

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMANO VIDAL Y DANIEL, GLEN ALA Y RODRIGUEZ, AND ALEXANDER PADILLA Y LAZATIN, ACCUSED-APPELLANTS.

G.R. No. 90419, June 01, 1999

Ponente: BUENA, J.

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BUENA, J.:

Sir William Blackstone once said, "It is better that ten guilty persons escape than one innocent suffer." [1]

Appellants Glen Ala, Romano Vidal and Alexander Padilla were charged with, tried for and thereafter convicted of kidnapping with rape under an amended Information reading:

"That on or about the 19th day of September, 1987, in the municipality of Marikina, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding one another, while armed with a knife and ice pick, did, then and there willfully, unlawfully and feloniously kidnap Geraldine Camacho y Sibarutan by then and there forcing the latter to a waiting automobile and bringing her against her will to an uninhabited house in Rodriguez Rizal, Philippines and while in said uninhabited house, the accused, by means of violence, intimidation and by the use of noxious chemical substance, one after the other in conspiracy with each other, willfully, unlawfully and feloniously have carnal knowledge of Geraldine Camacho y Sibarutan against her will." [2]

They were sentenced by the Regional Trial Court of Pasig, Branch 156, to suffer the penalty of reclusion perpetua and to indemnify, jointly and severally, the complainant-victim Geraldine Camacho, in the amount of Thirty Thousand (P30,000.00) Pesos without subsidiary imprisonment in case of insolvency and to pay their proportionate share of the costs; [3] while the other accused, Christopher Cristobal, Henson Salas and Meliton Reyes were acquitted. The dispositive portion of the decision a quo reads:

"IN VIEW OF ALL THE FOREGOING, the Court finds the accused ROMANO VIDAL y Daniel, GLEN ALA y Rodriguez and ALEXANDER PADILLA y Lazatin guilty beyond reasonable doubt of the offense charged and hereby sentences said accused to suffer the penalty of reclusion perpetua, to indemnify, jointly and severally, the complainant-victim, Geraldine Camacho y Sibarutan, in the amount of THIRTY THOUSAND PESOS (P30,000.00) in compliance with the mandate in Articles 100, 104(3), 107 and 345 of the Revised Penal Code without subsidiary imprisonment in case of insolvency and to pay their proportionate share of the costs.

"In the service of their sentence, the accused shall be credited in full with the period of their preventive imprisonment.

"On the other hand, accused CHRISTOPHER CRISTOBAL y Masagana, MELITON RAYOS y Santos and HENSON SALAS y Calderon are hereby acquitted of the offense charged with costs de oficio.

"The Warden of the Marikina Municipal Jail and the OIC, National Training School for Boys, Sampaloc, Tanay, Rizal are hereby ordered, respectively, to release the persons of accused CHRISTOPHER

CRISTOBAL y Masagana, MELITON RAYOS y Santos and HENSON SALAS y Calderon from custody/confinement unless there exists any other order or orders to the effect that they should remain confined under detention.

"SO ORDERED.[4]

The prosecution's version of the incident was anchored mainly on the testimony of the victim, 16 year old Geraldine Camacho. She recalled that on September 19, 1987, she was at the Roosevelt College in Marikina taking a dry-run examination preparatory to the National College Entrance Examination (NCEE). Geraldine left the compound at about 12:45 in the afternoon and waited for a jeepney ride at the corner of Sta. Teresita Village along J.P. Rizal Street, Lamuan, Marikina. The six accused then approached her. One of the accused poked a knife at her left side while another poked an ice pick at the right side of her body. The four others surrounded her, two in front and two behind her. Thereafter, Geraldine was led towards Sta. Teresita Chapel where a black car was waiting. Upon reaching the chapel, Geraldine was pushed inside the car and was blindfolded. Four of the accused boarded the car. Geraldine was later brought to a house after about an hour of travel. She was led inside a room where her hands and feet were tied to a chair. A few minutes later, she heard another car arrive and canned goods and alcoholic beverages being opened. Shortly, the accused went inside the room, untied her and forced her to lie down. Thereupon, Geraldine was made to smell a substance which made her drowsy. She felt that someone mounted her and had carnal knowledge of her for about 30 minutes, after which three more of the accused followed, one after the other for about the same duration as the first. At around 7 o'clock in the morning the following day, Geraldine was awakened by the noise of bottles being broken outside. Hungry and feeling pain in her groin and private part, she found herself still blindfolded and tied to the chair with her clothes and shoes already on. Moments later, the accused entered the room and repeatedly asked her if she knew the fraternity "Hard Core." Whenever she denied having knowledge about said fraternity, the accused would punch her on the different parts of her body.

Subsequently, Geraldine was untied, brought outside the house and made to board a car together with four of the accused. She was later dropped at the NGI Public Market in Marikina where her blindfold was removed. She was threatened not to tell what happened to her otherwise she and her parents will be killed.

Geraldine boarded a tricycle and went to her grandmother's house in Parang, Marikina and ate breakfast. Later, her mother arrived but did not talk to her for she was mad at her for not going home that night. In the afternoon, she was brought home by her mother. Fearful that her parents would get angry, Geraldine lied that she attended a class reunion when asked where she went the previous night. Not believing her story, her parents went to her school the next day to verify her story and were told by her classmate that there was no class reunion. Geraldine finally revealed the incident to her parents.

On September 22, 1987, Geraldine and her parents went to the Marikina Police Station to report the incident. She was referred to the PC Crime Laboratory at Camp Crame, Quezon City for physical examination. The examination conducted by Dr. Desiderio A. Moraleda revealed that Geraldine suffered hematoma on the left breast and her internal sex organ showed a healing shallow laceration of the hymen at 3 and 9 o'clock. The external vaginal orifice offers strong resistance to the introduction of the examining index finger and virgin-sized vaginal speculum.[5]

After submission of the above-stated medical examination report to the Marikina police, an investigation was conducted by Pat. Jota. Through the help of one Marites Quasay, they were able to trace the whereabouts and identity of one of the appellants, Romano Vidal. During the interrogation, Romano Vidal denied the accusation but named appellant Alexander Padilla. On September 30, 1987, during the investigation, appellant Padilla voluntarily admitted being in the company of appellants Vidal and Ala when they abducted Geraldine but denied

participation in the rape.

On the same day, Geraldine positively identified appellants Vidal, Padilla and Ala in a police line-up after which she executed a sworn statement.[6] Thereafter, the police, together with the appellants and Geraldine, proceeded to Aqua Pool Resort, San Rafael, Montalban where the crime was committed, per appellant Padilla's confession. The appellants re-enacted the crime and the police photographer took pictures thereof. On October 3, 1987, in another police line-up, Geraldine identified the other two accused and thereafter executed a Supplemental Affidavit.[7]

The accused-appellants denied any participation in the crime imputed against them, alleging that they were somewhere else when the crime was committed.

Appellant Romano Vidal claimed that on September 19, 1987 at around 12:30 in the afternoon, he went to the house of appellant Alexander Padilla at Batino St., Project 3, Quezon City to fetch their girlfriends Harlene Baldemero and Maritess Aclad at Quirino High School. When they arrived at the school premises, they did not find their girlfriends. After waiting for about one half hour, appellant Vidal went home but asked appellant Alexander to wait for the girls and to fetch him in his house should the girls arrive. Fifteen minutes after appellant Vidal arrived in his house, appellant Padilla arrived and told him to meet their girlfriends at St. Joseph Church located at the corner of Narra St. and Aurora Boulevard, Project 3, Quezon City. They reached the church at about 3:30 p.m. and met their girlfriends near the office of the priest. Both appellants helped their girlfriends copy their assignments. They left each other's company at 11:30 P.M. Appellant Vidal went home, had supper and slept.

Appellant Glen Ala, on the other hand, narrated that he was playing basketball at the plaza of Rona's Garden, Loyola Heights, Quezon City on September 19, 1987 at around 10 o'clock in the morning. He went home at 12:30 noon, ate his lunch and slept until 3 o'clock p.m. Thereafter, he went to Rona's Garden and assisted in fixing the fence because a public dance will be held there until 5 o'clock. Then he went home to take a bath for the dance. He went back to the plaza to check on the sound system but since it had not arrived, he proceeded to the house of Leonila Batiller where he played chess with the latter's son Bong, until 8:00 p.m. The dance was postponed so he headed back to Batiller's house and played chess till 11 o'clock in the evening, afterwhich, he headed for his home and slept.

Appellant Padilla, other than his voluntary confession, did not present any evidence although he participated in the trial.

Weighing the evidence presented by the prosecution and the defense, the trial court gave credence to the prosecution's version ratiocinating in this wise:

"There is not much ado (sic) to the fact that complainant was, indeed, a victim of multiple rape. Her positive and categorical narration of abduction, detention and rape bears the earmarks of credibility. While there are certain inconsistencies in her testimony, the same refer merely to minor details and do not shaken (sic) her overall credibility. The evidence amply demonstrate that after she was abducted by six (6) men, she was brought to an undisclosed house and there detained. Just prior to the consummation of the rape, she was made to smell a substance which caused her to become dizzy and drowsy until she fall (sic) asleep. Her abusers employed a subtle or sophisticated form of overcoming her resistance by the use of such substance so they were able to consummate their felonious objective. x x x x

But the Court's primary concern centers on whether or not all the accused were really participants in the commission of the crime charged considering that during the police line-up identification, not all of the them were positively identified by the complainant. Besides, as admitted by complainant herself, she had been ravished only four (4) times on that same occasion by different men.

x x x x x x x x

Upon the foregoing factual findings, there can be no doubt about the participation of accused Romano Vidal, Alexander Padilla, Glen Ala and Christopher Cristobal in the crime charged as having been established by sufficient and competent evidence. The first three (3) accused were identified to have brought the victim to the undisclosed house where the rape occurred while the fourth accused was instrumental only as to the abduction of the victim. The latter was never identified as one of those who boarded the car. Concerning accused Henson Salas, while he was positively identified by the victim, his participation in the criminal act was not established beyond reasonable doubt. The oral confession of accused Alexander Padilla is not binding upon him and therefore, hearsay. The same is true with respect to accused Meliton Rayos more so that he was not positively identified by the complainant as one of the perpetrators of the act. Thus, there was no conspiracy.

The Court notes that the extra-judicial confession of accused Alexander Padilla was taken without the advice of counsel. Even granting that said accused waived his right to counsel, the same was never made in writing and with the assistance of counsel and, therefore, the waiver is not valid. However, even if the Court rejects the admissibility of said confession, accused Alexander Padilla is not absolved from criminal responsibility because there is still much from the prosecution evidence which sustains his conviction of the crime charged.

The alibi and denial interposed by accused Romano Vidal, Alexander Padilla, Glen Ala and Christopher Cristobal even if supported by their relatives, friends and neighbors cannot prevail over their positive identification by the victim as perpetrators of the crime. It is well-settled rule that alibi is a weak defense for it is easy to concoct but hard to disprove. For the defense of alibi to prosper, it is not enough to prove that the accused was somewhere else when the crime was committed, he must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime during its commission.

In the case at bar, the place of Montalban where the crime was committed is just a few kilometers from Quezon City or Marikina where the aforementioned accused reside and the same could be traversed in less than an hour and therefore, the possibility of their being at the crime scene is beyond question."^[8]

The case was certified to this Court which required the parties to submit their respective briefs. Accused-appellant Glen Ala filed his brief on May 3, 1990 assigning the following errors:

- The court a quo erred in giving credence to the lone and highly incredible testimony of complainant Geraldine Camacho that the accused was one of those who kidnapped and raped her on September 19, 1987 based on serious inconsistencies, uncertainties and improbabilities in her testimony.
- The court erred in completely disregarding the credible testimony of disinterested defense witnesses spouses Federico and Erlinda Magayon.
- The court erred in convicting the accused of the crime charged despite failure of the prosecution to prove his guilt beyond reasonable doubt.

Accused-appellants Romano Vidal and Alexander Padilla filed their brief on April 6, 1995 averring that:

"The trial court erred in giving credence to the testimony of the complaining witness, Geraldine Camacho, despite the inconsistencies, improbabilities and contradictions that riddled her testimonies which seriously eroded her credibility."

Reduced to bare essentials, the only issue to be resolved is one of credibility. In reviewing the findings of trial courts respecting credibility of witnesses, we have, in a plethora of cases, accorded great weight and respect to the conclusions reached by the court below which had the opportunity to observe closely in the first instance the demeanor of the witnesses presented before it.^[9] The only exception is when the trial court overlooked or misunderstood significant contrarities in the testimony of witnesses which if considered would materially affect

the result of the conviction.[10]

The case at bar falls under the recognized exception.

In her testimony, complainant Geraldine Camacho narrated that while she was waiting for a ride at the Sta. Teresita, Lamuan, six men approached and surrounded her. Two men were in front, two were at the back while the two were at her side. The men on her side poked a knife and an ice pick.[11] When asked if she recognized the men who poked a knife, complainant answered in the affirmative.[12] However, upon questioning by the court, complainant recanted by saying that she recognized only one of the two men and pointed at accused Christopher Cristobal.[13]

The discrepant testimony of Geraldine is elucidated, thus:

"Q

Miss Camacho, on April 28, 1988 when you testified before this Honorable Court, you were asked this question and which I quote and which appears on page 11 of the transcript of the stenographic notes, 'How many poked a knife on you?' And your answer was 'Two, sir.' Question, 'who were this (sic) two?' Answer, 'I don't know them.' Do you still remember having asked those questions and had given those answers?

A Yes, sir.

Q

When you said 'I don't know them.', do I understand from you that you do not know the identity of these two persons who poked a knife at you either by their named and faces?

A

I do not know their names but I came to know them through their faces when they poked a knife at me, sir.

Q So, you are now sure that you know them by faces. Is that correct?

A Yes, sir.

Q

Again, I would like to invite your attention on the same date of hearing wherein upon questioning of this Honorable Court which appears on page 13 of the same stenographic notes, this Honorable Court asked you and the question runs this way 'You testified earlier that two men poked something at you?' And your answer was 'Yes, Your Honor.' Question 'Do you know this two?' Answer, 'Only one, Your Honor. I cannot remember the other one.' Awhile ago you said that you know the two by their faces and yet when you were asked by this Honorable Court, you said you only knew one and not the two of them?

A Yes, sir. In name only, sir. But the other one I do not know the name of the other one.

Q But did you not say awhile ago that you do not know these two persons by their names but you knew them by faces?

A Yes, sir. I do not know their names but I know them through their faces, sir.

Q Are you now sure that you know them by their faces?

A Yes, sir.

Q The two of them?

A No sir, I do not know the face of the other one.

Q So, it is not true that you know the two persons by their faces?

A No, sir. I know the other one through his face.

COURT:

Q Who is he?

A He is not around, Your Honor.

INTERPRETER:

Cristobal is not in Court, Your Honor. All the other five accused are present.

Q The one you know by face is not in Court?

A Yes, Your Honor.

Q Subsequently, did you know the other one either by his name or by his face at this point in time?

A No, Your Honor."^[14] (Underscoring Ours)

Complainant positively identified accused Christopher Cristobal as one of the two men who jabbed a knife. Yet, when further questioned by the defense's counsel, she pointed at accused-appellant Glen Ala as the one who poked a knife at her, thus:

"Q Now, would you also say that the two men who were at your back rode in the car going to Montalban?

A No, sir.

Q How about the two men who poked the ice-pick to your right side and the knife wielder to your left side, did

these two men ride in the car that brought you to Montalban?

A

Only one of them, sir.

Q And who among these two men, was it the knife wielder or the ice pick wielder who rode in that car that brought you to Montalban?

A Could I point to him now?

COURT: Go down and tap his shoulder.

Interpreter:

Witness going down the witness stand then tapping the shoulder of a person who identified himself as Glen Ala, one of the accused in this case. It is noted that witness identified the said accused by striking the shoulder of the said witness with extra force."[15] (Underscoring Ours)

Again, complainant substantially deviated and contradicted her earlier statement when she unequivocally stated that appellant Glen Ala was not one of the knife wielders:

"Q

Miss Camacho, on April 28, 1988, you testified earlier that two men poked something at you and your answer was `Yes, Your Honor.'. Do you still remember that?

A Yes, sir.

Q

Another question was asked of you by the Court `Do you know these two?' And your answer was `Only one, Your Honor. I cannot remember the other one.' Next question, `You go down the witness stand and point to him' Then, followed by the manifestation of the Interpreter `Witness going down the witness stand and pointing to a person identifying himself as Christopher Cristobal, one of the accused in this case.' So, Miss Camacho, what you did earlier is not true. Isn't it?

Witness:

Which is not true, sir?

Atty. Farcon:

When you imputed to Glen Ala as one of the knife wielder. Because on April 28, 1988 before this Court, you

only identified Christopher Cristobal notwithstanding the fact that Glen Ala was also present in Court in April 28, 1988.

Court:

Witness may answer the question.

A

What was asked this morning was if he was one of those who boarded the vehicle so I identified him who boarded the vehicle."[16]

If complainant was so positive that one of the knife wielders boarded the vehicle, pointing to appellant Ala, why did she insist that she only recognized one of the two men who jabbed a knife at her?

Still on another point, complainant's identification of the other abductors in like manner is indistinct. In her testimony of February 10, 1988, complainant narrated that after her abductors removed her blindfold at the NGI Market, somebody opened the door of the car for her. When asked who opened the door, she said she could not recognize him because the sun was glaring.[17] However, when asked the same question on May 17, 1988, she identified accused-appellant Glen Ala explaining that the glare of the sun's rays were not hitting her eyes because her head was bent and she was looking back at them. She said:

"Q According to you when the car reached the NGI market where you were made to alight, will you tell the Court where was your blindfold removed. Was it after or you were already alighted from the car?

A I have not alighted yet from the car. The door was opened. I was facing the door when they removed my blindfold, sir?

Q You were the one who opened the door before you alighted?

A No, Sir.

Q Who opened the door for you?

A I do not know the name, sir.

Q But you know the face?

A Yes, sir.

Q Will you look among these people inside?

A He is there.

Interpreter:

Witness pointing a person who answered in the name of Glen Ala, one of the accused in this case.

Q

When you testified on February 10, 1988 you were asked also who opened the door for you and you said you could not recognize him because of the glare of the sun. Now you tell the Court and point to Glen Ala. When did you come to know it was Glen Ala who opened the door for you?

A When he entered the car, sir.

Q And the glare of the sun's rays was hitting your eyes?

A My head was bend and I was looking back at them, sir.

Q

I read to you the transcript of the hearing of February 10, 1988 page 13 and I quote: Q: Could you look at the courtroom and tell us now if you can see the person who opened the door? A: I was not able to recognize who was the one because the sun was glaring, sir." Do you remember having asked that question and gave the same answer?

A

Because when that question was first asked to me I was not able to recall exactly what happened but when I interviewed the incident this hearing I was able to recall, sir." [18]

The obvious contradictions in the complainant's testimony are further shown when she was asked about the manner she was raped. Complainant narrated that she was brought to a room, still blindfolded, where she was tied to a bench (which she later said to be rattan chair). The accused entered the room, untied her, made her smell a substance which made her dizzy. She was ordered to lie down on the floor and it was in that position that the accused undressed her. Few minutes later, she fell asleep and did not know what had happened the whole night. [19] She woke up at seven o'clock the following morning and felt hungry and pain in her private parts. [20]

Again, on further questioning by the defense's counsel, complainant controverted her previous statement asserting that after she was made to smell something, she remained conscious [21] and even described in detail how the accused molested her. [22] Not only that, complainant's testimony in court also substantially repudiated material points in her "Sinumpaang Salaysay" given before the Marikina Police Station.

In her sworn statement dated October 3, 1987 complainant explicitly asserted that Christopher Cristobal and Henson Salas were the two men who poked a knife and an ice pick at her, materially deviating from her earlier statements in court. Hence, in questions and answers nos. 6, 7 and 8, complainant stated:

"06.T: Kung gayon igala mo ang iyong paningin sa loob ng tanggapang ito at ituro mo kung sino ang mga lalaking ito na nakahanay sa walong iba pang kalalakihan?

S: Siya po ang isa (Affiant pointing to a male person who when asked gave his name as Christopher Cristobal y Masaganda, 16 years old, student, native of Quezon and residing at No. 17 Lopez Jaena St., Jesus dela Peña, Marikina, Metro Manila) at ito pa po ang isa (Affiant pointing to another man who when asked gave his name as Henson Salas y Calderon 16 years old, native and residing at No. 81 Lopez Jaena St., J. dela Peña, Marikina,

Metro Manila, who were among persons of Mario Roca, Arturo Mirabuena, Ramon Jacinto, Edurardo Sanchez, Anthony Nene, Francisco Delos Reyes, all detainees of Marikina Municipal Jail with the participation of two other persons namely; Levi Luna of Project 3, Quezon City and Cirilo Mahusay of No. 12 BB Ave. Concepcion, Marikina, MM)

07.T: Ano ang naging partisipasyon ng dalawang lalaking ito na iyong itinuro?

S: Silang dalawa ang tumutok sa akin na kasama ang apat na iba pa.

08.T: Kailan at saan ba itong sinasabi mo na tinutukan ka ng nasabing dalawang lalaking ito?

S: Noon pong humigit kumulang sa ka 12:45 ng tanghali Septiembre 19, 1987 doon sa J.P. Rizal St. Lamman, tapat ng Sta. Teresita Village, Marikina, Metro Manila."[23] (Underscoring Ours)

Complainant also stated in her sworn statement dated September 30, 1987 that she immediately reported the incident to her parents.[24] In her testimony however, complainant maintained that she told the incident on September 21, 1987 because she was afraid of her mother.[25]

Again, in her sworn statement of October 3, 1987, complainant claimed that the six (6) accused were in the car when they brought her to the NGI Market in Parang, Marikina, which contradicted her testimony that there were only four men in the car when she was brought to that place.

While courts generally brush aside inconsequential contradictions between declarations of the affiant in his sworn statements and those in court, the rule is otherwise where the discrepancies touch on substantial and irreconcilable facts such those omissions in the affidavit concerning important details which the affiant would not have failed to mention and which omission could well affect the credibility of that affiant.[26]

We cannot understand why the trial court failed to entertain serious misgivings about the patently inconsistent and contradictory testimony of the complainant. True, Geraldine appeared clear and straightforward on direct examination, where questions and answers could be prepared and rehearsed beforehand. But she was a different witness when the court and the defense counsels took over the questioning. Her testimony was obviously not as clear and straightforward, as the trial court would want us to believe. Geraldine's overall demeanor, the serious gaps in her testimony, the uncertainties in identifying the accused during the testimony, her fickleness in answering the questions hardly give the kind of credence to her supposed "positive-testimony" which would warrant a conviction based on the quantum of evidence required by our penal laws.[27]

In crimes against chastity, the testimony of the offended party should not be received with precipitate credulity. The exacting standard of proof beyond reasonable doubt acquires more relevance in rape because such charges are fairly easy to make but difficult to establish, and harder still to defend by the accused party, who may be innocent.[28]

While it is true that accused-appellants' defense of alibi is weak, the same being easy to fabricate,[29] such defense assumed importance and became crucial in negating their criminal liability, especially because the prosecution's evidence is "frail and effete"[30] and thus failed to prove beyond reasonable doubt the identity of the persons who committed the crime.[31]

Alibi should be considered in the light of all the evidence on record for it can tilt the scales of justice in favor of the accused. Stated differently, "when an accused puts up the defense of alibi, the courts should not at once have a mental prejudice against him. For, taken in the light of all the evidence on record, it may be sufficient to acquit him." [32] It is a hornbook precept that the evidence for the prosecution must stand or fall on its own merit and cannot be allowed to draw strength from the weakness of the defense's evidence.[33]

While it may be true that one of the accused gave a confession, this confession should not be made the basis of the conviction. For one, appellant Padilla's admission was obtained in total disregard of his rights as guaranteed by paragraph (1), Section 12, Article III of the 1987 Constitution, which provides:

"SEC. 12.(1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel."

It is true that appellant Padilla was informed of his right to remain silent and to counsel, his confession was nonetheless taken without the advice of his counsel. Even if he did waive it, no written waiver, executed in the presence of counsel, was offered in evidence. Consequently, appellants' alleged admission of the crime is inadmissible in evidence[34] pursuant to paragraph 3, Section 12, Article III of the Constitution.[35]

The right to counsel has been constitutionalized to curb duress and other undue influence in extracting confessions from a suspect in a crime. In accordance with the provisions of Sec. 12(1) of the 1987 Constitution, a waiver of the right to counsel must be in writing and executed in the presence of counsel. Indeed, any waiver of the right to counsel without the assistance of counsel has no evidentiary value.[36]

Moreover, accused Padilla's allegation that the crime was committed at the Aqua Pool Resort in Montalban, Rizal is of doubtful veracity. The testimony of Federico Magayon, corroborated by his wife Erlinda Magayon, undisputably show that the crime could not have taken place in the said resort. The sketch of the resort and the pictures[37]taken reveal that to enter the abandoned resort, one must pass through a small gate. To go to the abandoned bungalow where the crime was allegedly committed, one must pass through the caretaker's house. Defense witness Federico Magayon, thus said:

"Q - Will you please take your time, Mr. Magayon and examine this sketch and tell before this Court if this is the fix place in which you were living as you said?

"A - This is my house, sir (witness referring to a portion of the sketch with the written word, Administration Office Toll gate).

x x x x x x x x

"Q - In this sketch, there appears a gate, is this correct?

"A - Yes, sir.

x x x x x x x x

"Q - Mr. Magayon, how wide is this gate?

"A - It's just a small gate, it's good for two persons to pass there.

"Q - How about the line appearing parallel to the gate, what line is this?

"A - It's a fence, sir.

x x x x x x x x

"Q - How tall is this fence?

"A - It's quite tall, sir.

"Q - Mr. Magayon, this drawing appearing in this sketch, what is this?

"A - A resthouse, sir.

x x x x x x x x

"Q -

Mr. Magayon, in reaching this resthouse identified as Exhibit 3-, can you reach this without passing the gate, the front gate?

"A -

No, sir, we have to pass this gate to reach that Exhibit 3-E.

"Q - There is no other way in reaching this resthouse except thru this gate?

"A - Yes, sir.

"Q - The gate which you have identified as Exh. 3-B, can a car pass thru this?

"A - No, sir.

"Q - You are sure of that?

"A - Yes, sir.

"Q - Alright, Mr. Witness, on September 19, 1987, between 1:30 or 2:00 in the afternoon, where were you?

"A - I was at home, sir.

"Q - Were you alone at that time?

"A - There were several of us including the basket makers, sir.

"Q - You said that your wife was living with you?

"A - Yes, sir.

X X X X X X X X

"Q -

On that September 19, 1987 as you said at around 2:00 in the afternoon you and the other basket-makers numbering seven were outside the house of yours, do you recall having seen any car parked outside this house of yours?

"A - None, sir.

"Q - Not even a black car?

"A - None, sir.

"Q - How about at least six persons of younger age and a lady or a girl?

"A - None, sir.

"Q - From what time to what time did you work or did you stay in that position of yours in that house of yours, outside your house?

"A - Until about 5:00 o'clock, sir.

"Q - How about your other companion, as you stated earlier, how long did they stay there?

"A - Others went home, others, slept, sir.

X X X X X X X X

"Q -

Between 5:00 o'clock when you stopped working up to 8:00 o'clock in the evening, when you said your wife and you slept, did you notice any person that went inside that place of yours?

"A - None, sir, because the gate was close, sir.

"Q - When you said that it is close, do I understand that it was closed or locked?

"A - It's just closed with a lock or something to lock it, a hole.

x x x x x x x x

"Q - Alright, how about on September 20, 1987, what time did you wake up?

"A - 5:00 o'clock, sir.

"Q - In the morning?

"A - Yes, sir.

x x x x x x x x

"Q - Did you see any other person other than your wife and those living with you inside this place?

"A - My worker, sir.

x x x x x x x x

"Q - Aside from your workers, is there any other person like teenagers at least six persons and a girl?

"A - None, sir."[38]

We sympathize with the complainant who was undoubtedly ravished by four (4) men. But we can not sustain the trial court's decision that the accused-appellants were indeed the perpetrators of the crime. It is only when the conscience is satisfied that the crime has been committed by the person in trial that the judgment be for conviction. For only when there is proof beyond the shadow of doubt can we be certain beyond doubt that only those responsible should be made answerable.

WHEREFORE, the decision of the Regional Trial Court of Pasig, Branch 56 is hereby REVERSED and SET ASIDE. The accused-appellants Romano Vidal y Daniel, Glen Ala y Rodriguez and Alexander Padilla y Lazatin are ACQUITTED, on grounds of reasonable doubt, of the crime charged and ordered released from prison unless they are being held for some other lawful cause. The Director of Prisons is DIRECTED to implement this Decision and to report to this Court immediately the action taken hereon within five (5) days from receipt hereof.

SO ORDERED.

Bellosillo, (Chairman), Puno, Mendoza, and Quisumbing, JJ., concur.

[1] Commentaries on the Law of England, Book 4, 27 cited in *People v. Ortiz*, 266 SCRA. 644 [1997].

[2] Record, pp. 4-5.

[3] Record, pp. 595-617

[4] Rollo pp. 136-137.

[5] Exhibit "A", p. 184, Record.

[6] Exhibit "B", pp. 416-417, Id.

[7] Exhibit "C", pp. 418-419, Id.

[8] RTC Decision, pp. 17-20.

[9] *People v. Peralta*, 283 SSCRA 81 [1997]; *People v. Oliva*, 282 SCRA 470 [1997]; *People v. Dado*, 314 Phil. 635 (1995); *People v. Tan, Jr.*, 264 SCRA 425 [1996].

[10] *People v. Arellano*, 282 SCRA 500 [1997]; *People v. Teodoro*, 280 SCRA 384 [1997]; *Caca v. CA*, 275 SCRA 123 [1997]; *People vs. Perez*, 263 SCRA 212-213 [1996]; *People v. Letigio*, 268 SCRA 227 [1997]; *People vs. Lua*, 256 SCRA 540, 546 [1996]; *Olondriz, Jr. vs. People*, 152 SCRA 65, 73 [1987]; *People vs. Demecillo*, 186 SCRA 161 [1990]; *People vs. Abonada*, 169 SCRA 530 [1989].

[11] TSN, June 1, 1988, pp. 5-6.

[12] TSN, April 28, 1988, p. 11.

[13] Id., p. 13

[14] TSN, pp. 1-4, September 13, 1988.

[15] TSN, September 12, 1988, p. 16.

[16] TSN, September 13, 1988, p. 21.

[17] TSN, February 11, 1988, pp. 12-13

"Q Could you look at the court room and tell us now if you can see the person who opened the door?

A I was not able to recognize who was the one because the sun was glaring, sir.

Q Would you be able to tell after they removed your blindfold, would you tell us now who was inside the car?

A No, sir."

[18] TSN, pp. 13-15.

[19] TSN, December 10, 1987, pp. 31-38.

"ATTY. CUNANAN:

Q After making you smell something that made you dizzy, could you tell the Honorable Court what else did they do afterwards?

A Hinubaran ako.

Q After they undressed you Miss Camacho, what else did they do if any?

x x x x x x x x

A Nakatulog na po ako.

Q Do you recall how long were you asleep?

A No, sir.

Q And will you be able to tell us what time did you awake?

A 7:00 in the morning, sir."

[20] TSN, May 17, 1988, p. 9.

"Q That morning also, is it not true as you stated in another statement you made that the accused here took turns in raping you during the whole evening because you were past (sic) asleep?

A I felt it because the following morning when I woke up my private parts were painful, sir.

Q But during the time you were abused you did not feel that because you were past (sic) asleep?

A No answer from the witness."

[21] TSN, March 22, 1988, pp. 25-26.

[22] TSN, May 24, 1988, pp. 16-17.

[23] Exhibit "C", p. 418, Record.

[24] Exhibit "B", p. 417, Id.

"T. Ano ang ginawa mo ng ikaw ay pakawalan ng mga taong ito?

S. Sumakay po ako ng tricycle at nagpunta ako sa bahay ng lola ko sa Lot 34, Blk 3, Divinagrancia St., St. Mary Subd., Parang, Marikina, Metro Manila at ng hapon na mga bandang alas singko ay umuwi ako sa bahay na namin at nagtapat na ako agad sa aking magulang." (Underscoring Ours)

[25] TSN, March 22, 1988, p. 12.

[26] People vs. Perez, 263 SCRA 206-207 [1996].

[27] People vs. Cartuano, Jr. 255 SCRA 404 [1996].

[28] People vs. Graza, 196 SCRA 512 [1991]; People vs. Dulay, 217 SCRA 132 [1993].

[29] People v. Castro, 282 SCRA 212; People v. Agunias, 279 SCRA 52; People v. Pontillar, Jr., 275 SCRA 338; People vs. Quiamco, 268 SCRA 516; People vs. Omrog, 268 SCRA 93.

[30] People v. de la Cruz, 279 SCRA 245.

[31] People v. Manambit, 271 SCRA 244.

[32] People vs. Abellanosa, 264 SCRA 725 [1996].

[33] People vs. Subido, 253 SCRA 196 [1996]; See also People v. Paloma, 279 SCRA 352.

[34] *People vs. De la Cruz*, 224 SCRA 509-510 [1993]; *People vs. Bolanos*, 211 SCRA 262 [1992]; *People vs. Salcedo*, 273 SCRA 473 [1997]; *People vs. Bonola*, 274 SCRA 238 [1997].

[35] "(3) Any confession or admission obtained in violation of this or the preceding section shall be inadmissible in evidence against him."

[36] *People vs. Gerolaga*, 263 SCRA 145 [1996].

[37] Exhibits "G", "G-1," "G-2," & "G-3;" p. 425, Record.

[38] TSN, July 17, 1989, pp. 4-7.

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