

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICKY SUETA, ACCUSED-APPELLANT.*G.R. No. 94549. August 09, 1993*

Ponente: REGALADO, J.

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Persistent in his avowals of innocence, accused-appellant Ricky Sueta seeks the reversal of his conviction by Branch 19 of the Regional Trial Court of Roxas City for the crime of rape in Criminal Case No. C-3070 thereof. Deplorably, that conviction also stands as a societal indictment, for the unfortunate victim, Goldie Ruth T. Fuentes, was only five years of age at the time.

The sworn complaint initiated by the girl's grandmother and guardian, Fedelina A. Tan, and the corresponding information signed by Assistant City Prosecutor Victor C. Posadas, both of which were filed before the said trial court on January 5, 1990, charged that on December 30, 1990, appellant willfully, unlawfully and feloniously had carnal knowledge of Goldie Ruth T. Fuentes in Roxas City.[1]

Appellant was apprehended by elements of the Roxas City Police Force a few hours after the incident at the place where the rape allegedly took place. Although no bail was recommended by the prosecution for his temporary release, appellant nonetheless prayed that he "be granted bail in the amount of P40,000.00." The trial court consequently set the application for hearing on January 15, 1990, with the stipulation that the evidence adduced therein would be considered part of the evidence in the trial on the merits.[2]

On February 9, 1990, the trial court issued an order denying appellant's application for bail. The court opined that the prosecution had clearly established a prima facie case for the crime charged and the evidence it had adduced was strong enough to show appellant's guilt and to warrant the filing of an information in court.[3] Upon his arraignment on February 13, 1990 with the assistance of counsel, appellant pleaded not guilty to the charge against him. The trial court thereafter set and conducted the trial of the case on the merits.[4]

The factual antecedents of the present case, as established by the evidence, are well recounted by the trial court in its decision and are best reproduced hereunder:

"In her testimony, the alleged victim of rape, Goldie Ruth Fuentes, at 5 a girl of very tender age and a kindergarten pupil, told the court that as of December 30, 1989, she was living with and under the care of her maternal grandparents who were operating a store at Roxas Avenue, Roxas City, because her parents were working abroad. Her mother was working in Italy and her father was in Hongkong. In terms surprisingly clear and unambiguous for a child so young and tender, she related before the court her story.

"At about 12 noon of December 30, 1989, she and a playmate, Tamar Hoo, also a girl about her age, were playing 'monkey-monkey', jumping up and down in a small hut standing on a vacant lot behind a bakeshop in Roxas Avenue, Roxas City, near her grandparents' store. Suddenly, accused Ricky Sueta whom she identified and pointed to in court asked her and Tamar to play a game couples play. Sueta was lying down on the flooring of the hut and he told her to sit on his thighs, at the same time pulling down her panties. And then Sueta

inserted, to use her term, his 'bird' into her 'flower'. Because it was done with some force, she shouted as it was painful. She felt something hard and solid and then warm liquid getting inside her genitals. The accused was moving his body sideways and intently looking at her as he did so.

"At this juncture, a certain 'Cano' (Lolito Obligacion), who was tending to a few fighting cocks nearby, shouted, 'Goldie, your grandmother is coming.' On hearing that, she stood up, descended the stairs of the hut, and rushed to her grandma and guardian, Fedelina A. Tan, Grandmother and granddaughter then went home together.

"On reaching home, she confided to her Lola that she felt pain in her 'flower' because Ricky Sueta inserted his 'bird' into it. Then her aunt, Marie Lis A. Tan, a registered nurse, and her uncle, Wilfredo Tan, a physician, took a look at her genitals and decided to take her to the Roxas Memorial General Hospital here in Roxas City for physical examination.

"At the Roxas Memorial General Hospital, Goldie Ruth Fuentes was subjected to a pelvic examination by Dr. Ma. Lourdes Lanada, the resident physician then on duty. Her findings are reflected in a medical certificate marked by the defense as Exh. '1' (p. 22, record). It shows that the genitalia was grossly normal, that in the labia minora there was a 1 cm. old healed laceration, lower 3rd right, that the hymen was open and intact, and that there was no presence of spermatozoa.

"The grandmother and guardian of Goldie, Fedelina Tan, testified that at about noon of December 30, 1989, she was tending their grocery store along Roxas Avenue, Roxas City. A few minutes before, she saw Goldie playing with a playmate. At about noon, she started looking for her granddaughter as the child had not come home as she used to before noontime. She sent one of their salesgirls to look for her in the neighboring establishments. The salesgirl having failed to find the child, she herself went out to look for her. She went to several stores nearby and when she entered the Family Bakeshop a man informed her that Goldie was playing in the backyard, near the poultry. She hastened to the place, and as she was approaching a small hut that man shouted, 'Goldie, your grandmother is here.' When she called her, Goldie came down from the hut. She saw the accused lying down.

"When they reached home, Fedelina said she bathed Goldie and changed her clothes. It was then that the little girl started complaining that her genitals were painful. Asked why, the girl answered it was because the accused inserted his sex organ into hers. The little girl said this in a more picturesque language: 'My flower is painful because Ricky inserted his bird inside it'. Hearing that, she took a good look at her genitals and she saw a small laceration and a little bleeding. She quickly summoned her son, Dr. Wilfredo Tan, and his wife, Marie Liz, a registered nurse, and told them to examine the child. The two quickly concluded that their niece was a victim of a criminal assault. And so the two took Goldie to the hospital for physical examination.

"From the hospital, Dr. Tan took Goldie to the Roxas City Police Station to lodge their complaint for rape against the accused. Patrolman Rosendo Abo-ol and three other policemen were then ordered by a police lieutenant to proceed to the Family Bakeshop to pick the accused up (sic) for questioning. The policemen found the accused behind the bakeshop. The policemen took the accused to the police station, and on arrival, Pat. Abo-ol saw Goldie point to the accused as the man who criminally assaulted her.

"The girl's uncle, Dr. Wilfredo Tan, told the court that when his mother Fedelina called him and his wife Marie Liz to examine the little girl who was complaining of pain in the vagina, they made her lie down, spread her legs and took a look at her genitals. They saw a laceration at the right labia minora, with redness and swelling. Certain that his niece was criminally assaulted, he and his wife took her to the hospital for pelvic examination. A few days later, he accompanied his niece to Dr. Bisnar, and then to Dr. Jaboneta in Iloilo City for further pelvic examination.

"The testimony of Dr. Tan was corroborated in all its material points by his wife, Marie Liz A. Tan."[5]

Appellant does not deny that he was with the victim and her playmate, Thissa Marie ("Temar") Hoo, at the time of the incident. What he vehemently disputes is the alleged commission of the rape on the victim. He recalled at the witness stand that in the morning of December 30, 1990, Goldie Ruth and Temar Hoo were playing children's games at the hut where he usually rested and slept. He had been recently hired by his brother-in-law, Wilfredo Hoo, to take care of the latter's fighting cocks. Apart from serving as his sleeping quarters, it was in that hut that he kept watch over Wilfredo Hoo's game fowls.[6]

Appellant further claims that an assistant, Lolito ("Cano") Rodriguez, tended to the fighting cocks nearby. As noontime approached, appellant decided to take an early nap and he soon fell asleep. After a while, he was roused from slumber by the noise created by the playful girls. It was then almost high noon and it was at this time that Goldie Ruth's grandmother arrived to fetch the girl. Appellant narrated that when her grandmother called out for her, Goldie Ruth clambered out of the hut but fell on her buttocks. The girl was aided back on her feet by her grandmother and, together, they departed for home. Shortly thereafter, appellant resumed his interrupted sleep.[7]

A few hours later, appellant was awakened by his father who told Sueta that some policemen were looking for him. Appellant then appeared before the law enforcers and went voluntarily with them to the Roxas City police station. There, he was surprised to know of the accusation against him. According to appellant, he was maltreated by the policemen when he professed his innocence. Since then, he has been under detention.[8]

Satisfied beyond reasonable doubt that appellant had indeed perpetrated the dastardly deed on Goldie Ruth Fuentes, the court a quo rendered its verdict of guilt on June 21, 1990, sentencing appellant to serve a term of "imprisonment for life (reclusion perpetua),"[9] to indemnify the victim, her guardian and/or parents in the amount of P25,000.00, and to pay them P7,000.00 "as reimbursement for the private prosecutor's fee." The court also credited appellant in the service of his sentence with the full time that he spent under preventive imprisonment.[10]

In this appeal, appellant insists that the trial court committed a grave error when it gave more credence to the testimonies of the witnesses for the prosecution, particularly the testimony of the victim herself, Goldie Ruth, than to the version of the defense. He contends that the trial court failed to take into account the "story--telling" habit of the girl and the inconclusive medical findings of the doctors who examined Goldie Ruth.[11]

After a thorough and careful review of the records, we have perforce to reject appellant's contentions, fully convinced as we are of the utter lack of merit in the theory and evidence of the defense.

At the outset, it may be well to recall some doctrines that generally guide the courts in arriving at a just verdict in prosecutions for rape, to wit: (1) An accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to refute; (2) In view of the intrinsic nature of the crime where two persons are usually involved, the testimony of the complainant must be received with extreme caution; and (3) The evidence for the prosecution must stand or fall on its own merits, and must not be allowed to draw strength from the weakness of the evidence for the defense.[12]

As in most criminal cases, the issue here boils down to the favorable appreciation by the trial court of the testimonies proffered by the litigants. In this particular case, the trial court gave more weight and credence to the declarations of the witnesses for the prosecution and, on that score, the settled rule is that such a finding must be respected, given the natural advantage that a trial judge has in the calibration of such evidence.[13]

As earlier stated, the offended party, Goldie Ruth T. Fuentes, was only five years old at the time of the rape. At such a tender age, she could not be expected to weave with uncanny recollection such a complicated tale as the sexual assault that appellant unconscionably perpetrated on her. She spontaneously narrated to her grandmother,

uncle and aunt, to Wilfredo Hoo and his spouse, and ultimately to the court, her ordeal at the hands of appellant.

Witness the spontaneity and clarity of her testimony on the stand:

"Q On December 30, 1989, at about noontime, can you recall where were you?

A Yes, sir.

Q Where were you on December 30, 1989 at about noontime?

A I was in a nipa hut.

Q What were you doing in the nipa hut on that date and time?

A I was playing.

Q With whom?

A I was playing with Timar.

Q Who else were present when you were playing with Timar?

A Ricky.

Q Will you please look around and tell us if Ricky Sueta is inside this courtroom now?

A He is the one. (Witness pointing to a man inside the courtroom who when asked answered that his name is Ricky Sueta).

Q What kind of game did you play with Timar on December 30, 1989, at the nipa hut?

A We were playing just like couples.

Q Now who told you to play a game of just like couples?

A Ricky.

Q Now, did Ricky participate in your game just like couples?

A Yes, sir.

Q Could you tell us what did Ricky do to you?

A He forced his organ (in)to my genitals.

Q When he forced his organ in(to) your genitals, what did you do?

A I shouted.

Q Why did you shout?

A Because it was painful.

Q When the organ of Ricky was forced inside your genitals, what did Ricky do with his body if any?

A His body was moving.

Q Can you demonstrate to us how his body was moving?

A He was moving like this. (witness moving her body from side to side.)

Q While the body of Ricky was moving, did you see his face?

A Yes, sir.

Q How would you describe the face of Ricky?

A He was looking.

Q He was looking to (sic) whom?

A Me.

x x x

Q What was the position of Ricky when he inserted his organ inside your genitals?

A Lying down.

Q How about you, what was your position when Ricky inserted his organ inside your genitals?

A I was sitting on his lap.

Q Before Ricky inserted his penis (sic) inside your organ, were you wearing panty?

A He pulled it down.

Q And before Ricky inserted his penis (sic) inside your organ, was Ricky wearing pants?

A None.

Q What do you mean when you said 'None'?

A He was naked.

Q Now, can you tell the Honorable Court if the penis (sic) of Ricky penetrated your sex organ?

A His organ penetrated my genitals.

Q Now, while you were sitting on the lap of Ricky who was lying down and his organ was inside your private part, you said you shouted because it was painful, after that what happened?

A Cano said, 'your grandmother is coming'.

Q Where was Cano when he told you that?

A He was just around.

Q When you heard that your grandmother was coming, what did you do?

A I went home.

Q Can you recall if that nipa hut had stairs?

A Yes, sir.

Q And your grandmother saw you coming out of the nipa hut?

A Yes, sir

Q Where were you when your grandmother saw you?

A I was going down when she saw me.

Q Upon seeing your grandmother, what did you do?

A I went to her.

Q Did you tell her anything?

A Yes, sir.

Q What did you tell your grandmother?

A That the organ of Ricky penetrated my organ.

Q And after you told your grandmother that the penis (sic) of the accused was inserted in your private part, what did your grandmother do?

A She brought me to the hospital."[14]

Thus, in its order of February 9, 1990 on appellant's application for bail, the court below correctly and aptly observed: "In the case at bar, Goldie Ruth Fuentes clearly and unequivocally testified that she felt pain when the accused forced his penis into her genitals. And that pain was her chief complaint to the examining physician in the hospital. Her narration before the court of when and how the accused did it was so clear and convincing as to make the court believe that hers was not a contrived story, as she appeared so young and innocent, as not being capable of contriving stories that could cause her and her family to suffer shame and humiliation. x x x." [15] Verily, courts usually lend credence to the testimonies of young girls, especially where the established facts indubitably point to their having been sexually assaulted.[16]

Moreover, Goldie Ruth positively pointed to appellant as her assailant not only once but twice, firstly, when appellant was brought by the police for questioning at the Roxas City police station and, secondly, when she was called to testify on the witness stand.[17] In both instances, Goldie Ruth definitely and without hesitation pointed to and identified appellant as her rapist.

Appellant takes issue with the failure of the trial court to appreciate the fact that during her cross-examination, the victim disclosed that she had earlier been sexually abused by Sueta. The girl stated that she also reported this to her grandmother and for which she was likewise taken to the hospital for examination.[18]

However, as perceptively observed by the Solicitor General, and with which we agree, the victim may in all probability have been molested twice by appellant not on different dates but on the same day and occasion. At any rate, the indubitable fact is that all throughout her testimony, she remained as assertive and unflinching about the abominable attack on her chastity and the identity of her attacker as she was when she initially revealed that fact ever so innocently to her grandmother.

What further enervates the case for appellant is his failure to present strong and credible evidence to rebut the positive testimonies of the prosecution witnesses. Indeed, his bare denials of culpability and self-serving assertions that he was asleep inside the hut at the time of the incident do not inspire the slightest consideration in view of his clear and positive identification by the victim as the paraphiliac predator.[19] Appellant has not even presented to the court any plausible reason why the victim, her grandmother, uncle and aunt would heap upon him such a serious accusation as the rape of Goldie Ruth.

The defense of denial, when not supported by clear and convincing evidence, deserves no weight in law. It cannot be given greater evidentiary weight than the testimony of credible witnesses who testify on affirmative matters, for as between positive and categorical testimony which bears the earmarks of truth, on one hand, and a bare denial, on the other, the former is generally held to prevail.[20] Further, in the absence of evidence to indicate that the prosecution witnesses were moved by improper motives, the presumption is that they were not so moved and their testimony should accordingly be entitled to full credit.[21]

Appellant's protestations to the effect that the trial court was moved by considerations of bias since the victim was a hapless five-year old girl is at best a flaccid and futile attempt to shore a tottering defense. In the pretensions of appellant, the trial court "was evidently under emotional excitement transformed into directional sympathy toward the version of the alleged victim largely all because the one telling the story is young".[22] Precisely, the trial court was impressed by the candid and forthright declaration of the victim despite her tender years. Indeed, while her statement that "Ricky inserted his bird inside my flower" spoke eloquently, albeit sadly, of the utter innocence and naivete of Goldie Ruth, it also spelled out volumes of truth to her cries of rape.

It is simply hard to conceive that a young girl would invent such a sordid tale as her violation by appellant unless it was the plain truth. Time and again, and with indisputable applicability to this case, the Court has held that when an alleged victim of rape says that she has been violated, she says in effect all that is necessary to show that rape has been inflicted on her and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof.[23]

Appellant makes much of the apparent conflict in the medical findings of the doctors who conducted physical examinations on Goldie Ruth. Indeed, while those of Dr. Helen Bisnar, a private practitioner, and Dr. Lourdes Lanaga, a resident physician at the Roxas City Memorial Hospital, indicated that the victim's hymen was intact, that of Dr. Ricardo H. Jaboneta, the NBI Medico-Legal Officer for Region VI, showed that the girl's hymen had suffered a laceration through "intra-labial sexual intercourse with a man on or about the alleged date of commission".[24] Appellant's arguments on this point are clearly specious submissions.

The well-entrenched rule is that a medical examination is not an indispensable element in a prosecution for rape.[25] Nevertheless, it may be taken into consideration in determining the veracity of the victim's claim.[26] In the case at bar, all the aforestated medical reports submitted by the examining physicians were one in declaring that the offended party had suffered a one centimeter laceration in her sexual organ, thus corroborating and lending truth to the victim's account that she had been violated.

In fact, Dr. Jaboneta, on whose objective medical findings and testimony the court below evidently relied upon with good reason, was emphatic in declaring before said lower court that the laceration which he found on the victim's sexual organ was definitely caused by the insertion of a male organ into the girl's vagina at about the time of the alleged rape.[27] In any event, it is beyond cavil that the mere penetration of the male organ into the labia majora of the victim's genitalia consummates the felony.

We, therefore, hold that the trial court did not commit a reversible error in convicting appellant since the constitutional but disputable presumption of innocence in his favor has been clearly and convincingly breached by the superior evidence of the prosecution. In view, however, of this court's current policy with regard to the amount of indemnity that may be awarded in rape cases of this nature, that is, rape of a woman who is below twelve years of age, the indemnification to the victim and her family should be increased to P50,000.00.[28] Furthermore, the penalty to be imposed on appellant should be reclusion perpetua.

ACCORDINGLY, the judgment convicting accused-appellant Ricky Sueta of the crime of rape is hereby AFFIRMED, with the MODIFICATIONS that said accused-appellant is hereby ordered to pay the victim and her family the amount of P50,000.00 as and by way of indemnification, and that the penalty imposed on him by the trial court is hereby amended to reclusion perpetua.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Nocon, and Puno, JJ., concur.

[1] Original Record, 1-4; Exhibit "D".

[2] Ibid., 20, 23.

[3] Ibid., 80.

[4] Ibid., 88, 91.

[5] Ibid., 200-202.

[6] TSN, March 21, 1990, 7-8, 13-14.

[7] Ibid., 9-10.

[8] Ibid., 10-13.

[9] The proper imposable penalty under the Revised Penal Code is reclusion perpetua. In *People vs. Baguio* (196 SCRA 459 [1991]), this Court emphasized that reclusion perpetua is not the same as life imprisonment. See Administrative Circular No. 6-92, dated October 8, 1992 and 6-A-92 dated June 21, 1993.

[10] Per Judge Sergio Pestaño; Original Record, 211.

[11] Brief of the Appellant, 1; Rollo, 84.

[12] *People vs. De los Reyes*, 203 SCRA 707 (1991); *People vs. Tismo*, 204 SCRA 535 (1991).

[13] *People vs. Magallanes*, G.R. No. 89036, January 29, 1993.

[14] TSN, February 6, 1990, 5-8.

[15] Original Record, 80.

[16] *People vs. Abuyan, Jr.*, 211 SCRA 662 (1992).

[17] TSN, February 14, 1990, 7, 9; February 6, 1990, 5.

[18] TSN, February 6, 1990, 9-13.

[19] *People vs. Barba*, 203 SCRA 436 (1991).

[20] *People vs. Alegado*, 201 SCRA 37 (1991); *People vs. Song, et al.*, 204 SCRA 135 (1991).

[21] *People vs. Belibet, et al.*, 199 SCRA 587 (1991).

[22] Brief of the Appellant, 9; Rollo, 92.

[23] *People vs. Abonada*, 169 SCRA 530 (1989); *People vs. Yambao*, 193 SCRA 571 (1991); *People vs. Tismo*, *supra*, Fn. 12.

[24] Original Record, 72, 74-75; Exhibits "A", "B" and "C".

[25] *People vs. Saldivia*, 203 SCRA 461 (1991).

[26] *People vs. Cruz*, 180 SCRA 765 (1989).

[27] TSN, February 27, 1990, 20-21.

[28] *People vs. Guibao*, G.R. No. 93517, January 15, 1993.

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