

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FLORENCIO SARRA, ACCUSED-APPELLANT.

G.R. NO. 78530. March 06, 1990

Ponente: SARMIENTO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-78530/>

SARMIENTO, J.:

This direct appeal to us originated from a complaint for rape signed and sworn to by the complainant, Virgilia P. Sombelon, 28, a housewife with five children, against the accused, 33, married, and a farmer.

An information was thereafter filed, charging the accused with rape:

That on the 28th day of June, 1984, at about 11:00 o'clock in the evening, more or less, in Barangay Libertad, Municipality of Maasin, Province of Southern Leyte, x x x, the above-named accused, with lustful intent, did then and there wilfully, unlawfully and feloniously, by means of force, threats, intimidation and violence, assault, attack and ravish one VIRGILIA P. SOMBELON, a married woman and had carnal intercourse without her consent and against her will, with physical injuries suffered by said victim in the process, to her damage and prejudice as well as to social order.[1]

On March 6, 1987, the court a quo rendered judgment, convicting the accused:

WHEREFORE, IN VIEW OF ALL THE FOREGOING, the Court finds the accused Florencio Sarra as principal guilty beyond reasonable doubt of the crime of Rape as charged in the information and punishable under Art. 335 of the Revised Penal Code, and hereby sentences said accused to suffer the penalty of reclusion perpetua, to pay the costs of this proceeding, and by way of moral damages to pay the complainant Virgilia Sombelon the amount of P30,000.00.

SO ORDERED.[2]

The facts are undisputed:

xxx xxx xxx

Prosecution claims that on June 28, 1984, in the house of complainant Virgilia Sombelon, a married woman, at Bgy. Libertad, a mountain barangay of Maasin, Southern Leyte, while complainant's husband, tuba-gatherer Vivencio Sombelon, was away at Bgy. Juangon, a lowland beside the sea barangay of Malitbog, Southern Leyte, about 5 to 7 kilometers from Libertad, where the husband delivered tuba and spent the night, the accused Florencio Sarra, a close friend of Vivencio Sombelon and then entrusted by the latter to take care of his (Vivencio) tuba-producing coconut trees, started pruning the buds of the tuba-producing coconut trees already late, at 8:00 p.m.; then still drunk tuba he gathered in the kitchen of the house of complainant, and when complainant woke up and went down to close the kitchen door which was still open with a light burning and nobody in sight, the accused who was behind the kitchen door suddenly pulled her right arm, hit her left breast with his fist (as she was asking him to release her or she would shout for her children to hear her) and she fell down flat on her back; then accused abused or raped her as the pain on her breast weakened her and while her then five children were sleeping.

Accused Florencio Sarra and married to Thelma Sarra, denied the rape, but admitted having had sex with the complainant that day at about 4:00 p.m. of June 28, 1984 in the room of complainant who, while accused was drinking tuba in the kitchen of her house with his friend, Petronilo Itchon, called him up and inside her room because they were lovers, and they had been lovers since February 2, 1983 yet; that they then had sexual intercourse in the room upon the motivation of the complainant; previously, they have had about 9 sexual intercourses since February 2, 1983.

It is not disputed that Vivencio Sombelon, a tuba-gatherer and the husband of herein complainant, was out of his residence and Bgy. Libertad when the alleged incident happened in the evening of June 28, 1984. He had left at about 4:00 p.m. of the same day for Bgy. Juangon, Malitbog, Southern Leyte to deliver tuba, a local wine produced from coconut trees. He spent the night in Bgy. Juangon. Before he left, he entrusted to his close friend, the herein accused Florencio Sarra, the care of his tuba-producing coconut trees until his (Vivencio) return. Juangon is a lowland barangay beside the sea, about 5 to 7 kilometers from the mountain barangay of Libertad. The distance can be travelled only on foot. The house of the accused is about 200 meters from the house of the complainant. The kitchen of complainant's house is on the ground floor while the main house is elevated. The nearest house to complainant's residence is about 110 meters away.

What is seriously controverted is the time of the sexual intercourse and the way it was done. Complainant cries rape at 11:00 p.m. while accused protests there was no rape, they had been sweethearts or lovers since February 2, 1983, and on June 28, 1984, complainant practically asked him for that sexual intercourse at 4:00. p. m. when she called him to her room. Resolution of the issue hinges on credibility of the witnesses and of their testimonies.[3]

The accused now submits that the court a quo had been in error, thus:

I

THE TRIAL COURT ERRED IN FINDING THAT THE CRIME CHARGED AGAINST THE ACCUSED WAS COMMITTED WITH THE USE OF FORCE OR INTIMIDATION.

II

THE TRIAL COURT ERRED IN NOT FINDING THAT THERE WAS NO TENACIOUS RESISTANCE ON THE PART OF THE VICTIM WHEN THE ALLEGED RAPE WAS COMMITTED.

III

THE TRIAL COURT ERRED IN GIVING WEIGHT AND CREDENCE TO THE INCREDIBLE TESTIMONY OF THE VICTIM.

IV

THE TRIAL COURT ERRED IN NOT ACQUITTING ACCUSED-APPELLANT ON THE GROUND OF REASONABLE DOUBT.[4]

In rape cases, certain principles stand out: (1) that the testimony of the victim, if credible, is enough to support a conviction;[5] (2) that no decent Filipina (or woman) would publicly admit having been a victim of rape unless her charges are true;[6] and (3) that the resort to force need not be great but simply irresistible under the circumstances.[7]

The Court finds enough evidence on record to sustain the challenged conviction.

As she testified, the victim was physically assaulted by the accused at the time of the rape. This is evidenced by the findings of Dr. Jaime Carbonilla of the Southern Leyte Provincial Hospital, at Maasin, Southern Leyte, the resident physician who examined the complainant:

xxx xxx xxx

2. Swelling rt. middle finger.

3. Contusion, left chest, rt. leg.[8]

xxx xxx xxx

As also found by the court a quo:

xxx xxx xxx

When she woke up it was all quiet and she noticed that they (accused and her son) were no longer in the kitchen. Her son was already asleep upstairs because he had drunk. There was still a light on the table and the kitchen door was not yet closed. She went down to the kitchen to close the kitchen door. Before she could close the door, the accused who was hiding behind the door suddenly grabbed and pulled her right arm. She got angry and told him to release her otherwise she would shout so that her children would hear and wake up. Accused did not release her, instead he pulled her and boxed her left breast even before she could finish what she was saying. She fell down, flat on the ground face up, and felt dizzy and lost her strength. She could not shout as she could hardly open her mouth because of fear and the pain on her breast.

The accused then laid on top of her and, as he kissed her neck, she struggled to push and kick him, but she was no match to his strength, she was still dizzy and weak and she could hardly breathe because of the pain on her breast. He then pulled up her skirt and removed her panty by so forcibly pulling it that its garter broke. It was an old and loose “jersey” panty. She then noticed that he took his penis out and, with the use of one hand to guide it, inserted it into her vagina. The accused was able to insert his organ full length, and then started sexually manipulating her. His other hand held one of her hands. Her free hand, the left, she could not use to prevent insertion of his organ because she could hardly raise it due to the pain in her breast which affected her hand. She used that hand in an effort to avoid being kissed by him as she kept turning her face away. Neither could she kick him, he was strong and he pressed her two legs with his two legs. She was already weak and, according to her, her ears were already ringing. She did not shout either because aside from being exhausted due to the pain on her breast, she was afraid he would further maltreat and even kill her because he had already hurt her. There were sharp-pointed bolos in the kitchen and the accused had his own bolo which he had hung on the kitchen door. She did not call her children because she was also afraid he would maltreat them also.

As the accused continued his push and pull movements in sexual intercourse, complainant lost consciousness because of the pain on her breast as accused pressed hard his breast upon her breast. When she came to, accused was no longer there, and her vagina was wet all over with the sperm of the accused. She sat down, leaned on the wall and kept on crying. Her children were still sleeping. It was already about 1:00 a.m., according to her estimate.[9]

The accused attacks the credibility of Mrs. Sombelon’s testimony, that is, that Mrs. Sombelon failed to make an outcry and that her fears were unfounded “because the accused was not armed with a bladed weapon.”[10] There is no merit in these contentions. To begin with, the trial judge found the victim’s testimony credible, and we are not inclined to disturb his findings because in the first place, he saw her testify, observed her behavior in court, and determined her credibility as a witness. As a rule, we leave trial courts alone in their judgment calls, particularly where no grave abuse of discretion can be imputed to them. Secondly, we have held that failure to make an outcry by a rape victim is not fatal.[11] Likewise, we have said that the intimidation employed need not be physical but also mental,[12] and as we declared at the outset, “force” is relative, so long as it is irresistible.

We have found no reason, much less, contrary evidence, not to believe the victim’s testimony. What must be

emphasized is the fact that the victim was under great stress at the time of the incident, and she could not have been expected to act as we would have hoped she would have acted, that is, with equanimity of disposition, and nerves of steel.

As the lower court held:

xxx xxx xxx

Prosecution evidence is clear and convincing. The foregoing shows that in order to have carnal knowledge with the complainant, accused delivered a fist blow on her left breast, a vulnerable and delicate spot of a woman, which caused her to fall down and rendered her weak. As he had already hurt her, there was no longer any need for intimidation or threat. He had already shown her what he was capable of doing. And the pain on her left chest taxed her strength and prevented her from successfully resisting the advances of the accused, until she lost consciousness because of her chest pains aggravated by pressure from the body of the accused who laid on top of her as he manipulated her in sexual intercourse.[13]

As we have likewise stated at the outset, an accusation of rape is a risky business, because of the entailing shame to which publicity exposes it. Unless the accusation is true.

Moreover, it has not been shown that Mrs. Sombelon had an axe to grind against the accused, to have forced her to concoct a story. The accused himself has not suggested it.

The fact that while coitus was going on, Mrs. Sombelon had a free hand to resist the accused's further advances is no argument that no resistance was employed. In her very testimony, she said she used it to fend off attempts by the rapist to kiss her:

xxx xxx xxx

FISCAL:

All right, according to the witness, one of her hands was used to push. The question was that the only act you did by the use of your free hand.

COURT:

Let witness answer.

A

Yes, because I also prevented his face from kissing because he wanted to kiss me also.

COURT:

You prevented his face with what?

A

My hand.

COURT:

What did you use in preventing him from kissing you?

A

My hand.

COURT:

Do you know with what hand you used in preventing him from kissing you?

A

I did not know. I seems I lost consciousness because at that time I lost my strength.

COURT:

What particular junction of this incident did you lose your strength?

FISCAL:

She did not say.

COURT:

Did you actually lose your consciousness?

A

I felt that, I felt ringings in my ears.

COURT:

But did you lose consciousness during that incident?

A

Not yet because I still know what he did.

COURT:

When did you lose your consciousness?

A

At that time when he was already managing himself in the intercourse, when he was manipulating with me in the sexual intercourse.[14]

xxx xxx xxx

As we know, she was not successful, but she did offer a resistance. It also appears that she in fact fainted.

The fact likewise that the accused had successfully achieved full penetration does not negate the absence of resistance. As the victim stated, she was in pain, that the accused was strong, and that she had feared further maltreatment from him. We are of the considered opinion that this was enough intimidation to weaken her defenses.

Finally, the failure of the prosecution to present the victim's torn undergarment as an exhibit does not militate against a finding of rape. As the court a quo found, the victim's husband got rid of it upon learning of the incident

out of disgust and indignation. The defense has not successfully rebutted the prosecution's claim. As we have declared, furthermore, the presentation of the torn panty is not indispensable in rape cases.[15]

The version of the accused, on the other hand, that he and the victim had been lovers, and as the court a quo noted, is not only improbable, it was "full of contradictions, inconsistencies and equivocations." [16] The accused testified that he had chanced upon the victim at a Saturday dance on February 2, 1983, and there and then they wound up making love about fifty meters from the dancehall. First, as the lower court noted, February 2, 1983 was a Wednesday and not a Saturday (the dance was supposed to be held every Saturday). Second, as the court also observed, the accused would have us believe that he was "such a giant of a woman killer who readily" seduced the victim, a married woman, to have sexual intercourse with him, fifty meters away from the dancehall, and just after their first chance meeting. It is, so to speak, a tall "macho" story, and an improbable one at that.

The defense also presented Petronilo Itchon as a corroborating witness, whom the accused tagged as a friend who "saw them having sex many times." [17] In the first place, Itchon never admitted seeing him "having sex [with the victim] many times" but rather, that when he accompanied the accused to the complainant's residence, he did not know why they were going there. If really Itchon knew that the two were supposedly lovers, he would have known or at least had an inkling why they were going there.[18]

The self-contradictions of the accused and his witness are indeed evident from the records. And strangely, the accused's brief is silent on his allegations in court.

We need not proceed further for we are persuaded, from the testimony alone of the complainant, that the accused is guilty as charged beyond reasonable doubt.

WHEREFORE, the decision appealed from is AFFIRMED with the modification that the idemnity is reduced to P20,000.00 to conform to prevailing jurisprudence.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] Rollo, 4.

[2] Honorable Lucio F. Saavedra, presiding judge, Regional Trial Court, 8th Judicial Region, Branch 24, Maasin, Southern Leyte; rollo, 19.

[3] Rollo, 6-7.

[4] Id., 58, 63.

[5] People v. Poculan, Nos. 70565-67, November 9, 1988, 167 SCRA 176; People v. Cariño, Nos. 74297 & 74351, November 11, 1988, 167 SCRA 285; People v. Ramos, No. 64656, November 18, 1988, 167 SCRA 476; People v. Averó, No. 76483, August 30, 1988, 165 SCRA 130.

[6] People v. Cariño, supra; People v. Ramos, supra; People v. Averó, supra; People v. Fernandez, No. 80228, September 12, 1988, 165 SCRA 302; People v. Ramos, Nos. L-48728-29, September 19, 1988, 165 SCRA 400; People v. Pacnis, No. 68992, September 26, 1988, 165 SCRA 609; People v. Viray, No. L-41085, August 8, 1988, 164 SCRA 135; People v. San Buenaventura, No. 50386, August 8, 1988, 164 SCRA 150; People v. Hachang, No. 75293, August 17, 1988, 164 SCRA 441.

[7] People v. Poculan, supra; People v. Estrella, No. 71464, August 4, 1988, 164 SCRA 114; People v. Viray,

supra.

[8] Rollo, id., 5.

[9] Id., 8-10.

[10] Id., 64.

[11] People v. Cariño, supra; People v. Fernandez, supra.

[12] People v. Pocolan, supra; People v. Viray, supra.

[13] Rollo, id., 10.

[14] T.s.n., session of October 4, 1985, 51-52.

[15] People v. Tabago, No. 69778, November 8, 1988, 167 SCRA 65.

[16] Rollo, id., 12.

[17] Id., 13.

[18] Id.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.