

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUAN ESTOLANO, ACCUSED-APPELLANT.*G.R. No. 57737. January 28, 1991*

Ponente: NARVASA, J.

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Juan Estolano was convicted by the Circuit Criminal Court at Palo, Leyte of the felony of rape. There being in the Court's view neither aggravating nor mitigating circumstance proven, he was sentenced to "reclusion perpetua with all the accessory penalties provided for by law and to pay the costs," as well as "to pay the complaining witness, Rosalinda Dy, as compensation, the amount of TWELVE THOUSAND PESOS (P12,000.00) without subsidiary imprisonment in case of insolvency." [1] The judgment also disposed that in the service of his sentence, "the accused shall be entitled to the full time during which he was under preventive imprisonment."

He has appealed to this Court, [2] impugning the sufficiency of the proofs relied upon by the Trial Court to condemn him. He asserts that it was error for that Court (a) to give full credence to the "uncorroborated testimony of complainant, Rosalinda Dy" which is tainted by "serious inconsistencies," and (b) not to give full weight to his own testimony, "given in court in a straightforward manner, without hesitancy, and ** never denied or rebutted by any oral or documentary rebuttal evidence." [3]

As will at once be noted, and as is not unusual in rape cases, the appeal turns upon the question of credibility, arising from the diametrically opposed testimonies of the complainant and the appellant.

At the time of the occurrence, Rosalinda Dy was a public school teacher, had been married for about 12 years to a businessman of Dagami, Leyte, Calvin Dy, by whom she has borne seven (7) children. Nothing in the record shows the marriage to be other than a happy, or at least stable one. She is described by the Trial Court as "of a very fair complexion and ** (as) a petite and pretty woman." [4]

Juan Estolano, described by the Court a quo as "dark in complexion, more or less stocky in build and ** about the same height as the complaining witness," was employed as a helper (boy) of Calvin Dy, and of Guillermo Espiel, Rosalinda's brother-in-law (married to Calvin's sister). His chores consisted of tending the chickens and pigs of Espiel, [5] accompanying Calvin Dy to his coconut farm of about 20 hectares [6] or on his occasional business and pleasure trips to Tacloban, [7] drying copra, cooking, [8] and otherwise serving as domestic helper of the Dys, or, as appellant's counsel puts it, as "helper-laborer or utility man in the household of businessman Calvin Dy." [9]

"There is no question," the appellant says in his brief, that he and complainant "had sexual intercourse on the date and time alleged in the complaint." [10] The question is how the intercourse took place: with violence and intimidation on appellant's part, or as a voluntary act of illicit love between consenting adults.

The Trial Court, after a review and analysis of the evidence of both the prosecution and defense, reached the conclusion that the accused-appellant, "in the early morning of October 1, 1976, by means of force and intimidation, did (indeed) have carnal knowledge of Rosalinda Dy without her consent and against her will,"

rejecting as of serious dubiousness appellant's defense that he and Rosalinda Dy were lovers and the carnal union on October 1, 1976 was but one of a series of twenty such sexual acts committed over a span of five weeks or so.

In the Trial Court's view, Rosalinda Dy's statements on the witness stand bore the stamp of truth, her account of the occurrence and the accompanying circumstances being as follows:

1. She and her family live in a house belonging to her husband's father, located in front of the Municipal Building of Dagami, Leyte. The house is of two (2) stories. The upper floor is occupied by Guillermo Espiel, his wife (Calvin Dy's sister) and children. The ground floor is occupied by the Dys, and has two bedrooms. She sleeps in one of these rooms. The room measures about 5 meters wide and 7 meters long, and Rosalinda sleeps there together with eight other persons, namely: her seven (7) children: Percy, Robin, Marian, Roland, Marilou, Anthony and Joy, and a 12-year old domestic helper, Virginia. There is a "matrimonial" bed in this room, near one of the walls, on which the three elder children, Percy, Robin and Marian slept, while Rosalinda and the others slept on the floor. Rosalinda usually slept a little distance apart from the children so she would not be awakened by their every move. The child sleeping nearest to her was her youngest, a girl.
2. In the evening of September 30, 1976, Calvin, Rosalinda's husband, had not returned from a trip to Tanauan, Leyte. Rosalinda went to bed at about 7 o'clock that night, feeling tired from her work at school.
3. She was awakened at about 2:30 o'clock in the morning of October 1, 1976 by some pressure on her left foot. She noticed that the electric light in the bedroom had been turned off, but the fluorescent lamp in the sala was still on, reflecting some light into the room. She noted, too, that there was a man crouching over her, who told her not to shout or she would be killed. She tried to get up but hit herself on something hard, which she saw was a knife held by the man, and fell back to her pillow. Shuddering, she heard the man ask where her husband was; she answered, she did not know. She was then told to undress herself. When she remained immobile, the man counted to three and forcibly removed her panties. She struggled. The man hit her on the right knee with his knife, filling her with fear. He then succeeded in penetrating her and having intercourse with her, although she was holding on to his hand holding the knife to keep it away from her.
4. His lust satisfied, the man stood up. She tried to get up, too, but was ordered to lie down. The man then turned on a flashlight and by its glare, she finally recognized the man as their "house-boy," Juan Estolano. She said, "Please pity me and put on the light." Juan left the house.
5. Rosalinda noticed semen dripping from her and cleaned herself in the bathroom, after which she immediately went up to the second floor, woke her brother-in-law, Guillermo Espiel, and told him of the offense committed by Juan Estolano.

It appears that Guillermo Espiel lost no time in reporting the matter to the police. Police Officers Marino G. Pasagui and Jose Catilogo both testified that between 2 and 3 o'clock in the morning of October 1, 1976, while on duty at their headquarters in Dagami, Leyte, they were told by Guillermo Espiel of Estolano's rape of Rosalinda Dy. They were in Rosalinda's house within five (5) minutes. They saw her crying; they confirmed from Rosalinda that the report of her rape was true; they were brought into the bedroom where the rape had reportedly taken place and saw bedding scattered about; they had then gone to Juan Estolano's house, which was about 500 meters away from the Dys' home; they noticed that Juan's slippers were wet, an indication that he had been out of the house as the police officers' own shoes had gotten wet with dew; that Juan came out when they called out to him; they brought him to their headquarters; and that Juan refused to answer any questions.

Evidence confirmatory of a man having had sexual congress with Rosalinda, although scarcely necessary in view of defendant's admissions, was furnished by Dr. Aurora Dolina, a resident physician of the D.Z. Romualdez

Memorial Hospital at Tacloban City. She deposed to having learned this as a result of the medical examination conducted by her on the person of Rosalinda on October 1, 1976, as well as to having discovered a hematoma, 2 x 2 cm. in diameter, on Rosalinda's right knee; and that she had reduced her findings to writing.[11]

Juan Estolano's version is that he and Rosalinda Dy were lovers. According to him, Rosalinda and her husband, Calvin, would quarrel because of the latter's "playing with wine, music and women in the nightclubs in Tacloban City;" this impelled Rosalinda, when her husband was away, to take to drinking tuba after supper, with Juan Estolano; ultimately, intoxication and propinquity led to their first sexual intercourse one night in August, 1976,[12] and then to many more afterwards, the last being on October 1, 1976;[13] that it was invariably Rosalinda who would invite him to drink and initiate their sexual activity, and he apparently was somewhat resentful of what Rosalinda was doing as she was also his employer or superior (agaron); they would have their amorous jousts in the bedroom where Rosalinda's children, and a young maidservant were sleeping.[14]

Their love-making on October 1, 1976, Estolano's narrative continues, was again initiated by Rosalinda who was then wearing a transparent gown and got Estolano all excited; as usual, after a few drinks, they had repaired to Rosalinda's crowded bedroom and proceeded to have intercourse; somehow, Rosalinda's child, Percy, was awakened after Estolano had been in the room for two hours or so; Percy turned on the light in the room, confronted the two who were still coupled, stamped her foot and said, "Mother, that is not father; that is Mano Juan, I will inform father about the two of you;" Estolano and Rosalinda both got up and went to the living room; he asked her several times what they would do, now that they had been discovered; she made no answer, but simply told him to go to the camalig belonging to her and her husband and wait there; he did so, and while waiting there, he fell asleep; he was awakened by police officers, Pasagui and Catilogo, who told him that Rosalinda was accusing him of having raped her; he told them he and Rosalinda were lovers, but he was brought to the police headquarters nonetheless.[15]

The Trial Court's decision sets forth several reasons for accepting the truthfulness of the complainant's testimony and rejecting that of the appellant as unworthy of credence. Among them:

- 1) appellant, as a live-in domestic helper of the Dy family, would have been familiar with the layout of the family residence; he would have known, too, that the complainant's husband, Calvin Dy, was away in another town on the night of the crime;
- 2) the complainant's reaction was fully consistent with that of an innocent victim violated and grievously wronged, not of an adulteress shielding her paramour; she had lost no time reporting the offense to the authorities causing the appellant's arrest, and submitting to medical examination;
- 3) the hematoma, or bruise, on the complainant's knee, which, in the opinion of the examining physician, was the result of a blow, confirmed that force had been employed to make her submit to the rape; it could not have been sustained in voluntary intercourse;
- 4) it is hardly credible that a woman of the complainant's social standing and reputation would sully her good name and repute by maintaining a sordid liaison with a menial; she would not have made the offense public and endured the ordeal of testifying to all its gory details if she had not in fact been raped;
- 5) the appellant's unprepossessing physical appearance and characteristics, as well as his lowly status, in contrast with the comeliness of the complainant who had a tall and good-looking husband to boot, all of these personally observed by the Trial Court, also rendered incredible appellant's claim that the complainant had become so enamored of him that she practically threw herself at him at every opportunity;
- 6) equally incredible is the assertion that the complainant and appellant carried on an illicit dalliance for at least

three months, each and every rendezvous occurring in the same bedroom full of sleeping children, with all the attendant risks of discovery, when other and more private places in the residence were available;

7) appellant would have it that in the course of those three months, he had had intercourse with complainant more than twenty (20) times, once in August, once in October, or, therefore, at least eighteen (18) times in September alone, all in the same crowded bedroom; at a minimum, this would call for believing, against all probability, that complainant's husband was away and did not sleep at home no less than eighteen (18) times in September;

8) appellant offered other improbable assertions, such as that: (a) it took all of two (2) hours to consummate the last act of intercourse for which he was indicted, given also his claim that even at the outset, the sight of the complainant's flimsy night dress had already excited him and she had also evidently set out to arouse him; (b) he had not, as would have been his natural reaction, seized the opportunity to steal away from the room during the interval between the time the latter's daughter awoke and asked for a bed pan and when she actually switched on the light; instead, he had stayed on top of the complainant and thus was caught in the act by the child; and (c) he did not like what the complainant was doing, even while he continued having amorous relations with her;

9) an unfavorable inference arises from the obvious attempts of appellant or his counsel to delay the trial and resolution of the case; there was an unexplained hiatus of nine (9) months before the appellant took the stand to testify on his own behalf, and a lapse of fourteen (14) months before the defense closed, the pretext being that witnesses were being located, but had "disappeared," and no subpoenae were applied for.

The Court fully agrees with the foregoing assessment and finds the judgment of conviction entirely in accord with the evidence, except that, consistently with current doctrine, the compensatory damages payable to the offended party must be increased from P12,000.00 to P30,000.00.

WHEREFORE, modified accordingly, the judgment dated December 23, 1980 is AFFIRMED, without pronouncement as to costs.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] The judgment was rendered in Crim. Case No. CCC-XIII, 53 L (s. 76) on May 13, 1980 by Hon. Filomeno D. Arteche, Jr.

[2] His notice of appeal was filed under date of Jan. 15, 1981 by his counsel of record, Anita B. de Loyola of the Citizens Legal Assistance Office, Tacloban City

[3] Rollo, p. 82: Appellant's Brief, p. 1, filed by new counsel, Filomena A. Zeta under date of March 27, 1982

[4] Rollo, p. 54

[5] Id., p. 39

[6] Id., p. 42

[7] Id., pp. 41; 82: Appellant's Brief, p. 3-4

[8] Id., p. 45

[9] Id.; id., p. 3

[10] Id., p. 82: Appellant's Brief, p. 5

[11] Exh. A; rollo, p. 5

[12] Rollo, p. 47

[13] Rollo, p. 46; p. 82: Appellant's Brief, p. 4

[14] Id., pp. 46, 47

[15] Id., pp. 45-46

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