulled down her shorts and forcibly removed her panty. The shorts was identified and presented as Exhibit "C" and the nylon panty, which was torn, was presented and marked as Exhibit "D". With the removal of her shorts and panty, the victim was practically left naked. Accused took advantage of the situation brought out his private parts, went on top of the victim and inserted the same into her vagina. She felt the penetration and suffered excruciating pain.

'The accused was on top of her for about ten (10) minutes and thereafter, went down and pulled out his penis.

'After the execution of the sexual act, the accused and the victim proceeded to the house of a daughter of Salo Ramos, where they spent the night. While in the sala of the said house, the accused made attempts to repeat the sexual act he previously committed, but the victim resisted. The same was done in the presence of the daughter of Salo Ramos and her husband.

'It was already 4:00 o'clock the following morning, when the victim proceeded to the house of Gregorio Quilang. There he met Salo Ramos whom she requested to bring her across the river.

'On their way, Salo Ramos inquired from her why she was with Lucas Ramos. The victim answered that she went with him for the purpose of having her ailment treated. Noticing that she was trembling, Salo Ramos inquired why she appeared to be afraid of somebody else. The victim related to him what happened to her that previous night. The news relayed to Salo Ramos made him remarked, 'You should be patient because you went along with a foolish man.'

'Reaching their house, at about 6:00 o'clock in the morning, she told her father what happened to her. Furious of what he learned, the father immediately accompanied the victim to the Iguig Police Department and lodged their complaint. They were however, advised to proceed to Solana, the crime having been committed in that municipality. They were likewise advised to lodge the complaint with the Cagayan Provincial Command.

'At the Cagayan PC Headquarters, it was Sgt. Canapi who attended to them. He got down their complaint and investigated the victim. Her statement was taken down. It was subscribed and sworn to before the Municipal Judge of Solana, Cagayan.

'She was also examined by Dr. Honorio Reyes, Jr., of the Cagayan Provincial Hospital and was issued a corresponding Medico-Legal Certificate (Exh. 'B').

'On the basis of this complaint of the victim, the accused was invited for questioning by the PC and he gave his written statement to the PC Investigator. The same was identified and confirmed of its voluntary character, by no other than the subscribing official, Special Counsel Romeo B. Saguing. He claimed that his memory never failed him as he took particular interest in the revelation made by the accused, on the details and manner under which he performed the act which claimed to be unique and unparalleled in its scheme and trickery.'

"Appellant admits having sexual intercourse on December 28, 1972 with complainant Elisa Malana, 23 years of age at the time of the incident, but denies the latter's allegation that such carnal knowledge was consummated by the use of force and intimidation. The trial court's resume of the version put forth by the appellant, and adopted by the latter in his brief, is as follows:

'Accused projected a story where he made it appear that he was trying to make a fool of Elisa Malana by courting her. This courtship ended with the victim responding favorably. It reached its peak when she decided to stay with them in their house. She brought along with her several pieces of clothes.

'During the days that she was staying with them, the victim slept in the same bed where the accused and his wife slept. His wife Rosa Bago, who is a first degree cousin of the victim, used to stay in between.

'On those occasions where they slept together, and even when they do not sleep, the wife of the accused used to see the accused giving to the victim that usual peck on her cheeks. The victim responded by embracing him. This aroused the suspicion of the wife and made her inquire from the accused why he was doing the same to her cousin. The accused answered by stating that she should be patient because Elisa Malana was staying with them for treatment. This explanation of the accused prevented the wife from making further inquiries.

'As he could not do what the complainant wanted to be done, on account of the presence of his wife, they decided to go together to Dassun, Solana, Cagayan. The plan was made several days before December 28, 1972, and it was only on said date that they finally carried out their agreement.

'Going to Dassun, Solana, Cagayan, they brought along with them two (2) bottles of wine. On the way, they passed by a nipa hut which was in the middle of the field. They decided to take a rest on said nipa hut, and while resting inside the nipa hut, they had a conversation, with the accused telling the victim that they should 'play'. Explaining what he meant by 'play', the accused stated that he meant the sexual act.

'Upon hearing what the accused uttered, the complainant immediately removed her shorts and panty. With the victim naked, he went on top of her. In a lightning precision which accused described as quick and fast, he reached the climax. Afterwards, they proceeded to Dassun, Solana, Cagayan to the house of Gregorio Quilang where they spent the night. In the house of Quilang, they performed another sexual act.

'The following morning, the victim left for the reason that she insisted that he should abandon his family. She wanted that they should live together which the accused turned down. Thereafter, he never saw the victim again. It was only in the trial before the Third Branch of this court when the victim told him not to worry, for she will not sign the paper and she will not appear in the trial of this case.

'The wife of the accused, in defense of her husband, took the witness stand. Her version conformed to the statement of the accused that the complainant went to stay with them on the pretext that she was going to be treated for lack of sleep. She knew that the husband is not a quack doctor. Nevertheless, she took her husband's word that the complainant was with them for treatment.

'During the days that they were together, the wife noticed that the accused and the victim kissed each other, more specially when they slept on the bed with herself in the middle. Because it was dark, all that she could do was to stare in the darkness.

'She admitted that it was because of her love for her husband and four (4) children who would be left behind with no one to care for them in the event the accused would be incarcerated that she came to testify in court.'

"Appellant now imputes the following errors to the trial court:

I. THE TRIAL COURT ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE TESTIMONY OF THE COMPLAINING WITNESS;

II. THE TRIAL COURT ERRED IN CONVICTING BEYOND REASONABLE DOUBT THE HEREIN ACCUSED-APPELLANT;

III. THE TRIAL COURT ERRED IN CONSIDERING THE TESTIMONY OF WITNESS ROSA BAGO, PARTLY IN FAVOR OF THE PROSECUTION AND ENTIRELY AGAINST THE HEREIN ACCUSED.

"The appeal is devoid of merit.

"In convicting appellant, the lower court held that:

'The story presented by the accused himself is one that cannot be given credit by the court for it has found out that it was not in accordance with human observations, behavior and experience. It has been admitted that the victim is a virgin woman, who never had any experience of flirting with any man.'

x x x x x

'Consequently, the innate character of the Filipina woman would have to prevail, the character of being shy, having her an integrity safeguarded at all times. The court cannot think of any situation where that woman, virtuous as she is, would run with a married man. Knowing him to be married to a first degree cousin, the court could not believe that she would have an amorous relation with her brother-in-law.'

"We are not disposed to disturb the above holding of the trial court. In this jurisdiction, the rule is well settled that the credibility of witnesses is a matter that the trial court has unequalled competence to consider and determine, in view of its unique opportunity to observe the demeanor of the witnesses on the stand, an opportunity not afforded to appellate courts (People vs. Espejo, 36 SCRA 400; People vs. Dorado, 30 SCRA 53).

"The appellant testified that complainant voluntarily stayed in his house; that she even kissed him in the presence of his wife; that she slept with him on the same bed, with his wife between them; and that she readily consented to have sexual intercourse with him in the afternoon of December 28, 1972.

"We reject the above pretension as inherently improbable. Complainant is a simple, virtuous, albeit unlettered, barrio lass, who, as found by the trial judge, 'never had any experience of flirting with any man.' As aptly stated by the Supreme Court in a similar case (People vs. Gan, 46 SCRA 676) -

'Appellant's testimony that a young barrio lass x x x indisputably a virgin and without any previous experience on matters of sex, would readily tell a married man that she is in love with him, without any prior courtship or to blatantly show to the wife of such married man her alleged amorous relationship with the latter's husband, to the extent of embracing and kissing him in her presence or be the first to suggest to a married man that they have a sexual intercourse or for such a virgin as aforesaid to agree to have successive three intercourses on the first night that she ever experienced such sexual act certainly taxes human credulity. Such purported conduct on the part of the offended party is contrary to human nature and inconsistent with the common experience and observation of mankind.'

"In support of the posture that he employed no physical violence in having sexual intercourse with the complainant, appellant adverts to the medico-legal certificate issued by Dr. Honorio Reyes, Jr., (Exhibit "B") to the effect that 'no signs of contusions, hematoma or abrasions (were found) around the external genitalia of the complainant. The contention fails to consider that the same medico-legal certificate attests to the presence of

'fresh abrasion at 7:00 o'clock' of the offended party's vagina.

"At any rate, the absence of bruises, contusions and abrasions at the external genitalia is not inconsistent with the complainant's claim that she was sexually abused against her will and consent. It is a well recognized principle that:

'Force or violence threatened for the purpose of preventing or overcoming resistance, if of such character as to create real apprehension of dangerous consequences or serious bodily harm or such as in any manner to overpower the mind of the victim so that she dares not resist, is in all respects equivalent to physical force actually exerted for the same purpose' (People vs. Gan, 46 SCRA 667, 677).

"Of similar import is the following pronouncement of the Supreme Court in U.S. vs. Villarosa (4 Phil. 434, 437), adhered to in numerous subsequent cases involving the crime of rape:

'It is a doctrine well established by the courts that in order to consider the existence of the crime of rape it is not necessary that the force employed in accomplishing it be so great or of such character as could not be resisted; it is only necessary that the force used by the guilty party be sufficient to consummate the purpose which he had in view.'

"Equally untenable is the contention that the court a quo erred in convicting the appellant on the basis of the lone and uncorroborated testimony of the victim. It is a rule consistently adhered to that the lone testimony of the victim in the prosecution for rape, if credible, is sufficient to sustain a verdict or conviction, the rationale being that, owing to the nature of the offense, the only evidence that can oftentimes be adduced to establish the guilt of the accused is the offended party's testimony (People vs. Selfaison, 110 Phil. 889; People vs. Macaya, et al., 85 Phil. 540; People vs. Gaddi, CA-G.R. No. 06203-CR, Feb. 28, 1970, 15 CA Rep. 124).

"It is therefore the considered view of this Court, after a careful and painstaking evaluation of the evidence, that appellant is guilty as charged.

"We note that the sentence imposed by the trial court upon the appellant is not in accordance with law, the crime of rape, as proven by the evidence in the instant case, being punishable by reclusion perpetua (Article 335, as amended by Rep. Act 4111).

"WHEREFORE, this Court finds appellant guilty of the crime of rape and hereby sentences him to suffer the penalty of reclusion perpetua, and orders him to indemnify Elisa Malana by way of moral damages the amount of P10,000.00, and to pay the costs. In view of the penalty thus imposed and pursuant to the guidelines laid down in People vs. Daniel (L-40330, November 20, 1978) let this case be certified to the Supreme Court for review."

We have reviewed the records of the case and We can add nothing to the lucid opinion of Mr. Justice Escolin. It is in accord with both the facts and the law.

WHEREFORE, We hereby affirm the judgment of the Court of Appeals; the appellant shall suffer the penalty of reclusion perpetua; indemnify Elisa Malana the sum of P10,000.00 as moral damages; and to pay the costs.

SO ORDERED.

Aquino, Acting C.J. and Chairman, Concepcion, Jr., Guerrero and De Castro, JJ., concur.

Escolin, J., no part.

Makasiar, J., Chairman, on leave.

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