

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIANO PALMA Y ANDRADE, ACCUSED-APPELLANT.

G.R. Nos. 130206-08. June 17, 1999

Ponente: ROMERO, J.

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ROMERO, J.:

Admittedly, accused-appellant Mariano A. Palma, had carnal knowledge of the complainant, Irene Meneses, three times. Not unexpectedly, the former claims that complainant voluntarily acceded to the same. On the other hand, complainant alleges that all three were carried out through force and violence. On the resolution of this question lies accused-appellant's acquittal or conviction for the crime of rape.

On January 15, 1993, three informations for the crime of rape were filed against Mariano A. Palma, as follows:

Criminal Case No. 93-114868

That on or about October 6, 1992, in the City of Manila, Philippines, the said accused by means of force and violence to wit: by then and there poking a balisong at her neck, and accused will (sic) kill her if she will shout, and then bringing her to his house and forcibly removing her dress, panty and shorts, did then and there wilfully, unlawfully and feloniously kissing (sic) her lips and have carnal knowledge of the said IRENE MENESES Y ESPLANA, 17 years of age, single, without her consent and against her will.

CONTRARY TO LAW.

Criminal Case No. 93-114867

That on or about January 1, 1993, in the City of Manila, Philippines, the said accused by means of force and violence to wit: by then and there poking a balisong at her neck, and accused will kill (sic) her if she will shout, and then bringing her to his house and forcibly removing her dress, panty and shorts, did then and there wilfully, unlawfully and feloniously kissing (sic) her lips and have carnal knowledge of the said IRENE MENESES Y ESPLANA, 17 years of age, single, without her consent and against her will.

CONTRARY TO LAW.

Criminal Case No. 93-114869

That on or about January 5, 1993, in the City of Manila, Philippines, the said accused by means of force and violence to wit: by then and there pulling her hair and dragging her to the house of the accused and forcibly removing her dress, panty and shorts, did then and there wilfully, unlawfully and feloniously have carnal knowledge of the said IRENE MENESES Y ESPLANA, 17 years of age, single, without her consent and against her will.

CONTRARY TO LAW.

Upon his arraignment on February 17, 1993, accused-appellant pleaded not guilty to all three charges. Joint trial of the three criminal cases ensued.

The prosecution presented as its witnesses the complainant Irene Meneses, the police investigator assigned to the case, SPO3 Benigno Macalindong and the medico-legal officer who examined the complainant, Dr. Manuel Lagonera.

Complainant testified that at the time of the alleged assaults, she was employed as a housemaid by the spouses Eduardo and Ada Santos, who lived at 801 Fullon Street, Tondo, Manila. At around 1 a.m. of October 8, 1992, while she was hanging clothes at the back of the Santos' house, accused-appellant poked a balisong at her and told her not to shout or else he would kill her. Accused-appellant then dragged complainant across Fullon Street and into an unoccupied room of his residence, where he undressed her and placed a "cigarette" in her mouth. She refused to smoke the same but accused-appellant, saying he would "shotgun" her, blew smoke into her mouth. She fell in a daze and thereafter, accused-appellant put himself on top of her and inserted his penis inside her private parts. Complainant felt too weak to resist. Afterwards, accused-appellant dressed complainant. She could not remember, however, how she got home. Crying and frightened that accused-appellant would kill her, complainant did not tell anyone about her ordeal.

At 4 a.m. of New Year's Day, 1993, complainant was at the back of the Santos' house, removing clothes from the clothesline, when again accused-appellant appeared and poked a balisong at her. Accused-appellant seized complainant by the neck and dragged her across Fullon Street and into his residence. They entered a vacant room where accused-appellant, all the while threatening to kill complainant, undressed the latter. With one hand, he felt the breasts of complainant, while with the other, he poked his balisong at her. Accused-appellant then mounted complainant and had carnal knowledge of her. Complainant could not do anything out of fright. After satisfying himself, accused-appellant warned complainant not to tell anybody and ordered her to go home. Complainant went home crying. Again, complainant did not tell anybody about her ordeal.

Four days later, at around 2 a.m., while complainant was doing some household chores, she heard a knock on the door. As she was expecting the early morning delivery of bananas for the store owned by her employers, complainant opened the door. Unfortunately, it was accused-appellant who was at the door. He grabbed complainant by the hair and dragged her to his house where again, he had carnal knowledge of the latter. Complainant went home crying. This time, however, her employers woke up and noticed her weeping. Upon continued questioning, complainant was forced to reveal her ordeal at the hands of accused-appellant. On January 9, 1993, complainant filed a complaint with the WPD against accused-appellant. She was examined by a medico-legal officer that same day. Five days later, accused-appellant was arrested by the police.

SPO3 Benigno Macalindong testified that on January 14, 1993, he investigated the charge of rape filed by complainant against accused-appellant. When asked to identify her assailant, complainant pointed to accused-appellant.

Dr. Manuel Lagonera testified that on January 9, 1993, while examining complainant, he found that she had healed hymenal lacerations at the 3 o'clock and 9 o'clock positions. On further questioning, he testified that sexual intercourse was the common cause of hymenal lacerations with the healing of a lacerated hymen taking from three to seven days.

For his part, accused-appellant presented himself and his mother, Candida Palma.

Accused-appellant testified that he usually bought items from the store of the Santos spouses. He first saw complainant tending said store sometime in mid-September 1992. Accused-appellant started courting complainant who, on October 8, 1992, told him that she would go to his room that day. Complainant went to accused-appellant's room at around 2 a.m. and they had sexual intercourse. While they were so engaged, however, accused-appellant's mother entered the room and reprimanded them. She sent complainant home, who, in her

hurry, left her underwear.

Three days later, accused-appellant and complainant agreed to meet sometime in January. It was on January 1, 1993 when they had their second liaison. Complainant went to his house where they had sex for half an hour. After the act, complainant dressed and left.

On January 5, 1993, accused-appellant and complainant had sex again. Complainant was, however, seen by her employers coming from the house of the accused-appellant. Accused-appellant claimed that complainant was forced by her employers to file a complaint against him, the latter allegedly threatening to charge complainant with stealing from their store if she did not do as her employers wished.

Additionally, accused-appellant testified that the clothesline of the Santoses was located, not at the back of their house, but at the second floor thereof. One had to pass through two doors and climb a flight of stairs to get to it, making it impossible for an attacker to assault someone hanging clothes without alerting the occupants.

Candida Palma testified that at around 1 a.m. of October 8, 1992, she heard soft voices inside a room at the ground floor of her house. Upon opening the door, she saw complainant and accused-appellant having sex. She reprimanded the two of them, whereupon complainant hurriedly dressed up and left, leaving her underwear.

At around 4 a.m. of January 5, 1993, Candida was roused from sleep by a commotion outside her house. She saw complainant's employer, Ada Santos, who was angry that complainant had come from her house. As complainant declined to answer her employer's questions, the latter dragged her to the police precinct. Additionally, Candida testified hearing Ada Santos threaten complainant with theft charges if the latter would not file a complaint against her son. She attributed the Santos' hostility against her son to the fact that complainant would give away canned goods from their store to her son.

On February 17, 1995, the trial court rendered a decision, the dispositive portion of which reads as follows:

WHEREFORE, judgment is rendered:

(1)

In Criminal Case 93-114867, finding the accused Mariano A. Palma guilty beyond reasonable doubt of the felony of rape, and sentencing him to a penalty of reclusion perpetua, and to pay the offended party Irene E. Meneses moral damages in the amount of P30,000.00;

(2)

In Criminal Case 93-114868, finding the accused Mariano A. Palma guilty beyond reasonable doubt of the felony of rape, and sentencing him to a penalty of reclusion perpetua, and to pay the offended party Irene E. Meneses moral damages in the amount of P30,000.00;

(3)

In Criminal Case 93-114869, finding the accused Mariano A. Palma guilty beyond reasonable doubt of the felony of rape, and sentencing him to a penalty of reclusion perpetua, and to pay the offended party Irene E. Meneses moral damages in the amount of P30,000.00;

SO ORDERED.

Hence, this appeal where accused-appellant raises the following errors:

- THE TRIAL COURT GRAVELY ERRED IN GIVING FULL FAITH AND CREDIT TO THE TESTIMONY OF THE COMPLAINING WITNESS IRENE MENESES;
- THE TRIAL COURT GRAVELY ERRED IN NOT ACQUITTING ACCUSED-APPELLANT DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

In impugning complainant's credibility, accused-appellant raises ten points that allegedly cast doubt on complainant's version of events. First, accused-appellant claims to be improbable and unbelievable complainant's assertion that she was doing household chores in the wee hours of the morning of October 8, January 1, and January 5. Second, accused-appellant disputes complainant's declaration that she was hanging clothes (on October 8, 1992) and removing clothes (on January 1, 1993) at the back of the Santos' house at the time of the first two rapes, claiming that the clothesline were installed, not at the back of the house, but at the second floor of the Santos residence. Third, accused-appellant finds it incredible that, on the occasion of the third rape, complainant just opened the door when she heard some knocks without taking any precautions. Fourth, accused-appellant finds it unbelievable for complainant to claim that at 4 a.m. of New Year's Day, she met no one while going home after her second ordeal. Fifth, accused-appellant claims that complainant's testimony is unreliable, citing her inability to remember who removed her clothes during the time of the first rape. Sixth, the failure of complainant to show signs of emotional distress after she was first raped is declared by accused-appellant to be contrary to human experience. Seventh, accused-appellant disparages complainant's credibility by pointing to inconsistencies in her testimony as to the identity of her assailant and the location of the place where she was raped. Eighth, accused-appellant finds it peculiar that complainant did not take any precautions given the similar methods allegedly employed by the accused-appellant in committing the three assaults. Ninth, accused-appellant claims that no rape incident occurred given that, in all three instances, complainant never put up a struggle to defend her honor. Lastly, accused-appellant claims his non-flight to be an indicium of innocence.

Accused-appellant's arguments lack merit.

As established by jurisprudence, the following principles are controlling in rape cases:

- (1) An accusation for rape can be made with facility; it is difficult to disprove but more difficult for the person accused, though innocent to disprove;
- (2) In view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and
- (3) The evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.[1]

The testimony of the complainant must, thus, meet the test of credibility, in order for the accused to be convicted on the basis thereof. In this connection, it bears emphasizing that the conclusions of the trial court on the credibility of witnesses are generally not disturbed by the appellate court, the former being in a better position to decide the issue, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial.

After a careful examination of the testimony of the witnesses and a review of the findings and conclusions of the trial court, we find no reason to depart from this doctrine. Jurisprudence dictates that when serious and inexplicable discrepancies in important details are found in a witness' testimony, his testimony may be disregarded. Conversely, when the inconsistencies and contradictions are on minor details, these do not impair his credibility. Unfortunately for accused-appellant, the circumstances which he points to as damaging to complainant's credibility are minor and extraneous circumstances which actually strengthen her testimony, erasing as they do any suspicion of rehearsed testimony.[2]

Accused-appellant finds it improbable for complainant to be doing household chores at 1:00 a.m., 4:00 a.m. and 2:00 a.m. on the dates that she was raped. Furthermore, he claims that complainant could not have been motivated by industry to work at those hours, being paid only P500.00 per month.

It must be emphasized that complainant's salary and work habits are irrelevant to the issue of accused-appellant's guilt. Nonetheless, complainant's testimony adequately explain her work habits.

Court:

Q: Do I understand that during the daytime you tend the store of your employer, and in the evening you do your household chores?

A: Sometimes.

Q: What is this "sometimes," you go to the store and sometimes you do the work in the house?

A: Sometimes when (sic) I attend to the store, after that I take a rest, and after that I do the household work.

Q: How long do you attend to the store during the daytime?

A: Half a day only, and in the afternoon I rest.

Q: Let's make this clear. In the morning you attend to the store and in the afternoon you rest, and in the evening you do your household chores?

A: Yes, your Honor.

Q: What time do you usually sleep at night?

A: There is no particular time.

Q: What is the earliest time that you sleep in the evening?

A: 10 o'clock.

Q: What is the latest hour in the evening that you go to sleep?

A:

5:00 a.m.

Q: In other words, you do your household chores throughout the whole night until early in the morning?

A: Yes, sir.

Trial Prosecutor:

Q: What things do you do which take you up to 5 o'clock in the morning?

A: Like cleaning the store, the house, all around.

Court:

Q: And then after finishing your work at 5 o'clock in the morning you attend to the store?

A:

I sleep because it is not fix (sic). Sometimes I work and sometimes I rest. Sometimes I don't work (sic) the household chores but attend to the store, just attend to the store I don't work (sic) in the household chores.[3]

Likewise, complainant was able to adequately explain what she was doing at the time of the alleged assaults:

October 8, 1992

Q: Is it your habit to be washing clothes (sic) 1:00 o'clock in the evening?

A: Yes, sir.

Q: Why?

A: There is a store and during the daytime there is no electricity, so I used to wash clothes at night.

Q: What do you use in doing this laundry (sic) clothes?

A: Washing machine, sir.[4]

January 1, 1993

Q: What were you doing at 4 o'clock in the morning?

A: Cleaning the house.

Q: Why were you cleaning the house at around 4:00 in the morning of January 1, 1993?

A: The house was dirty.

Q: Why did you choose to clean the house at 4 o'clock in the morning, at an unholy hour in the morning?

A:

Because it was New Year and we have no sleep.

Q: Why did you not sleep?

A:

We went to the house of the mother of my employer and after that we went home at around 2:00 a.m., and after that I did the cleaning of the house.[5]

January 5, 1993

Q: What were you doing at that time at 2 o'clock in the morning?

A: Also cleaning the house.

Q: Why were you cleaning the house at around 2 o'clock in the morning?

A: My work is at night.

Q: What did you do during the daytime?

A: I tend the store and sometimes I rest.[6]

The above testimony explains why complainant was doing household chores at night, instead of during the day. More telling, accused-appellant himself admitted that complainant would do her household chores at night:

Q: So on October 8 you said you had sexual intercourse with Irene Meneses?

A: Yes, sir.

Q: And what time was that?

A: 2 a.m., sir.

x x x x x x x x

Q: She was awake at 2 a.m.?

A:

Yes, sir. She was still washing the dishes. After she was through washing the dishes she went up the store, waving his (sic) hands as a sign.[7]

Q: Would you kindly tell Mr. Witness how did the complainant go to your place on January 1, 1993 at around 4 o'clock in the morning?

A: After our signs, she proceeded to my room.[8]

As to the location of the clothesline, complainant testified that the same was located at the side of the house, not on the second floor. In corroboration, the prosecution presented photographs showing that, indeed, there was a clothesline beside the house. While the defense presented photographs showing the clothesline to be on the second floor, these do not necessarily prove that there was no clothesline beside the house.

Accused-appellant is likewise incredulous at complainant's lack of precaution in opening the door at 2 a.m. in the morning of January 5, 1993. On the contrary, complainant's testimony is quite credible. If complainant had been raped twice while hanging clothes outside the house, it would be but rational for her to stay inside the house rather than go out and risk another attack from accused-appellant. Unfortunately, she did not anticipate that accused-appellant would be so bold as to knock at her door. Accused-appellant's contention that it was unlikely for him to knock at the Santos' door merits scant attention, this Court having declared time and again that lust is no respecter of time and place.[9]

As to the absence of people in the early hours of New Year's Day, this is easily explained by the fact that while people do stay up late to welcome the New Year, setting off fireworks and partaking of the Media Noche feast, most are already asleep at two or three in the morning. It is, thus, unremarkable for the streets to be deserted in the early hours of New Year's Day.

The inability of complainant to remember who removed her clothes during the first rape is explained by the fact that accused-appellant blew smoke into her mouth, causing her to fall into a daze.[10] Moreover, the Court cannot expect a rape victim to remember every ugly detail of the appalling outrage especially since she might, in fact, have been trying to obliterate it from her memory.[11]

Accused-appellant claims that complainant's failure to show emotional distress after the alleged assault is contrary to human experience. Antithetically, complainant testified that she cried after her ordeal at the hands of accused-appellant. Complainant cannot be faulted for not taking any action inasmuch as different people react differently to a given type of situation, there being no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience.[12]

Complainant's initial inability to pinpoint the place where she was raped can likewise be attributed to the fact that, paralyzed by fear, complainant was probably oblivious to her surroundings during the first moments of accused-appellant's attack on her.

Accused-appellant makes much capital out of the following contradictory statements of complainant. During her cross-examination, complainant testified thus:

Q: You mean to tell the Court that it was on October 8, 1992 when you first saw Mariano Palma?

A: Yes, your Honor.

Q: You have never seen him before that date?

A: No, your Honor.

x x x x x x x x

Q: You have not seen Mariano Palma in the vicinity of your house?

A:

No, sir.

Q: For four months before October 8, 1992?

A: Yes, your Honor.[13]

During the police investigation, however, complainant testified that:

TANONG: Ito bang si Boy Palma ay kilala mo at maituturo kung sakali na siya ay makita mong muli? (Would you be able to recognize and identify Boy Palma if you see him again?)

SAGOT: Opo, maituturo ko siya at makikilala dahilan sa siya ay katapat bahay lamang namin (sic) isa pa, ako ay anim (6) na buwan ng naninirahan sa lugar na iyon at halos gabi-gabi ay nakikita ko siya dahilan sa siya ay estambay sa kalye. (Yes, I can recognize and identify him because he lives opposite our house and one more thing, I have been residing in that place for six (6) months and I see him almost every night because he hangs out in the street)

The alleged contradiction between complainant's two statements are more apparent than real. It may be that complainant saw accused-appellant for the first time only on October 8, 1992. However, over three months had elapsed since that time until the police investigation on January 9, 1993. During those three months, complainant had ample opportunity to identify and be familiar with accused-appellant, particularly since he was her assailant.

Accused-appellant also finds it incredible for complainant not to take any precautions to avoid further sexual assault. It must be observed that the second attack occurred almost three months after the first. Complainant may have been lulled into a false sense of security by the length of time that had passed since the first rape. As for the third rape, complainant was actually inside her house, but accused-appellant was audacious enough to knock at her door and grab her when she opened the same.

Accused-appellant also claims that no rape incident occurred as complainant never put up a struggle to defend her honor. Complainant did testify that she tried to push accused-appellant away when he mounted her but did not succeed since she felt very weak. Furthermore, during the first two assaults, accused-appellant was poking a knife at her. If complainant did not offer tenacious resistance to accused-appellant, it did not necessarily make voluntary her submission to the criminal acts of accused-appellant.[14]

As to accused-appellant's assertion that he is innocent because he never fled after the alleged attacks, this Court has ruled time and again that while flight may be an indicium of guilt, there is no case law, on the other hand, holding non-flight to be conclusive proof of innocence.[15]

The "sweetheart" theory posed by accused-appellant hardly deserves attention. In *People v. Bayani*,[16] this Court declared that "[h]aving admitted to having had carnal knowledge of the complainant on the date and time in question, the accused bears the burden of proving his defense by substantial evidence." However, other than his assertion and his mother's corroborative testimony, accused-appellant failed to present any evidence to show that he and complainant were sweethearts. No love letter, memento, or pictures were ever presented by accused-appellant to prove that such romantic relationship existed. Accused-appellant's version of events cannot

prevail over complainant's categorical statements that he ravished her on three separate occasions.

Lastly, it is highly inconceivable that complainant would file rape charges against accused-appellant just because her employer threatened her with theft charges. No young and decent Filipina would publicly admit that she was ravished and her honor tainted unless the same were true, for it would be instinctive on her part to protect her honor and obtain justice for the wicked acts committed upon her.[17]

In sum, we find no reason to disturb the finding of the trial court finding accused-appellant culpable on three counts of rape and imposing upon the latter the penalty of reclusion perpetua for each such act. We note, however, that for each count of rape, the trial court awarded to complainant only the amount of P30,000.00 as moral damages. Pursuant to recent jurisprudence, an amount not exceeding P50,000.00 is awarded outright to victims of rape upon indubitable showing of its commission; this is categorized as civil indemnity. As regards moral damages, it has been recognized that the victim's injury is inherently concomitant with, and necessarily results from the odious crime of rape which warrants per se an award for moral damages.[18]

WHEREFORE, the appealed judgment of the court a quo sentencing accused-appellant to reclusion perpetua for three counts of rape is hereby **AFFIRMED** with the **MODIFICATION** that the accused-appellant shall pay to complainant the amount of P50,000.00 as civil indemnity for each count of rape, and P50,000.00 as moral damages for each such act.

Costs against appellant.

SO ORDERED.

Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

Panganiban, J., on leave.

[1] People v. Villamor, G.R. No. 124441, October 7, 1998.

[2] People v. De Guia, 280 SCRA 141 (1997).

[3] TSN, March 24, 1993, pp. 13-14.

[4] TSN, March 18, 1993, pp. 13-14.

[5] TSN, March 24, pp. 2-3.

[6] Ibid., p. 13.

[7] TSN, February 16, 1994, p. 7.

[8] TSN, January 20, 1994, p. 9.

[9] People v. Cabanela, G.R. No. 127657, November 24, 1998.

[10] Accused-appellant's reference to "shotgunning" complainant, when she refused to inhale, indicate that the "cigarette" was actually a marijuana joint, "shotgun" being an idiomatic expression used by marijuana users to refer to the practice of inhaling smoke from a marijuana joint and then blowing it into the mouth of another person.

[11] People v. Butron, 272 SCRA 352 (1997).

[12] People v. Roncal, 272 SCRA 242 (1997).

[13] TSN, April 14, 1993, p. 4.

[14] People v. Marabillas, G.R. No. 127494, February 18, 1999.

[15] People v. Timon, 281 SCRA 577 (1997).

[16] 262 SCRA 660 (1996).

[17] People v. Villamor, *supra*.

[18] People v. Bolatete, G.R. No. 127570, February 25, 1999.

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