THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DEOGRACIAS BURGOS Y ARSITE, ACCUSED-APPELLANT.

G.R. Nos. 139959-60. November 22, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision[1] of the Regional Trial Court, Branch 47, Bacolod City, finding accused-appellant Deogracias Burgos y Arsite guilty of two counts of rape and sentencing him in each case to suffer the penalty of reclusion perpetua and to pay the victim, Salvacion Pilapil, P100,000.00 as civil indemnity, P60,000.00 as moral damages, and the costs.

The information in Criminal Case No. 19569 alleged:

> That on or about the 10th day of March, 1998, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, by means of force and intimidation, did, then and there willfully, unlawfully and feloniously have carnal knowledge of the herein offended party, Salvacion Pilapil y Pasaylo-an, against the will of the latter.[2]

On the other hand, the information in Criminal Case No. 99-19570 charged the following:

> That on or about the 18th day of March, 1998, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, by means of force and intimidation, did, then and there willfully, unlawfully and feloniously have carnal knowledge of the herein offended party, Salvacion Pilapil y Pasaylo-an, against the will of the latter.[3]

Upon arraignment, accused-appellant entered a plea of not guilty to both crimes.[4] Thereafter, a pre-trial conference was held during which the parties entered into the following stipulation of facts:

> - That the victim/private complainant in both cases is one Salvacion Pilapil; and
>
> - That the place where both incidents allegedly occurred is owned by a certain Danilo Sibilo and not by private complainant.[5]

The cases were then tried.

The prosecution presented the following witnesses: complainant Salvacion Pilapil, Dr. Joy Ann Jocson, SPO2 Luz Paguntalan Nismal, and Teresita Belonio. Their testimonies established the following facts:

Complainant Salvacion Pilapil was, at the time she testified, 19 years old and married. She and her husband Jessie Pilapil lived in a house owned by Danilo Sibilo,[6] in Purok Sicogon, Brgy. Singcang Airport, Bacolod City. Occasionally, accused-appellant Deogracias Burgos would come to the house to take care of Sibilo's children. On March 10, 1998, while Salvacion was in her room with her one-year old daughter and sweeping the floor, accused-appellant went inside her room and suddenly grabbed Salvacion's hand. He pulled her towards the bed, lay on top of her, and covered her mouth with his left hand to prevent her from shouting. Salvacion kicked

accused-appellant and sought in vain to extricate herself, but accused-appellant proved to be stronger as he succeeded in removing her panties and having sexual intercourse with her. When he was through, accused-appellant put on his clothes and left the bedroom after warning Salvacion that he would kill her if she told anyone what happened to her.[7] For this reason, Salvacion kept the matter to herself. However, on March 18, 1998, at around 12:30 p.m., while Salvacion was taking a nap inside her bedroom, she was awakened by accused-appellant, who again abused her. Accused-appellant covered Salvacion's mouth with his left hand and, when he was through with her, he threatened to kill her if she told her husband about the incident. Salvacion was left crying in the bedroom.[8]

On March 22, 1998, fearing that accused-appellant might rape her again, Salvacion finally told her husband that she had been raped. She later went to Dr. Joy Ann Jocson, Medical Officer IV of the Office of the City Health Officer, for a physical examination.[9] Dr. Jocson's medical report noted that the hymen was circular, moderately thick, with complete healed lacerations at the 1, 4, and 9 o'clock positions.[10]

On March 31, 1998, Salvacion went to the Philippine National Police Station at Tangub, Bacolod City and filed a complaint for rape against accused-appellant.[11]

For its part, the defense presented the following witnesses: Mila Borgano, Danilo Sibilo, accused-appellant Deogracias Burgos, Lanie Galicia, and Cyrus Sibilo. Accused-appellant was 27 years old and jobless at the time he testified. He is the nephew of Danilo Sibilo who owned the house in which complainant and her husband lived. Accused-appellant denied the accusations against him and claimed that he and complainant were lovers. On March 1998, he was asked by his aunt and uncle to look after their children. He said that, in the first week of that month, while he was in the room of Danilo Sibilo, complainant suddenly entered the room, placed her legs on his body, and kissed him. He said he resisted her advances, telling her that she was a married woman, for which reason she left. Nonetheless, accused-appellant said, the incident gave rise to an intimate relationship between them.

At 2 o'clock in the afternoon of March 10, 1998, accused-appellant was taking a bath in Sibilo's house when complainant knocked on the door of the bathroom. She asked for permission for her and her child to get in because she needed to relieve herself. When accused-appellant let her and her child in, Salvacion allegedly started making amorous advances by undressing herself and fondling his penis, rubbing it on her thighs and buttocks. She then inserted his penis into her vagina and left the bathroom after they were finished. Because Danilo Sibilo saw complainant leaving the bathroom, he warned accused-appellant not to repeat the incident.[12]

On March 17, 1998, at about 2 o'clock in the afternoon, accused-appellant was asleep in Sibilo's room when he was awakened by complainant, who had placed her legs over his body and embraced him. She told him not to be afraid because she was not really married. Accused-appellant claimed complainant held his penis and inserted it into her vagina, while embracing him and wrapping her legs around his buttocks. Because they heard some noise in the living room, they hurriedly put on their clothes. Salvacion returned to her room to attend to her child, who was crying. Sibilo, who was in the living room, asked accused-appellant why they again had sex and advised him a second time not to repeat the incident.

The following day, March 18, 1998, she again entered Sibilo's room. Accused-appellant gestured that he wanted to have sex, but she declined because she was menstruating. In the morning of March 22, 1998, Salvacion invited accused-appellant to elope with her to Cebu, but he refused to go with her because he pitied her husband and child.[13]

On rebuttal, Salvacion reiterated her earlier claim that accused-appellant had raped her on March 10 and 18, 1998.[14]

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On August 11, 1990, the trial court rendered a decision, the dispositive part of which states:

> WHEREFORE, finding accused Deogracias Burgos y Arsite guilty beyond reasonable doubt of Rape under Republic Act No. 8353 (amending the Revised Penal Code and Republic Act No. 7659) in both Criminal Cases Nos. 19569 and 19570, judgment is hereby rendered imposing upon him the penalty of Reclusion Perpetua for each of these two cases. He is also to suffer the accessory penalty prescribed by law. Accused is further ordered to pay the private offended party Salvacion Pilapil civil indemnity of P50,000.00 for each count of rape, or a total of P100,000.00; plus moral damages of P30,000.00 for every case, or an aggregate of P60,000.00. Costs against him.
>
> Accused being detained by reason of these cases, the period of his preventive imprisonment shall be credited in his favor and deducted from the service of his sentence even if he is penalized with two (2) counts of reclusion perpetua (People vs. Corpuz, 231 SCRA 480), provided, he has agreed in writing to abide by the same disciplinary rules imposed upon convicted prisoners in accordance with the provisions of Article 29 of the Revised Penal Code.[15]

Hence this appeal. Accused-appellant contends:

> - THE TRIAL COURT SERIOUSLY ERRED IN GIVING CREDIT TO THE UNCORROBORATED TESTIMONY OF THE PRIVATE COMPLAINANT DESPITE ITS BEING CONTRARY TO HUMAN BEHAVIOR;
>
> - THE TRIAL COURT SERIOUSLY ERRED IN NOT GIVING DUE CONSIDERATION TO THE ESTABLISHED JURISPRUDENCE ON THE MATTER.

We find these contentions to be without merit.

In adjudging rape cases, the Court is guided by the following principles: (a) an accusation of rape can be made with facility, it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (b) in view of the nature of the crime in which only two persons are involved, the testimony of the complainant must be scrutinized with extreme caution; and (c) 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 of the defense.[16] It has been held that the accused may be convicted solely on the testimony of the victim, provided it is credible, natural, convincing, and consistent with human nature and the normal course of things.[17]

In this case, Salvacion's testimony convinces us that accused-appellant raped her on March 10, 1998 and March 18, 1998. On direct examination, she stated:

> FISCAL YNGSON:
>
> Q:
>
> You said that you were not able to finish sweeping the floor because this Deogracias Burgos entered the room, will you please tell us what happened if any?
>
> A:
>
> Because he held me in my right hand.
>
> Q:
>
> After he held you in the right hand what did he do, if any?
>
> A:
>
> He pulled me going to our bed.

Q:

Was he able to pull you towards the bed.

A:

Yes, sir.

Q:

And what happened next, if any?

A:

After that he put himself on top of me and covered my mouth so that I could not shout.

Q:

Which of his hand covered your mouth, the left or the right hand of the accused?

A:

Left hand.

Q:

Why, what about his right hand? What was he doing with it?

A:

He raised my skirt and pulled down my panty.

Q:

What about you, what did you do, if any, while he was raising your skirt and pulling down your panty?

A:

I resisted and kicked him.

Q:

When you resisted him and kicked him, did he stop or did he continue with what he was doing?

A:

Yes, sir.

Q:

Now, was he able to finally remove your panty?

A:

Yes, sir.

Q:

And what did he say?

A:

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That if I will tell this to my husband, he will kill me.

Q:

Did you shout?

A:

I was not able to shout because he covered my mouth.

Q:

After he was able to remove your panty, what else did he do, if any?

A:

He removed his shorts.

Q:

Was he wearing a brief?

A:

I cannot recall if he was wearing a brief.

Q:

Now, you said that after he has removed his shorts, he placed something inside, what do you mean by that?

A:

He inserted his penis into my vagina.

Q:

Was he able to insert his penis inside your vagina?

A:

Yes, sir.

Q:

While he was doing this, what about you, what did you do, if any?

A:

I was struggling that I cannot do anything because I am just a woman.

. . . .

Q:

Now did the March 10, 1998 incident repeat or not?

A:

Yes, sir.

Q:

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And when was that?

A:

March 18, 1998.

Q:

And where did this happen?

A:

In the same rented house.

Q:

And will you please tell us what time?

A:

12:30 o'clock in the afternoon.

Q:

Why, what were you doing then at that 12:30 o'clock of March 18, 1998?

A:

I was sleeping together with my daughter.

Q:

Were you the only two (2) at that time in your rented room with your daughter Jessa?

A:

Yes, sir.

Q:

And what time did you wake up that day of March 18, 1998?

A:

I went to sleep at 11:00 o'clock in the morning and I was able to wake up at 12:40 o'clock noon.

Q:

Why did you wake up at 12:30 o'clock noon?

A:

Because I feel the presence of Deogracias Burgos and he put himself on top of me.

Q:

While the accused was on top of you, what else did he do?

A:

He covered my mouth so that I could not shout.

Q:

And which of his hand did he use in covering your mouth?

A:

His left hand.

Q:

When he was covering your mouth with his left hand, what else did he do, if any?

A:

He did the same thing.

Q:

When you say he did the same thing, will you please tell us what you mean by that?

A:

He raped me again.

Q:

Will you please tell us briefly how he did it raping you?

A:

While I was sleeping, he placed himself on top of me, he covered my mouth and removed my shorts and raped me.[18]

Accused-appellant argues that several circumstances indicate consent to the sexual intercourse on the part of complainant, to wit: (1) failure to use the broom she was holding to defend herself on March 10, 1998; (2) her failure to scream and to use her hands to ward off his advances; and (3) the fact that he was unarmed when he allegedly abused her.[19]

This contention lacks merit.

First, we have held that no standard form of behavior may be expected when a person is confronted by a shocking or a harrowing and unexpected incident, for the workings of the human mind when placed under emotional stress are unpredictable. Some people may cry out, some may faint, some may be shocked into insensibility, while others may appear to yield to the intrusion.[20] Second, in rape cases, the force required need not be overpowering or irresistible when employed. What is necessary is that the force be sufficient to accomplish the purpose which the accused had in mind.[21] The law does not impose upon a rape victim the burden of proving resistance. Physical resistance need not be established in rape when intimidation is exercised upon the victim and the latter submits herself because of fear.[22] Intimidation is addressed to the mind of the victim and is therefore subjective.[23] The victim categorically described the force and intimidation exerted when she was ravished. She tried to resist by kicking accused-appellant. But he was no match for her. She wanted to scream but her mouth was covered and he pinned her down on the bed.[24]

Nor is the fact that the two incidents of rape happened during the day or in a place that is proximate to other houses material. Rape can be committed in isolated or private places, as well as in open and public places. Rapists are not deterred by time or place in consummating their bestial design.[25] The trial court, therefore, correctly concluded that there was force or intimidation notwithstanding the victim's failure to use the broom to defend

herself or to shout for help, or the fact that accused-appellant was unarmed.

We have held that the trial court's assessment of the credibility of witnesses is accorded great respect because of its opportunity to hear their testimonies and observe their demeanor and manner of testifying.[26] We do not find any reason to disturb the findings of the trial court since it did not manifestly overlook any fact which would have altered the result of the case.

Accused-appellant also claims Salvacion failed to inform the police the exact room where she was first assaulted nor to describe the bed on which she was raped.[27] This contention fails to persuade us that he is innocent. The affidavit that complainant filed with the police on March 31, 1998 sufficiently described the time and place of the rape, and she adequately expounded on the facts stated therein during her testimony. As the trial court explained:

> [C]omplainant may have contradicted herself at some point, like the absence of a sleeprite bed in her room, but these contradictions are slight and trivial as they refer only to minor matters which cannot negate her credibility. These flaws, if we consider them to be [such], would only stress the credibility of complainant's unrehearsed and imperfect testimony, not impair its essential veracity and consistency (People vs. Quinones, 245 SCRA 87, 91).

In fact, complainant did not mention any "sleeprite bed"; her testimony was clear and consistent throughout.

The consensual sex or sweetheart theory advanced by the defense fails to convince the Court that accused-appellant is entitled to an acquittal. It appears that the alleged love affair between accused-appellant and Salvacion is but a mere fabrication of the former to exculpate himself from the rape charges filed against him. The absence of love notes, mementos, or pictures casts doubt on the accused's claim that he and the victim were sweethearts. Being an affirmative defense, the allegation of a love affair must be supported by convincing proof.[28] Accused-appellant failed to do this.

Nor was there any undue delay on the part of Salvacion in reporting the rape. On March 22, 1998, just 12 days after she was first raped and four days after she was raped for the second time, she reported the incident to her husband and later to the police. The alleged delay was naturally caused by accused-appellant's threat that he would kill her if she told her husband about the incident. The failure of a complainant to immediately report the rapes to her family or the police authorities due to threats does not detract from the victim's credibility.[29] Rape is a harrowing experience and the shock concomitant to it may linger for a while. Oftentimes, victims would rather bear the ignominy and the pain in private than reveal their shame to the world or risk the rapist's making good the threat to do them harm.[30] The trial court, which had the opportunity to observe Salvacion's demeanor during the trial, found her testimony plausible and credible. It correctly held:

> That she did not report to her husband or to the police the sexual assaults immediately after March 10 and 18 has been thus explained satisfactorily by her. Besides, it is not uncommon for young women like Salvacion to conceal for sometime assaults on their virtue because of shame and also because she was warned by accused not to tell her husband. The silence of Salvacion and her failure to reveal the incidents to her husband and report to the police until several days later do not necessarily mean that she was not sexually molested and that the charges against accused are baseless, untrue and fabricated. Silence is not an odd behavior of victims of rape. (People v. Dones, G.R. No. 108743, March 13, 1996)

The award of P30,000.00 as moral damages for each count of rape should be modified, however, and increased to P50,000.00 for each count or a total of P100,000.00 in accordance with current jurisprudence.[31]

WHEREFORE, the decision of the Regional Trial Court, Branch 47, Bacolod City, finding accused-appellant Deogracias A. Burgos guilty of two counts of rape and imposing upon him the penalty of reclusion perpetua for each count, is AFFIRMED with the MODIFICATION that the award of civil indemnity should be increased to

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P50,000.00 for each count of rape or a total of P100,000.00 and, in addition, accused-appellant is ORDERED to pay the complainant Salvacion Pilapil the amount of P50,000.00 for each count of rape, or the total amount of P100,000.00, as moral damages.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[1] Per Judge Edgar G. Garvilles.

[2] Records (Criminal Case No. 19569), pp. 1-2.

[3] Records (Criminal Case No. 19570), pp. 1-2.

[4] Certificates of Arraignment; Records (Criminal Case No. 19569), p. 17; Records (Criminal Case No. 19570), p. 10.

[5] Pre-Trial Order (Criminal Cases Nos. 19569 and 19570); Records (Criminal Case No. 19569), p. 24.

[6] Also referred to as "Danilo Savilo," "Danilo Sibelo," and "Danilo Sivilo" in the TSN and Records.

[7] TSN (Salvacion Pilapil), pp. 6-14, May 26, 1999.

[8] Id., pp. 16-18.

[9] Id., pp. 14-15,18.

[10] Records (Criminal Case No. 99-19569), p. 35.

[11] TSN (SPO2 Luz P. Nismal), p. 8, June 7, 1999.

[12] TSN (Deogracias Burgos), pp. 6-14, June 21, 1999.

[13] TSN (Deogracias Burgos), pp. 6-18, June 21, 1999.

[14] TSN (Salvacion Pilapil), pp. 2-16, July 5, 1999.

[15] Decision, p. 15; Rollo, p. 30.

[16] People v. Garcia, G.R. No. 117406, September 16, 2001; People v. Barcelona, 325 SCRA 168 (2000); People v. Bea, 306 SCRA 653 (1999).

[17] People v. Garcia, G.R. No. 117406, September 16, 2001; People v. Barcelona, 325 SCRA 168 (2000); People v. Bonghanoy, 308 SCRA 383 (1999).

[18] TSN (Salvacion Pilapil), pp. 9-12, 15-16, May 26, 1999.

[19] Appellant's Brief, pp. 7-8.

[20] People v. Pecayo, G.R. No. 132047, December 14, 2000.

[21] People v. Rosales, G.R. No. 126402, September 13, 2000; People v. Soberano, 244 SCRA 467 (1995).

[22] People v. Clado, G.R. Nos. 135699 and 139103, October 19, 2000.

[23] People v. Dagpin, G.R. No. 136254, December 4, 2000; People v. de Guzman, 265 SCRA 228 (1996).

[24] See People v. Clado, G.R. Nos. 135699 and 139103, October 19, 2000.

[25] People v. Bohol, G.R. Nos. 141712-13, August 22, 2001; People v. Mitra, 328 SCRA 774 (2000); People v. Arlee, 323 SCRA 201 (2000); People v. Cortes, 323 SCRA 131 (2000).

[26] People v. Garcia, G.R. No. 117406, September 16, 2001; People v. Salonga, 329 SCRA 468 (2000).

[27] Appellant's Brief, pp. 7-8.

[28] People v. Monfero, 308 SCRA 396 (1999).

[29] People v. Monferro, 308 SCRA 396 (1999).

[30] People v. Pecayo, G.R. No. 132047, December 14, 2000.

[31] People v. Garcia, G.R. No. 117406, September 16, 2001; People v. Maglente, 306 SCRA 546 (1999); People v. Cantos, 305 SCRA 786 (1999).

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