

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ISABELO GUIBAO, ACCUSED-APPELLANT.

G.R. No. 93517. January 15, 1993

Ponente: REGALADO, J.

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REGALADO, J.:

Rape is universally condemned as a detestable crime, a desecration of the right of privacy, and an assault on human dignity. Verily, as has been said, no legal system worthy of its name can afford to ignore the traumatic consequences for the unfortunate victim, the disgrace to the victim's family, and the grievous violation of the peace and order of a civilized community.

More abominable is the verity of such consequences of the crime where the victim is a young girl in whose eyes are still mirrored the innocence and continence of youth. Neither the healing balm of time nor the merciful dimming of memory can ever fully banish the fact of her degradation or terminably spare her from the haunting recollection of the bestial acts committed against her chastity. We have here one such tragic case.

Assisted by her mother, six-year old Lindy G. Escalante filed an "information," docketed as Criminal Case No. 2188[1] in the Regional Trial Court of Surigao del Norte, Branch 28, on January 2, 1986, wherein appellant Isabelo Gibao was charged with the crime of rape committed against the complainant on November 5, 1985 in Barangay Hanigad, Surigao City. Appellant pleaded not guilty when arraigned on April 11, 1986.[2]

After trial on the merits, the court a quo rendered judgment on June 14, 1989 disposing as follows:

"WHEREFORE, the Court holds that the accused committed the crime of rape under par. 3 of Article 335 of the Revised Penal Code beyond reasonable doubt and hereby sentences him to a penalty of reclusion perpetua. He is further sentenced to indemnify Lindy Escalante and her parents (in) the sum of P2,000.00 as actual damage(s) and moral damages in the sum of P25,000.00. Atty. Rolando G. Calang as counsel de-oficio is hereby awarded the sum of P500.00 as his fees for handling the defense of the accused."[3]

The record shows that the offended party, Lindy Escalante, who was born on July 16, 1979,[4] was then living with her parents at Hanigad, Surigao City[5] when the alleged rape was committed. In the early morning of November 5, 1985, the parents of the victim, Edgardo and Rosalina Escalante went to work at Barangay Cantiasay, Surigao City. Lindy, together with her sister and brothers, were left under the care of Rosalina's younger sister who was living with them.[6]

Being a playful young girl, Lindy on that fateful morning, went out of the house while Mrs. Escalante's sister was still asleep. Lindy testified that she was playing "hide and seek" with three other playmates.[7]

Appellant Guibao, who was residing one house away from the Escalantes[8] at the house of Simfroso or "Proso" Guibao, called Lindy and offered her something to eat. Believing what appellant told her, Lindy innocently accepted Isabelo's invitation and went to his house[9] like a prey enticed into the claws of her predator.

The victim, with the simplicity, spontaneity and candidness of innocence, recounted her ordeal in the hands of

appellant as follows:

"FISCAL MENOR:

q

You said that you are Lindy Escalante. Do you know the accused Isabelo Gibao?

LINDY ESCALANTE:

a

I know.

q

Why do you know him?

a

Because he has a scarce (sic) here. (Witness is pointing to her lower lips.)

x x x

FISCAL MENOR:

Lindy, do you remember that this Isabelo Gibao had done something against you in the year 1985?

a

Yes sir, I remember.

q

And what did this Isabelo Gibao do to you?

a

He inserted a hairy piece of wood.

q

Where was it inserted?

a

In my vagina.

q

When Isabelo Gibao inserted that hairy piece of wood, you felt the pain, is that correct?

a

Yes, sir, it was painful.

q

You felt the pain because your vagina was injured as a result of that insertion of a hairy piece of wood?

a

Yes, sir.

q

And because your vagina was injured there was plenty of blood that came out?

a

Yes sir, there were (sic) plenty of blood.

q

Immediately before Isabelo Gibao the accused in this case inserted that hairy piece of wood into your vagina, what did you do if any?

a

He took off his clothes.

q

When you said he took off his clothes, you mean to say that Isabelo Gibao took off his trousers?

a

Yes, sir.

x x x

q

When Isabelo Gibao inserted that hairy piece of wood or wood with hair he was embracing you, is that correct?

a

Yes, sir.

q

And he was pushing you up and down?

a

Yes, sir.

q

Now, can you identify a penis of a man or a boy?

a

Yes, sir.

q

That hairy piece of wood or wood with hair, was that a penis?

a

Yes, sir."[10]

Lindy further testified that she was not able to shout when appellant inserted his penis into her vagina because the

appellant was covering her mouth.[11] In open court, she identified appellant as the one who raped her.[12] She likewise identified Guibao as the one who raped her from a line-up at the Philippine Constabulary barracks during the investigation of the case.[13]

Another witness for the prosecution, Alfonsa Gulfo, grandmother of the victim, testified that at about 10:00 A.M. on November 5, 1985, the elder brother of Lindy came asking her to help his sister Lindy because the latter was bleeding. Mrs. Gulfo noticed drops of blood on the stairs leading to the house. Inside, she saw Lindy's vagina oozing blood. When asked by Mrs. Gulfo what happened to her, Lindy said she was "stabbed by the man living in the house of Proso with a black piece of wood with hairs (sic)." Mrs. Gulfo immediately went to Barangay Cantiasay to fetch Lindy's mother.[14]

Upon reaching their house, Mrs. Escalante likewise saw drops of blood along the stairway. She found her daughter lying down and discovered where the blood came from. The teary-eyed mother asked her child what happened to her and Lindy told her that "she was pushed by a black hairy wood." Thereafter, Mrs. Escalante called for her husband to help her bring Lindy to the provincial hospital because the bleeding did not stop.[15] Dr. Erlinda P. Lago, the resident physician of Surigao Provincial Hospital who examined Lindy, told the patient's worried mother, that "it is not an ordinary wood that stuck (sic) to her vagina," but that it was a penis of a man because the vagina was already deformed.[16]

Dr. Lago conducted an external judilatric examination and vaginal speculum[17] on the victim, after which she issued a medical certificate,[18] dated November 7, 1985, which states the following:

"P.E. Findings:

- 1.Contusion, lower part labia majora, right side
- 2.Superficial laceration fourchette of the vagina
- 3.Lacerated hymenal opening lower part right lateral and middle part left lateral with blood coming out."

Dr. Lago further declared that the victim was admitted and confined in the hospital; that during her confinement a vaginal smear was again taken and a laboratory examination involving gram staining vaginal smear was conducted; that it was found out from the stained smear that it was positive for spermatozoa; and that her findings as testified to by her are recorded in the medico-legal laboratory book of the provincial hospital.[19]

Appellant Isabelo Guibao, on the other hand, denied having raped Lindy Escalante. The defense version of the incident, as summarized by the trial court in its decision, is as follows:

"The defense of the accused is flatly a denial and not an alibi because at the time of the incident on November 5, 1985 said accused was in the house of his uncle Simfroso Digao (sic) in Barangay Hanigad, Surigao City, alone as his uncle was out sawing lumber, which house of Simfroso is just located near the house of the parents of Lindy Escalante; accused admitted and declared that he was in the house of his uncle on November 5, 1985, the whole day from morning and that he was (sic) just three (3) days in Hanigad before the incident as he was taken by his uncle to live with him; that he was formerly residing at Claver Surigao del Norte; that he does not know the child Lindy Escalante and neither did he see her on November 5, 1985; that he does not know her mother Rosalinda G. Escalante and Alfonsa Gulfo and that he came to know them only during the trial in Court." [20]

Rebuffed by the court below, appellant now comes before us, strenuously assailing the lower court's decision for not giving credence to the testimonial evidence of the defense and convicting him of the crime charged. He would have the Court believe that the injury sustained by the rape victim was due to a fall while she was playing that morning of November, 1985.[21]

We have examined the records of this case with great care and find no reason to disturb the findings of the lower court based upon the documentary evidence presented and its evaluation of the credibility of the witnesses for the parties.

The testimony of appellant consists merely of denials without any other evidence to sustain his claim and defense. We have consistently ruled that denials if unsubstantiated by clear and convincing evidence are negative, self-serving evidence which deserve no weight in law and can not be given greater evidentiary weight over the testimony of credible witnesses who testify on affirmative matters. As between the positive declarations of the prosecution witness and negative statements of the accused, the former deserves more credence.[22]

Contrarily, the testimony of complainant and her comportment while testifying in court negate any doubt that she was telling the absolute truth. It would be highly improbable for a barrio girl of tender age and definitely inexperienced in sexual matters to fabricate charges, for no reason at all, that will put herself and her family in a very compromising situation which could even invite reprisal.

The trial judge's assessment of the credibility of the witnesses' testimonies is accorded great respect on appeal.[23] Appellate courts will generally not disturb the factual findings of the trial court since the latter are in a better position to weigh conflicting testimonies, having heard the witnesses themselves and observed their deportment and manner of testifying, unless it is found that the trial courts have overlooked certain facts of substance and value that, if considered, might affect the result of the case.[24]

As explained by the court below, "(t)he Court had observed that the complainant is a small girl so innocent about sex. Hence, she may call the penis of the accused as a piece of wood with black hair. Her testimony was straightforward, spontaneous and natural. There was sincerity and candor when she related in Court the horrible ordeal she underwent in the hands of the accused." [25]

In the case of *People vs. Derpo* [26] which similarly involved the rape of a young girl, we held that "(n)o woman, especially of tender age, would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being subjected to a public trial, if she was not motivated solely by the desire to have the culprit apprehended and punished."

The victim's testimony, together with her mother's, and which were further corroborated by the result of the medical examination, greatly strengthens the People's case.[27] Further, testimonies of rape victims who are young and immature are credible. The revelation of an innocent child whose chastity was abused by the appellant deserves full credence.[28] This is especially true where the victim had no motive to testify against the accused.[29]

In statutory rape, the crime is not negated by the young victim's failure to give a detailed account on how she was abused, her denial that she conferred with a lawyer and her admission that she did not shout or cry. These are too inconsequential to traverse the fact of commission of the statutory crime of rape. Instead, the testimony of the victim actually shows the naivete and sincerity of childhood.[30]

Pursuing its theory earlier adverted to, the defense presented one Charlita Luna, a barangay health worker who did not even have formal schooling in health care,[31] to testify on the injury sustained by the victim supposedly while playing. This is a badge of desperation, for the defense utterly failed to present any evidence which would show that Lindy's injury was indeed caused by a fall.

The vacillating and improbable testimony of said witness could not, of course, tip the scales of justice in appellant's favor. The prosecution witness, Dr. Lago, who made a thorough and scientific examination on the victim's reproductive organ, testified and explained her findings on the cause of the genital injury in an

authoritative, consistent and clear manner that was not at all dented by the vigorous cross-examination of the defense counsel.

The defense further posits the improbability of rape having been committed, claiming that "(t)he house where the alleged rape was committed is just in front of the house of the victim and there were houses adjacent to its (sic) other. It is really inconceivable for a person to commit a crime, especially a crime of rape to be committed in the house in front of the victim's house at daytime." [32] This is specious argumentation.

We have ruled that it is quite possible for an experienced man to consummate rape in just one minute, without attracting the attention of the people inside the apartment. [33] In several cases, the Court has held that rape can be committed even in places where people congregate: in parks, along the roadside, within school premises, and even inside a house where there are occupants. [34] While the defense would feign incredulity that the crime could take place at daytime in the house of appellant which is just in front of the victim's house, it is not impossible that such brutish act of a depraved man was actually committed there. Lust, it has been repeatedly said, is no respecter of time and place.

Finally, appellant's assertion that "if he committed the alleged crime, he could have left the place after the commission to escape any liability but he was there all the time until he was implicated," [35] is plain sophistry. An accused may not have fled from the scene of the crime, but this is not necessarily indicative of a clear conscience. The crime may have been committed with impunity and the accused may have thought that the victim or his heirs would not complain, or that eyewitnesses will not be able to identify him. [36] Appellant's pretended innocence is clearly non-sequitur to his decision not to flee. Apart from the fact that there is no case law holding that non-flight is a conclusive proof of innocence, the argument does not hold weight in the light of the definite and inarguable identification of appellant. The material factor here is that there is positive identification of him as the author of the crime. [37]

Since no evidence was presented by the prosecution as to actual damages, the lower court's award of P2,000.00 therefor is erroneous and should be deleted. However, this case involves the crime of rape committed against a very young girl who has been further denied thereby of her right to grow up and discover the wonders of womanhood in the normal way. As we have heretofore declared, uncom-promising judicial sanctions should stem the growing tide of paraphilia that seeks the youth for its victims, leaving inevitable traumatic and psychological scars on their young and innocent lives. [38]

ON THESE PREMISES, the judgment appealed from is AFFIRMED with the modification that, under the circumstances of this case, the award for moral damages by way of indemnity to the victim and her family is hereby increased to P50,000.00. [39]

SO ORDERED.

Narvasa, C.J., (Chairman), Feliciano, Nocon, and Campos, Jr., JJ., concur.

[*] In the decision of the trial court in Criminal Case No. 2188 and in some of the transcripts of the stenographic notes of the proceedings therein, the surname of accused-appellant is also spelled "Gibao."

[1] Original Record, 1. This should have been correctly denominated as a complaint.

[2] Ibid., 8.

[3] Ibid., 68; per Judge Antonio E. Apale.

[4] TSN, February 23, 1987, 5-6; Exhibit J.

- [5] Ibid., October 1, 1986, 4.
- [6] Ibid., id., 3-4.
- [7] Ibid., November 3, 1987, 9.
- [8] Ibid., November 16, 1987, 4.
- [9] Ibid., November 3, 1987, 6-7.
- [10] Ibid., id., 3-6.
- [11] Ibid., id., 8.
- [12] Ibid., id., 3.
- [13] Ibid., October 1, 1986, 9.
- [14] Ibid., November 16, 1987, 4-7.
- [15] Ibid., October 1, 1986, 6.
- [16] Ibid., id., 7-8.
- [17] Ibid., June 27, 1986, 6-7.
- [18] Exhibit F.
- [19] Ibid., June 27, 1986, 9-11; July 2, 1986, 2-3; Exhs. G, G-1, and G-2.
- [20] Original Record, 65-66.
- [21] Accused-Appellant's Brief, 2-3; Rollo, 34.
- [22] U.S. vs. Bueno, 41 Phil. 447 (1921); People vs. Marti, 193 SCRA 57 (1991); People vs. Song, et al., 204 SCRA 135 (1991).
- [23] People vs. Gerones, 193 SCRA 263 (1991); People vs. Natan, 193 SCRA 355 (1991); People vs. Tongson, 194 SCRA 257 (1991).
- [24] People vs. Alburo, 184 SCRA 655 (1990); People vs. Tismo, 204 SCRA 535 (1991).
- [25] Original Record, 66-67.

[26] 168 SCRA 447 (1988).

- [27] People vs. San Buenaventura, 164 SCRA 150 (1989).
- [28] People vs. Bruca, 179 SCRA 64 (1989); People vs. Salita, 179 SCRA 438 (1989).
- [29] People vs. Natan, supra; People vs. Cabilao, G.R. No. 62999, June 25, 1992.
- [30] People vs. David, 177 SCRA 551 (1989).
- [31] TSN, March 13, 1989, 5.
- [32] Accused-Appellant's Brief, 5; Rollo, 38.
- [33] People vs. Mangalino, 182 SCRA 329 (1990).

[34] People vs. Viray, 164 SCRA 135 (1988).

[35] Accused-Appellant's Brief, 5; Rollo, 38.

[36] People vs. Songcuan, et. al., 176 SCRA 354 (1989).

[37] People vs. Hangdaan, et. al., 201 SCRA 568 (1991).

[38] People vs. Quidilla, 166 SCRA 778 (1988).

[39] See People vs. Perez, 175 SCRA 203 (1989); People vs. Alegado, 201 SCRA 37 (1991).

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