PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EFREN BUENDIA Y PERALTA, ACCUSED-APPELLANT.

G.R. Nos. 133949-51. September 16, 1999

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The trial court's assessment of the credibility of witnesses is entitled to great weight and respect, absent any showing that some facts or circumstances of weight and substance were overlooked which, if considered, would affect the result of the case. The testimony of a lone witness, if found credible, is sufficient to justify a judgment of conviction. Resistance is not an element of rape, and its absence does not denigrate the victim's claim that appellant employed force and intimidation against her.

The Case

Efren Buendia appeals the May 21, 1998 Decision[1] of the Regional Trial Court of Makati City (Branch 66) in Criminal Case Nos. 97-866 to 97-868, which convicted him of three counts of rape. The dispositive portion of the assailed Decision reads:

> "IN VIEW OF THE FOREGOING, judgment is hereby rendered:
>
> "a) In Criminal Case No. 97-866, finding accused Efren Buendia guilty beyond reasonable doubt in the crime of rape and the Court hereby sentences him to suffer, taking into consideration the absence of mitigating and aggravating circumstances, the penalty of reclusion perpetua and to pay Sofia Balena the sum of P50,000.00 as moral damages;
>
> "b) In Criminal Case No. 97-867, finding accused Efren Buendia guilty beyond reasonable doubt in the crime of rape and the Court hereby sentences him to suffer, taking into consideration the absence of mitigating and aggravating circumstances, the penalty of reclusion perpetua and to pay Sofia Balena the sum of P50,000.00 as moral damages;
>
> "c) In Criminal Case No. 97-868, finding accused Efren Buendia guilty beyond reasonable doubt in the crime of rape and the Court hereby sentences him to suffer, taking into consideration the absence of mitigating and aggravating circumstances, the penalty of reclusion perpetua and to pay Sofia Balena the sum of P50,000.00 as moral damages."[2]

On June 30, 1997, Sofia M. Balena filed three Complaints[3] of rape against Appellant Buendia. The similarly worded Complaints read:

> "That on or about the 10th day of March 1996, in the City of Makati, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife and by means of force and intimidation, willfully, unlawfully and feloniously ha[d] carnal knowledge of the undersigned, against her will."[4]

After State Prosecutor Imelda P. Saulog certified that a preliminary investigation had been conducted, the three Complaints were treated as the Informations.

When arraigned on October 9, 1997, appellant, with the assistance of Counsel de Oficio Rommel Odronio of the Public Attorney's Office, pleaded not guilty.[5] The three cases were tried jointly. Thereafter, the court a quo rendered its assailed Decision.

Hence, this appeal.[6]

The Facts

Version of the Prosecution

The Office of the Solicitor General[7] summarized the facts in this wise:

> "When the crimes were perpetrated on March 10, 1996, Sofia Balena, the complainant, was a single mother of a one year and 5 months old son. Sofia lived at Masilang Street, Gudalupe Nuevo, Makati City. On the other[hand], Efren Buendia, the appellant, was the common-law-husband of Sofia's younger sister. At that time he lived at Sto. Niño St., Brgy Southside, Ft. Bonifacio, Makati, which is five (5) houses away from that of Sofia.
>
> "At midnight of March 10, 1996, Sofia was awakened from her sleep when she felt that somebody was fondling her breasts. When she opened her eyes, she readily identified Efren Buendia who was molesting her. Efren was all naked. Sofia started to shout but Efren was quick to cover her mouth with a blanket. Efren poked a knife at her face and threatened to kill her if she ma[de] a noise. Efren undressed her. Sofia resisted but Efren was too strong for her. Efren crawled over Sofia who was pressed down on her bed and he succeeded in inserting his penis into her vagina. After ejaculating, Efren rested. After 10 minutes of rest, Efren who was still holding the knife fondled Sofia's breasts again and raped her for the second time. Efren rested for 15 minutes and then, he raped Sofia for the third time.
>
> "Efren was exhausted. Then, he left, but not without threatening to kill Sofia, her father and her sister and to burn her house if she [squealed].
>
> "Because of fear Sofia kept her fate to herself. Days later, when Sofia noticed that she was pregnant, she and her son left for Antique. They stayed in the house of her uncle. Three months after the rape, and that was June, 1996, Sofia could no longer conceal her pregnancy. Her uncle and older sister confronted her. And she unburdened herself. She told [them], Efren raped her.
>
> "Her uncle and sister were enraged. Sofia's father was summoned and when informed he fumed with madness. Sofia was advised to sue Efren. Money was raised for the transportation of Sofia, her son and her father in coming to Makati. And they came on December 22, 1996 to file the complaint. But Sofia and her father were able to file the complaint only [o]n February 1997 because Sofia gave birth on December 24, 1996."[8]

Version of the Defense

The charge was denied by appellant, who alleged that he and the complainant were lovers. The following version of the facts is narrated in his Brief:[9]

> "Accused testified that he did not rape complainant on March 10, 1996 but admit[ted] that complainant was his girlfriend, and that he and complainant had sexual intercourse for several times, three (3) times at the back of Betromix in Fort Bonifacio, and many times in his house, while his live-in partner who is the sister of complainant, [was] out of the house. Oftentimes, complainant rode in the tricycle he [was] driving, and xxx he was the one who accompanied complainant and her child to the pier when the two left for Antique on June 16, 1996. Had accused really raped complainant, then she would at least get away from him to show her dislike [of] what accused had done to her. On the contrary, even prior to March 10, 1996, and xxx thereafter accused and complainant were close to each other because on September 17, 1994 accused was the one who spent for the birth of the complainant's first child. x x x"

Ruling of the Trial Court

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The trial court found the victim's testimony credible and ruled that appellant's denial was weak and could easily be concocted. It ruled out the "sweetheart theory" and held that the delay in the reporting of the crime was sufficiently explained.

Assignment of Errors
Appellant assigns to the trial court the following alleged errors:

> "I. The trial court erred in convicting the accused upon the material testimonies of complainant who [was] the only witness of the prosecution and whose testimonies [were] contrary to human experience.
>
> "II. The trial court erred in giving credence to the complaint of rape of complainant despite being filed on the twel[fth] month after the alleged incident took place when she had all the opportunities to do so.
>
> "III. The trial court erred in rejecting the defense of the accused that he did not rape the complainant and that the complainant, Sofia was his girlfriend."[10]

In the main, appellant questions the credibility of the lone prosecution witness.

This Court's Ruling
The appeal is not meritorious.

Main Issue:
Credibility of Lone Prosecution Witness
It is well-settled that the assessment by a trial court of the credibility of witnesses and their testimonies is entitled to the highest respect,[11] because it heard the witnesses and observed their behavior and manner of testifying. Absent any showing that it overlooked some facts or circumstances of weight and substance that would affect the result of the case, its factual findings will not be disturbed on appeal.[12] In the present case, appellant failed to discredit its ruling that the lone prosecution witness, Sofia M. Balena, was credible. She testified:

> "Q And will you tell this Court what happened Miss witness?
> A On March 10, 1996 at mid-night 12:00 o'clock I felt somebody touching my body. May humihimas sa akin.
>
> Q You said that somebody was touching your body, what part of your body was being touched?
> A My breast, Sir.
>
> Q And then what happened Miss witness?
> A When I opened my eyes, I saw Efren Buendia naked.
>
> Q And where was Mr. Buendia the accused in these cases, where was he when you saw him?
> A beside me and he was totally naked.
>
> Q And what happened next Miss witness?
>
> COURT:
>
> After touching your breast?
>
> WITNESS:
>
> A When I tried to shout he immediately covered my mouth with a blanket and poked a knife at me.
>
> FISCAL FLORES:
>
> Q Miss witness do you recall what hand did he use in covering your mouth?
> A Right hand, Sir.

Q And with what hand did he use to hold the knife to poke it at your neck?
A Left, Sir.

Q Where did the accused poke the knife at you?
A At my neck, Sir.

Q After the accused covered your mouth and pointed the knife at your neck what happened next Miss witness?
A He threatened me not to shout otherwise he will kill me.

x x x x x x x x x
Q What did you do when he threatened that he will kill you if you will shout?
A I just kept [quiet] because he was threatening me, Sir.

x x x x x x x x x

COURT:

Q Hindi ka na lumaban?

WITNESS:

A I tried to fight him but the accused [was] stronger so I [could] not fight him.

FISCAL FLORES:

Q After the accused threatened to kill you, what happened next Miss witness?
A Nag-paubaya na lang ako until he undressed me.

Q What hand did he use in undressing you Miss witness?
A Right hand, Sir.

Q And what happened next Miss witness after he undressed you?
A He ordered me to [lie] down and then he [lay] on top of me.

Q What happened next Miss witness?
A He [lay] on top of me 'hanggang matapos siya[']' and he touched me and kissed me.

Q By 'matapos' Miss witness what do you mean? Until he finished.
A Hanggang nakaraos siya.

COURT:

Put the words 'hanggang nakaraos siya.[']

Q What do you mean, it is very important for you to relay to the Court, what do you mean by 'hanggang nakaraos siya'?

WITNESS:

A Kinantot po niya ako.

FISCAL FLORES:

Q In short Miss witness by your words he inserted his penis in your vagina.
A Yes, Sir, pinasok niya.

Q After you said 'nakaraos', what happened next Miss witness?
A He was still holding his knife and he [lay] beside me.

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Q By your estimation Miss witness, how long did the accused rest?
A About ten (10) minutes, Sir.

Q After the accused rested, what happened next Miss witness?
A He again lay down on top of me and inserted his penis [into] my vagina.

Q And after that what happened Miss witness?
A He inserted his penis [into] my vagina 'at nakaraos siya uli sa akin'.

Q After the second time na nakaraos siya, what happened next Miss witness?
A The same, he again lay on top of me still holding the knife still poked at me.

Q After the accused rested for the second time, how long did the accused [rest] for the second time Miss witness?
A Around ten to fifteen minutes.

Q After the accused rested for the second time Miss witness, what happened next?
A He again kissed me, he touched my breast and again inserted his penis [into] my vagina.

COURT:

Q You said that before having sexual intercourse for the third time he first kissed you and touched your breast[;] what did you do?

WITNESS:

A None Sir, I was just [lying] down because even if I kept on pushing him, he was too strong for me and there was nothing that I [could] do.

FISCAL FLORES:

Q And then what happened after the third time Miss witness?
A He again rested for a while then he dressed up.

Q And then what happened Miss witness?
A He threatened me before he left, Sir.

Q And will you tell this Court how he threatened you?
A He told me not to tell anybody otherwise he will kill my father, my sister and he will burn the house.

x x x x x x x x x

Q After the accused had threatened you, what happened next Miss witness?
A He went out of our house by jumping thru the window at the back of our house, Sir."[13]

It has been held that the testimony of a single witness is sufficient to establish the guilt of the accused, for evidence is weighed, not counted.[14] Complainant's testimony determines the outcome of the case,[15] because "when an alleged rape victim says she was violated, she says in effect all that is necessary to show that rape has been inflicted on her."[16] Furthermore, appellant failed to show any ill motive on the part of the victim to testify falsely against him. Unless she was speaking the truth, she would not have concocted a story of sexual assault, undergone gynecologic examination, risked her relationship with her sister who was appellant's common-law spouse, or subjected herself and her family to the trauma and the embarrassment concomitant to criminal prosecution.[17]

No Need to Establish Resistance

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Appellant argues that the victim's account was contrary to human experience, because there was "no sincere struggle" or "determined effort" on her part to preserve her virtue. He adds that her alleged resistance was "insufficient to constitute rape."[18]

We do not agree. Rape is perpetrated when the accused has carnal knowledge of the victim through the use of force or intimidation.[19] It must be stressed that the resistance of the victim is not an element of the crime, and it need not be established by the prosecution. In any event, the failure of the victim to shout or to offer tenacious resistance does not make the sexual congress voluntary.[20] Indeed, rape victims have no uniform reaction: some may offer strong resistance; others may be too intimidated to offer any resistance at all.[21] In the present case, the victim categorically testified that she was cowed into submission because appellant pointed a knife at her neck.

Rape Not a Respecter of Time or Place

Appellant maintains that the rape could not have happened because at the time, complainant's child was sleeping just one foot away from her.[22] This argument is bereft of merit. The Court has repeatedly held that rape is not a respecter of place or time. The rapist could not have been deterred by the mere presence of a one-and-a-half-year-old child. After all, they lived in the same house, and the child obviously knew him.

Delay Sufficiently Explained

Appellant also questions the credibility of complainant, because she reported the incident only after seven months when she could no longer hide her pregnancy.

We disagree. If satisfactorily explained, the delay in exposing her ordeal to her family or in filing a complaint does not necessarily impair the complainant's credibility.[23] In the present case, complainant admitted in court that she was threatened by appellant and that she was afraid of him.[24] Indeed, she was so afraid that she could not even offer strong resistance to the sexual assault. Furthermore, she hailed from a poor family, and money for her fare to Manila was not immediately available. Besides, she had to give birth before filing the case and undergoing the travails that came with it.[25]

Sweetheart Theory and Denial Not Worthy of Belief

Appellant also denies having had sexual intercourse with the victim on the date mentioned in the Informations, but admits that he had done so on other occasions because they were lovers.

Again, we find no reason to overrule the trial court's rejection of appellant's contention. Appellant presented no other witness; or evidence like love notes, pictures or other mementos to corroborate his "sweetheart theory." Even assuming that they were sweethearts, he had no excuse to employ force and intimidation in satisfying his carnal desires.[26] Love is not a license to rape.[27]

Damages

We agree with the Office of the Solicitor General that civil indemnity, which may be awarded upon proof that rape has been committed, should be granted, but only in the amount of P50,000 – not P75,000 -- for each count of rape.

WHEREFORE, the appeal is hereby DENIED and the assailed Decision is AFFIRMED, with the modification that appellant is ordered to pay the victim indemnity ex delicto of P50,000 for each count of rape, or a total of P150,000, in addition to the moral damages awarded by the trial court. Costs against appellant.

SO ORDERED.

Melo, (Chairman), Purisima, and Gonzaga-Reyes, JJ., concur. Vitug, J., no part; did not participate in the deliberations (in PHILJA on official business).

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[1] Penned by Judge Eriberto U. Rosario Jr., now a member of the Court of Appeals.

[2] Assailed Decision, p. 4; rollo, p. 17.

[3] Docketed as Criminal Case Nos. 97-866 to 97-868.

[4] Rollo, pp. 6-8.

[5] Records, p. 25.

[6] The case was deemed submitted for resolution on June 23, 1999, when this Court received the appellee's Brief. The filing of a reply brief was deemed waived, as none was submitted within the reglementary period.

[7] The Brief for the Appellee was signed by Sol. Gen. Ricardo P. Galvez, Asst. Sol. Gen. Cecilio D. Estoesta and Sol. Reynaldo L. Saludares.

[8] Appellee's Brief, pp. 3-5; rollo, pp. 64-66. (Citations omitted.)

[9] Appellant's Brief, p. 10; rollo, p. 46. This was signed by Atty. Antonio N. Rosario Jr.

[10] Appellant's Brief, p. 1; rollo, p. 37. All caps in the original.

[11] People v. de la Cruz, 276 SCRA 191, July 24, 1997; People v. Corea, 269 SCRA 76, March 3, 1997; People v. Frago, 232 SCRA 653, May 31, 1994.

[12] People v. Miñano, 220 SCRA 681, March 31, 1993; People v. Nuñez, 208 SCRA 341, April 10, 1992.

[13] TSN, November 13, 1997, pp. 8-15.

[14] People v. Corea, 269 SCRA 76, 89, March 3, 1997; People v. Quitoriano, 266 SCRA 373, 376, January 20, 1997.

[15] People v. Julian, 270 SCRA 733, 746, April 4, 1997; People v. Apilo, 263 SCRA 582, 598, October 26, 1996; People v. Ramirez, 266 SCRA 335, 348, January 20, 1997; People v. Gabris, 258 SCRA 663, 671, July 11, 1996; and People v. Alimon, 257 SCRA 658, 669, June 28, 1996.

[16] People v. Borja, 267 SCRA 370, 379, February 3, 1997; and People v. Ramirez, 266 SCRA 335, 348, January 20, 1997.

[17] People v. Erese, 281 SCRA 316, 322, November 5, 1997; People v. Mamalayan, 280 SCRA 748, 760, October 16, 1997; and People v. Gomez, 279 SCRA 688, 696, September 29, 1997.

[18] Appellant's Brief, pp. 4-5; rollo, pp. 40-41.

[19] Article 335 of the Revised Penal Code, as amended.

[20] People v. Corea, 269 SCRA 76, 92, March 3, 1997.

[21] People v. Rabosa, 273 SCRA 142, 150-151, June 9, 1997.

[22] Appellant's Brief, p. 4; rollo, p. 40.

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[23] People v. Quitoriano, 266 SCRA 373, 378, January 20, 1997.

[24] TSN, November 13 and 20, 1997, pp. 16 and 19-20, respectively.

[25] TSN, November 13, 1997, pp. 19-20.

[26] People v. Laray, 253 SCRA 654, 662-663, February 20, 1996.

[27] People v. Gecomo, 254 SCRA 82, 110, February 23, 1996.

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