

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUBY RONQUILLO, ACCUSED-APPELLANT.

G.R. NO. 76213. April 06, 1990

Ponente: FELICIANO, J.

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FELICIANO, J.:

Ruby Ronquillo appeals from the decision of the Regional Trial Court, Manolo Fortich, Province of Bukidnon, sentencing him to suffer the penalty of reclusion perpetua in Criminal Case No. 320.

Ronquillo was charged with having committed the crime of rape in an information[1] which read as follows:

"That on or about the 6th day of February 1985, in the evening, at barangay Pongol, municipality of Libona, province of Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs by means of force and intimidation, did then and there wilfully, unlawfully and feloniously have sexual intercourse with Conchita M. Abueva by threatening her with a gun inserted into her mouth, tear and remove her panty, place himself on top of her, insert[ed] his penis into her vagina.

Contrary to and in violation of Article 335 of the Revised Penal Code."

After trial, on 10 June 1986, the trial court rendered a decision[2] with the following dispositive portion:

"WHEREFORE, premises considered, this Court finds the accused Ruby Ronquillo guilty beyond reasonable doubt of the crime of Rape, defined and penalized under Article 335 of the Revised Penal Code, as amended, committed with the use of a deadly weapon (firearm) and inside the dwelling of the offended party, and he is hereby sentenced to a penalty of imprisonment of Reclusion Perpetua, to indemnify the offended party Conchita Abueva in the amount of Twenty Thousand Pesos (P20,000.00) to suffer the other accessory penalties provided for by law and to pay the costs.

In case of appeal, the appeal bond of the accused is fixed at P30,000.00.

SO ORDERED."

Appellant disputes the correctness of the judgement of conviction and imputes to the trial court the following alleged errors:

- The trial court accepted with precipitate credulity the testimony of the alleged rape victim when the alleged crime of rape was not credible in itself.
- The guilt of the accused [had] not been proved beyond reasonable doubt.[3]

The prosecution's view of the facts was summed up by the trial court in the following manner:

"It appears from the evidence of the prosecution that in the evening of February 6, 1985, at about 8:00 o'clock, complainant Conchita Abueva was alone in their house at barangay Pongol, Libona, Bukidnon, sleeping, as her two daughters, Luz and Linda Abueva, were in the neighboring house of Gomer Gomez attending a party. Conchita Abueva was sleeping on the floor of the house, tired from her work as employee of the Philippines

Packing Corporation, and the door of the house opened, illuminated by light of the moon. Suddenly, she became aware that somebody went up their house and touched her head. Thinking that it was her daughter Linda, she called out: 'Lyn!' There was no answer but the muzzle of a pistol was shoved inside her mouth by the person who entered the room who said: 'Do not move, do not move!' She was stricken with terror, weakened by fear and she was paralyzed to move. The man tore down her half-slip and panty, and then mounted and placed himself on top of her. He then performed the sexual acts on her against her will and consent, as she was forced and intimidated by the muzzle of the pistol inserted in her mouth. She recognized the culprit as the accused Ruby Ronquillo, a neighbor living with his uncle Apolonio Ayohan, about 300 meters away from her house, interspaced by 3 houses. The accused duly kissed her on the face while performing the sexual acts on her and she actually felt his penis penetrating her vagina. She could not resist said sexual acts, and struggle against the accused as she was weakened and paralyzed by fear of the muzzle of the pistol inserted inside her mouth, but she never consented or agreed to said sexual intercourse. She insisted that the thing inserted in her mouth was a pistol, and that she knew before hand that the accused Ruby Ronquillo is an owner of a pistol, and she positively recognized the face of Ruby Ronquillo as it was not covered by mask, and he was then wearing a black long sleeved T-shirt, without wearing any pants. She was aware of the nakedness below of the accused as his penis immediately penetrated her vagina when he performed the sexual acts. Complainant admitted that the accused ejaculated three times inside her as plenty of semen was discharged even wetting her buttocks and smearing her half-slip. She exhibited in court her torn half-slip marked Exh. A and manifested that the smudges found on it were dried semen, as the accused just placed the half-slip beneath her buttocks. The complainant also identified and presented her torn panty in court as Exhibit B, which she alleged to have been forcibly pulled down by the accused before he mounted her. After satisfying his lust on her, accused Ruby Ronquillo pulled her up, threatening her with death if she will report the incident to anybody and while fleeing away, dropped a knife on the mat. The floor of their house is just above a man's height. When the accused left, complainant still shaken by the terrible ordeal she [had] undergone, immediately jumped down their house and ran to the neighboring house of Gomer Gomez, fearing that the accused might come back. Ashened with fear by the horrible experience, and even having difficulty in breathing because of it, she was given a glass of water to drink as she almost fainted. Then and there, she reported that a person went up their house and molested her. She did not mention the name of the person as she was afraid of the threat and warning of death. Later on, she revealed to Renato Gevero the name of the person who sexually assaulted her as Ruby Ronquillo, Gevero being one of the guests of the party. Gevero volunteered to go up their house to find out if somebody was still in the house of Conchita Abueva, and when Gevero saw nobody there, he called for [her] daughters, Luz and Linda Abueva, to get their personal belongings as they slept in the house of Gomez that night. When the complainant reported the incident to the barangay captain on February 7, 1985, at about 3:00 P.M., she was told to wait as the soldiers will be coming to Pongol, and when the soldiers did not come, she filed the case with the Police Station Commander.”[4]

The defenses of appellant Ronquillo consist of alibi and denial. He contends that on 7:00 o'clock on the evening of 6 February 1985 when the rape occurred, he left his house together with two (2) of his friends in order to attend a party in the house of Gomer Gomez. He insisted he was then wearing a yellow T-shirt given him by his uncle, Apolonio Ayohan. Ronquillo and his friends, however, did not enter the house of Gomer Gomez because Ronquillo found out that Renato Gevero with whom he had an altercation earlier in the afternoon of the same day, was present in the party. Accordingly, Ronquillo went back home and went to sleep early at 8:00 o'clock in the evening after dinner.

Turning first to Ronquillo's claim of alibi, we note that his uncle Apolonio Ayohan's house where he lived was a mere 300 meters away from Conchita Abueva's house. It was, therefore, not only possible but also quite easy for Ronquillo to have gone to Conchita's house and to have returned to his uncle's house in a matter of minutes, not hours. The rule is too firmly settled to require extensive documentation that the defense of alibi is quite unavailing unless the accused proves that it was not physically possible for him to have gone from his claimed location to the

scene of the crime.[5] Ronquillo's testimony that he was at home, asleep, at about 8:00 o'clock in the evening of 6 February 1985 when the rape was committed, was corroborated by his uncle. The uncle testified that appellant Ronquillo was home by about 7:30 o'clock in the evening, had his supper and went to sleep; that he (the uncle) stayed up, reading his bible, until about 9:00 o'clock when he presumably went to sleep; and that he noticed that Ronquillo did not leave his room until the next morning. The trial court obviously did not assign a great deal of weight to the uncle's testimony, which testimony was exactly the helpful kind one might expect from one's uncle.[6] We find no basis in the record for over?turning the trial court's conclusion on this point, especially in the light of Conchita's positive identification of Ronquillo as her attacker.

Appellant Ronquillo also assails the testimony of Conchita Abueva claiming that "her utter lack of resistance" and her "posture of passivity" which enabled appellant to insert his male member into her female organ and to "have intercourse with her (i.e., reach orgasm) three times," implied "voluntariness on her part." [7] Ronquillo also pointed to the circumstance that Conchita Abueva took nine (9) days to report the rape inflicted upon her to the police authorities, and suggested that this delay impaired her credibility as a witness.[8]

The trial court, however, found the testimony of Conchita Abueva that Ronquillo had taken her against her will as straightforward, sincere and truthful --

"x x x On the whole, the Court believes and so holds that the testimony of Conchita Abueva was firm, categorical, reliable and straight-forward as to lend credence to her sincerity and truthfulness, and that she was duly intimidated by the accused Ruby Ronquillo to submit to sexual intercourse by means of the muzzle of his pistol inserted in her mouth, causing her fear which weakened [her] against such sexual assault, allowing said accused to rip down her half-slip and panty and performed the sexual acts against her will and consent, and succeeded in ejaculating inside her for three times, thus wetting her buttocks and half-slip (Exhs. A & B). x x x"[9]

Examination of the record of this case shows that the testimony of Conchita that appellant Ronquillo had penetrated her against her will was indeed explicit and straightforward --

"FISCAL ESTRADA:

xxx xxx xxx

Q:

After Ronquillo tore off your halfslip and then your panty what happened next?

A:

He had sexual intercourse with me.

Q:

How was he able to have sexual intercourse with you?

A:

He was on top of me performing sexual intercourse then kissing my face.

COURT:

Q:

Did you feel his sexual organ penetrate your own sexual organ?

A:

Of course because it entered, it penetrated.

Q:

Why did you not resist or struggle so that he could not have sexual intercourse with you?

A:

Because of fear I got weak.

Q:

Did you not clamp your legs together and hit him?

A:

No more because he was on top of me making intercourse with me.

Q:

Did you consent to that sexual intercourse?

A:

No, sir.

COURT:

Continue.

FISCAL ESTRADA:

Q:

Did you not fight back in his attempt to have intercourse with you?

A:

I was not able to fight back because of fear and I was weak.

Q:

Why were you so afraid?

A:

Because we did not agree, good if we have agreed.”[10]

We have examined the record carefully and we find no basis for departing from the common rule that great respect must be accorded to the findings of fact of the trial court which had an opportunity to observe the behavior of witnesses as they testified before it.[11] There was moreover, to our mind, nothing peculiar about the conduct

of Conchita Abueva that rendered improbable her charge that Ronquillo had raped her. Many persons would be intimidated by the mere sight of a hand gun; most would doubtless be frightened by a pistol pressed to the head. Thus, when appellant thrust his handgun at the face of Conchita and inside her mouth, it was not unnatural for her to be half-paralyzed with fear and to yield to his demand for sex. It is not necessary to show proof of physical injuries sustained by reason of resistance to the sexual attacker. It is common doctrine that it is enough to show that the accused did succeed in having sexual intercourse with the offended party without her free volition. In other words, it is not necessary to show that irresistible force or intimidation accompanied the crime of rape; it suffices to show that force or intimidation was present and did result in the accused copulating with the offended woman against her will.[12] Appellant claims that Conchita should have at least shouted for help, considering that her nearest neighbor's house was only fifteen (15) meters away from her own house. As pointed out by this Court, however, different people react differently to a given situation or type of situation, and there is no standard form of human behavioral response where one is confronted with a strange or startling or frightful occurrence.[13] Quite possibly, another woman would have put a vigorous struggle and shouted for help. Conchita Abueva lay there, with the gun thrust at her head and mouth, in obvious fear of her life and unable to move.

Conchita Abueva did not, as contended by appellant Ronquillo, report the outrage inflicted upon her only nine (9) day later. The day immediately following the assault upon her person and honor, she went to see the Barangay Captain of Pongol, Libona, Bukidnon, Mr. Epifanio Abroguena, and informed him that someone had gone up her house and sexually assaulted her and identified appellant Ronquillo as her attacker. Conchita testified that Barangay Captain Abroguena advised her to wait as "the soldiers" (presumably Philippine Constabulary troopers) would be coming to Pongol and that she could then report the rape. When no Constabulary troopers came to Pongol, Conchita filed a complaint directly with the office of the Police Station Commander nine (9) days later. There was therefore no reluctance on the part of Conchita to bring her attacker to the bar of justice. If there was delay, it was sufficiently explained by her.

It is true that Barangay Captain Abroguena testified that when Conchita Abueva came to him on 7 February 1985, she complained that a man had gone up her house the night before while she was sleeping, but that she had not recognized the man who was wearing a mask, and that when she got up, the man jumped out of the room "down the stairs" and that she had not been "sexually taken". This testimony was, however, directly contradicted on rebuttal by Conchita Abueva: there she stated that she had indeed been sexually abused and that she had recognized the man who had raped her and that that man was appellant Ronquillo. As noted earlier, the trial court gave full credence to Conchita's testimony. Her testimony was corroborated by prosecution witness Renato Gevero who declared that on the evening of 6 February 1985, he was attending the blessing of the house of Gomer Gomez. Gevero testified that Conchita Abueva came running to the Gomez house, her face ashen with fear and breathing heavily, reported that a man had gone up her house and molested her. He further stated that in the presence of other guests, Conchita did not at first reveal the name of her attacker. However, later that same evening, she had confided to him that it was appellant Ronquillo who had sexually assaulted her.

Ronquillo then sought to impeach the credibility of Renato Gevero by referring to an alleged altercation between himself and Renato Gevero in the afternoon of the same day, 6 February 1985, occasioned by a quarrel and a fist' fight between Renato and one Dennis Bontan. Ronquillo declared that he had tried to separate the two physically and when he succeeded in doing so, he (Ronquillo) was boxed by Renato Gevero. The incident allegedly infuriated Gevero who later returned in front of the house of Apolonio Ayohan brandish-ing a bolo and a stainless steel knife, and challenging Ronquillo to a fight.

The contention of appellant Ronquillo that the rape charge had been merely fabricated by Conchita Abueva to favor Renato Gevero who was hostile to him (Ronquillo), is unpersuasive. Conchita Abueva was 49 years old at

the time of the events here involved, a mother of four (4) children and, in the words of the trial court, a respectable widow. Appellant's suggestion is quite inadequate to explain why Conchita Abueva, having been brought up in the traditional culture especially prevalent in the rural areas of our country, should have been willing to undergo the public ignominy and humiliation of a rape trial if indeed she had not been attacked sexually. The trial court's statements on this point appear to us apt and convincing:

"In the case at bar, the complainant is a respectable widow, permanently employed in the Philippine Packing Corporation, with two grown-up daughters still living with her, and the accused Ruby Ronquillo appears to be her distance relative and a neighbor. No proof was ever presented to prove evil or selfish motive on her part that she is perverse and callous enough to prejudice the life and liberty of the accused with false testimony, and to fabricate baseless or unfounded charges against him. The absence of such motive or interests could only lead to the conclusion that she was telling the truth, the whole truth, and nothing but the truth, that it was the accused who violated her sexually against her will and consent. At the time she was sexually abused she was sleeping alone in their house as she was tired of her day's work of harvesting pineapple. Her two daughters were in the neighboring house of Gomer Gomez attending a party. For a woman of loose or questionable morals or reputation, the matter could have been kept quiet and forgotten. But, the complainant, in her sense of outrage and vindication of her honor, she had to reveal the perfidy committed on her, and had to point out the accused and haled him in court to answer to his sexual misdeeds. No evidence was ever presented that the testimony of complainant was polluted by lies or revenge for any past misunderstanding or quarrel or animosity with the accused. It is to be presumed that their personal relationship as neighbors before February 6, 1985, was cordial and friendly, and that she could not have been prompted by any motive or revenge to falsify her allegations against Ronquillo for committing the heinous crime of rape. The complainant exhibited and presented in court her torn panty and half-slip smudged with dried semen as a result of said sexual assault. Further, complainant also exhibited the knife (Exhibit C) allegedly dropped or left behind by the accused when he fled from the scene of the crime. The Court cannot accept the version of witness Cruspe Labnotan and accused Ruby Ronquillo that said knife belonged to Renato Gevero. It is improbable that by reason of a mere fist fight that happened between them, witness Renato Gevero will help concoct a serious crime of rape against a neighbor and a fellow resident of his barangay.[14] (Underscoring supplied)

We find no reason to overturn the trial court's above conclusion.

It remains only to note that the trial court, having found (correctly, in the view of the Court) the presence of the aggravating circumstance of the offense having been committed inside the dwelling of the offended party,[15] and the circumstance of use of a deadly weapon,[16] nonetheless sentenced appellant Ronquillo to reclusion perpetua. In view of the provisions of Article 335, third paragraph, Revised Penal Code that

"[W]henver the crime of rape is committed with the use of deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death"

and in relation to Article 63 (1) of the same Code --

"Article 63. Rules for the Application of Indivisible Penalties -- x x x

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

(1) When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.

xxx xxx xxx

(Italics supplied)

the penalty correctly imposable was death. Even so, given the provisions of the 1987 Constitution, the penalty of death, had it been decreed by the trial court, cannot be enforced. Thus, as a practical matter, we affirm the penalty of reclusion perpetua.

WHEREFORE, subject to the statements made in the last preceding paragraph, the Decision dated 10 June 1986 of the Regional Trial Court, Manolo Fortich, Province of Bukidnon, in Criminal Case No. 320 is hereby AFFIRMED.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Rollo, p. 11.

[2] Id., pp. 12-20.

[3] Appellant's Brief, Rollo, pp. 25 & 29.

[4] Rollo, pp. 13 and 14.

[5] *People v. Reunir*, 157 SCRA 686 (1988); *People v. Laureta*, 159 SCRA 256 (1988).

[6] Ronquillo's uncle being an interested witness his testimony, although admissible, is subject to careful scrutiny. See, e.g., *U.S. v. Pagaduan*, 37 Phil. 90 (1917).

[7] Appellant's Brief, Rollo, p. 25.

[8] Id., p. 26.

[9] Rollo, p. 19.

[10] TSN, 12 December 1985, pp. 6 & 7.

[11] *People v. Pimentel*, 147 SCRA 25 (1987); *People v. Pilapil*, 147 SCRA 528 (1987); *People v. Delavin*, 148 SCRA 257 (1987).

[12] *People v. Abonada*, 169 SCRA 530 (1989); *People v. Villaflares*, G.R. No. 66039, 8 June 1988; *People v. Sarile*, 71 SCRA 593 (1976); *People v. Momo*, 56 Phil. 86 (1931).

[13] *People v. Salufrania*, 159 SCRA 401 (1988); *People v. Realon*, 99 SCRA 422 (1980); *People v. Gonzales*, 99 SCRA 697 (1980).

[14] Rollo, pp. 18 & 19.

[15] Article 14 (3), Revised Penal Code.

[16] Article 335, third paragraph, Revised Penal Code.

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