

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGELIO RIVERA Y LEGASPI, ALFREDO NAVARRO Y TIPAY, ROGELIO ORMILLA Y GUANANI, AND ENRIQUE TAÑEDO Y CAPON (AT LARGE), ACCUSED. ...

G.R. Nos. 88298-99. March 01, 1995

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

As midnight struck four (4) pleasure-seeking desperados sneaked into the room of Sun Yueh Lan. They found her sleeping - alone, helpless. They ganged up on her, mauled her into submission then feasted on her femininity. They ravished her that ended her unfeigned naivete. Their lustful longings quenched and sated the lechers left her unconscious after having snatched enough of her innocence and purity.

The victim, Sun Yueh Lan, arrived from Taiwan on 6 August 1987 to teach Mandarin at the Bayanihan Institute in Tarlac, Tarlac. During her first three months she stayed in the dormitory inside the school compound. However, sometime in the first week of November 1987, wanting to be alone and finding dormitory life uncomfortable, she transferred to the Sun Yat Sen Building along MacArthur Highway, a five-minute walk from the Bayanihan Institute. [1] Four (4) janitors of the Bayanihan Institute helped her move her things to her new quarters. [2] Five (5) days later tragedy befell her.

Speaking through a certain Atty. Laogan and Mr. Eddie Lee, interpreters from the Federation of Filipino-Chinese Chambers of Commerce & Industry, Inc., after the Department of Foreign Affairs was unable to provide one, Sun Yueh Lan narrated that on 13 November 1987, at around twelve o'clock midnight, she was alone sleeping in her room at the third floor of the Sun Yat Sen Building. She was awakened when the lights in her room went on. She then saw the four (4) janitors who helped her transfer to her new place, already inside her room. One of them, Rogelio Rivera, immediately approached her, kissed her and fondled her private parts, while the three (3) others searched her room. She resisted Rivera's advances by pushing him away and biting his shoulder. [3] He retreated. [4] But the three (3) others who were searching her belongings closed in on her. [5] Enrique Tañedo held her hands while Rogelio Ormilla and Alfredo Navarro her legs. Rivera then tore her panty after which Tañedo placed himself on top of her. She was able to kick Tañedo but the latter boxed her on the chest several times. Tañedo succeeded in having sexual relations with her. After satisfying his lust, he then held her arms while Rivera who held her arms when Tañedo was raping her followed suit. Rivera hit her hard on the chest to overcome her resistance and in the same breath inserted his organ into hers. She then lost consciousness.

When she regained her senses her four (4) debauchers had already left her room. It was in disarray. Pain enveloped her body. Her salary for fifteen (15) days amounting to P1,000.00 was gone. She wept. Her traumatic and horrifying experience was still vivid in her mind. She then went to the second floor to bathe herself. She wished she could go to the store outside the building and call up the school principal but fearing that her tormentors might still be around she decided to wait for daybreak.

Finally she was able to talk to the principal over the telephone at around five o'clock in the morning. After ten minutes the principal and his wife arrived. [6] Bruised and embarrassed she requested them to go to her room and find out for themselves what had happened. She remained in the receiving room on the ground floor while the principal and his wife proceeded to her room on the third floor. She was still feeling very weak. When the school principal returned he asked her who did it and she readily mentioned the janitors. [7] The principal then left.

Later the policemen arrived with the four (4) janitors in tow. Through Margarita Go, the principal's wife acting as interpreter, as Sun Yueh Lan knew very little English, she pointed to Enrique Tañedo, Rogelio Rivera and Alfredo Navarro as her defilers. She was about to identify the fourth janitor, Rogelio Ormilla, but she already felt dizzy; in fact, she lost consciousness and was rushed to the Tarlac Provincial Hospital where she was attended to by Dr. Reynaldo Guiang. The Medical Certificate issued by Dr. Guiang shows -

CHEST & BREASTS: x x x There was a contusion about 2 cm. at the angle of Lewis.

ABDOMEN: flat, with multiple contusion hematomas at the epigastric region and left infraumbilical area, the former about 7 cm. in its widest diameter and the latter about 2 cm., soft, with tenderness at the epigastric area x x x x

EXTREMITIES:

a) Upper Extremities; contusion 4 cm. dorsal aspect of the right arm, contusion-hematoma, right shoulder; hematoma, 1 cm. dorsal aspect of the right thumb; hematoma, 4 cm. dorsal aspect of the left arm; hematoma, 1 cm., at the left elbow.

b) Lower Extremities; multiple abrasions at the lateral aspect of the right thigh; abrasion about 4 cm. at the right knee; contusion, 2 cm. just below the left anterior superior iliac spine; contusion, 1 cm. at the inner aspect of the left thigh.

BACK: contusion 1 cm. at the right hip; contusion about 2 cm. at the midportion of the back.

x x x x

EXTERNAL GENITALIA: both labia majora were light brown, well coaptated, both labia majora were pinkish and well coaptated with abrasions on both left and right at the junction of the labia minora and majora; there was a longitudinal laceration about 1 cm. long at the left labia minora, with no active bleeding.

HYMEN: oval in shape with slit-like opening and serrated borders, there were fresh, superficial lacerations at 9:00 and 6:00 o'clock positions.

x x x x

INTERNAL EXAMINATION: Nulliparous introitus, which admits one finger with difficulty, cervix firm, non-tender, uterus not enlarged x x x x [8]

She was interviewed at the hospital by Pfc. Oscar Mayor of the Criminal Investigation Section of the Tarlac Police Station. There she gave details of the incident and repeated her accusations against Tañedo, Rivera, Navarro, including Ormilla this time. Thus separate informations for rape and robbery were filed.

Charged with rape and robbery all four (4) accused Enrique Tañedo, Rogelio Rivera, Alfredo Navarro and Rogelio Ormilla took the witness stand and proffered a uniform alibi that on 13 November 1987, at around eight-thirty in the evening, they had a beer-drinking session at the Cool Spot Canteen in front of the Bayanihan Institute. At nine-thirty they returned to the school compound. Navarro then locked the gate and returned the key

to their supervisor, a certain Ernesto Latorilla who was the custodian of the keys, thus preventing them from going out again of the building later that evening. [9] They then proceeded to the room shared by Navarro and Ormilla where they sang while someone played the guitar. [10] Tañedo claimed that he immediately proceeded to the room which he shared with Rivera and then slept. [11] Ormilla said he fell asleep in his room during the singing [12] while Navarro transferred to the conference room where he also slept. [13] Navarro recounted that after the singing, Tañedo and Rivera went to their room. [14]

At five-thirty the following morning, Navarro got the keys from Latorilla as he and Ormilla were going to throw garbage. However, policemen came, rounded them up and brought them to the Sun Yat Sen Building where they saw the complainant. [15] Except for Ormilla, they were then brought to the municipal building. Tañedo claimed he was hit with the butt of an armalite and bullets were inserted between his fingers. [16] Navarro on the other hand narrated that he was brought to the Tarlac River where he was struck with the butt of an armalite and covered with sand. [17]

Rebuttal witness Ernesto Latorilla to whom the school keys were supposedly returned by Navarro at around nine-thirty in the evening of 13 November 1987 however testified that the keys were never entrusted to him but to the janitors themselves. [18] Thus Navarro never returned the keys to Latorilla as the former had no reason to do so.

Meanwhile, in a letter dated 21 September 1988 the Acting Provincial Jail Warden of Tarlac manifested that Enrique Tañedo was behaving queerly. [19] Consequently, counsel for Tañedo moved that his client be confined in a mental asylum and examined and that trial as regards him be suspended pending the result of his mental examination. [20] The motion was granted and the jail warden was directed to bring Tañedo to the National Center for Mental Health (NCMH) in Mandaluyong, Metro Manila, for psychiatric examination and ordered his confinement therein if necessary. [21] The court likewise suspended all the proceedings insofar as accused Tañedo was concerned pending the outcome of his examination. [22]

Accordingly, on 19 October 1988 Tañedo was admitted to the NCMH. Later however, in a Report dated 13 February 1989 and submitted to the trial court, Resident Physician Johnnevert R. Jimenez of the NCMH stated that Tañedo was "suffering from a mental disorder called Insanity classified under Mood Disorder, Major Depression, Single episode with psychotic features x x x [a]t present, he has shown considerable improvement with his mental condition and is deemed competent to stand the rigors of court trial." [23] Hence, the NCMH petitioned the trial court for the release of Tañedo to its custody. [24] However, on 20 April 1989, pending his release to the court Tañedo escaped from the NCMH. [25]

On 27 April 1989, the Regional Trial Court of Tarlac, Tarlac, Br. 64, found accused Rogelio Rivera y Legaspi, Alfredo Navarro y Tipay and Rogelio Ormilla y Guanani guilty beyond reasonable doubt of two (2) counts of rape and sentenced each of them to "double reclusion perpetua." [26] They were however acquitted of robbery "for failure x x x to prove (their) guilt x x x beyond reasonable doubt." [27] In the meantime, the case against accused Enrique Tañedo y Capon "was archived without prejudice to its reinstatement or revival should the latter be apprehended later on." [28]

Accused Alfredo Navarro and Rogelio Ormilla through counsel and accused Rogelio Rivera by himself appealed. However, only accused Rogelio Ormilla was able to complete his appeal by filing the necessary appellant's brief before this Court. Accused Alfredo Navarro and Rogelio Rivera on the other hand, after being granted an extension of time, failed to file their briefs. Thus in the Resolution of 5 December 1994 this Court dismissed the appeal of Alfredo Navarro and Rogelio Rivera. [29] Consequently, as regards them the decision of the trial court has already become final and executory.

We are therefore concerned here only with the appeal of the remaining accused Rogelio Ormilla.

After quoting the factual findings of the trial court, consuming therefor three (3) pages of his six-page appeal, accused-appellant Ormilla discusses his alleged erroneous conviction in a single page. He argues -

x x x private complainant being a foreigner her conflicting testimony about the participation of accused-appellant Rogelio Ormilla in her alleged robbery and rape cannot be given the same indicia of a truthful testimony as that of a Filipina x x x the admitted fact that she was leaving for Taiwan will no longer stamp her testimony with that imprimatur that the stigma of her shame will dissuade her from testifying unless she were telling the truth would no longer be valid.

Of course, the moral standards of Taiwanese girls are very different than those of Filipinas. In fact all of the accused testified as to her actuations in the presence of males x x x x Her failure to identify accused-appellant Rogelio Ormilla when she is very much acquainted with all the accused, has brought into grave doubts her later courtroom dramatics of pointing to appellant Ormilla as one of the perpetrators of the alleged crimes.

The Court is unimpressed. In prosecuting crimes against chastity, conviction or acquittal virtually depends on the credibility of the complainant's testimony because of the fact that usually only the participants are witnesses to their occurrences. [30] Rape is a crime which is not normally committed in the presence of eyewitnesses. [31] Thus more often than not the issue in rape as in the case at bench is simply credibility. And, when what is in issue is the credibility of witnesses, deference to the trial court is inevitable unless there appears strong and cogent reason to disregard its observation. [32] The assessment of the credibility of witnesses is left largely to the trial court because of its opportunity, not available to the appellate court, to see the witnesses on the stand and determine by their demeanor whether they are testifying truthfully or lying through their teeth. [33] The determination of credibility is the domain of the trial court, [34] and the matter of assigning values to the testimonies of witnesses is best performed by it. [35] Thus, the evaluation by the trial judge on the credibility of witnesses is well-nigh conclusive on this Court, barring arbitrariness in arriving at his conclusions. Consequently, in the case at bench, we accord respect to the finding of the trial court that Sun Yueh Lan was a credible witness as she testified in a "straightforward and convincing manner," [36] for a witness who testifies as such and remains generally consistent is believable and reliable. [37]

And, when a woman says that she has been raped, she says in effect all that is necessary to show that she had indeed been raped, and if her testimony meets the test of credibility, as in the instant case, the accused may be convicted on the sole basis of her testimony. [38] For, it is axiomatic in rape cases that the lone declaration of facts of the offended party, if credible, is sufficient to sustain a conviction. [39] Thus the Court has consistently held that a person charged with rape may be convicted thereof solely on the testimony of the victim provided that her testimony is credible. [40]

The argument that the victim may not necessarily be telling the truth as she will soon be leaving for Taiwan and may thus be indifferent in airing in public matters that affect her honor deserves scant consideration. A rape victim would not publicly disclose that she had been raped and undergo the trouble and humiliation of a trial - more so if she is a foreigner who is new to this country - if her motive was not to bring to justice the persons who had abused her. [41] Her willingness and courage to face the interrogation and the medical examination are mute but eloquent proofs of the truth of her charge. [42] And, the absence of motive on her part in pointing an accusing finger against the accused all the more strengthens her allegations. [43]

We see no reason why the alleged conflicting testimony about the participation of appellant Ormilla should not be given the same indicia of a truthful testimony accorded to a Filipina as there appears to be no basis for such distinction. The underlying consideration is the adjudged credibility of the complaining witness. And while there

may indeed be contradictions in her testimony, these refer to minor and trivial inconsistencies which even tend to strengthen rather than weaken her credibility by erasing any suspicion of a rehearsed testimony. [44]

The imputation of appellant that the victim is of loose morals is a self-serving allegation, unsubstantiated and wanting of strong evidence, [45] and unworthy of any consideration from this Court; for, even a prostitute may be a victim of rape. Likewise, her failure to identify accused-appellant Ormilla during their initial confrontation a few hours after her harrowing experience in the hands of her attackers has been sufficiently explained - she lost consciousness before she could point to him.

In fine, accused-appellant's alibi is unavailing not only because of its inherent weakness but likewise due to the positive identification by the victim who knew all the accused, she having taught for more than three months already in the school where all the accused were employed as janitors. It has been repeatedly ruled that the defense of alibi is worthless in the face of positive identification. [46]

Besides, the defense of alibi cannot prosper unless accused is able to prove that he was at some other place during the commission of the crime and that it was impossible for him to have been at the locus criminis at the time of its commission. [47] Accused-appellant in the case at bench failed to prove this. On the contrary, he admitted in open court that at the time the incident happened, he was merely sleeping some one hundred fifty meters away from the scene of the crime. As such, with his failure to prove the required physical impossibility of being present at the crime scene the defense of alibi is definitely feeble. [48]

While the victim did not name accused-appellant Ormilla as one of those who raped her, he nevertheless was an indispensable participant in the commission of the rape as he was positively identified as one of those who were in the room of the victim and who held her legs to prevent her from offering resistance while she was being raped by his co-accused. His acts before, during and after the commission of the offense demonstrate that he helped and cooperated with his co-accused through simultaneous acts, which are indicative of a common objective, showing the existence of a conspiracy. And where conspiracy exists, the act of one is the act of all, and therefore all must suffer the same penalty. [49]

Thus on the basis of the strength of the evidence of the prosecution we affirm the findings of the trial court that appellant Ormilla is guilty of rape.

The Court takes note of the order of the judge that the case against accused Enrique Tañedo be "archived without prejudice to its reinstatement or revival should the latter be apprehended later on." Considering that the NCMH has already certified the competency of accused Tañedo to stand the rigors of a court trial, and thereafter, he escaped the confines of the mental institution, he should have been ipso facto considered as a fugitive from justice. He is therefore deemed to have waived his presence during the trial which should proceed in absentia until its resolution.

WHEREFORE, the Decision of the court a quo is AFFIRMED with the modification that aside from the award of P1,000.00 as actual damages and P30,000.00 as moral damages in favor of the victim to be paid by accused-appellant Rogelio Ormilla y Guanani jointly with Rogelio Rivera y Legaspi and Alfredo Navarro y Tipay, ROGELIO ORMILLA y GUANANI is further ordered to pay the victim Sun Yueh Lan P40,000.00 as civil indemnity. Likewise, the Regional Trial Court of Tarlac, Tarlac, Br. 64, is directed to revive and proceed with the case of accused ENRIQUE TAÑEDO y CAPON and resolve the same with deliberate dispatch.

The Motion for Clarification and/or Reconsideration of the Resolution of 5 December 1994 filed by counsel for accused-appellant is NOTED.

Costs against accused-appellant Rogelio Ormilla y Guanani.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Quiason, and Kapunan, JJ., concur.

- [1] TSN, 8 March 1988, pp. 79-81.
- [2] Id., p. 78.
- [3] Id., pp. 69-73.
- [4] Id., pp. 86-88.
- [5] Id., p. 88.
- [6] Id., pp. 20-21.
- [7] Id., pp. 22-24.
- [8] Exh. "B;" Decision of the trial court, pp. 5-7.
- [9] TSN, 14 September 1988, p 15; 19 January 1989, pp. 11-12.
- [10] Id., 20 July 1988, pp. 9-12; 19 January 1989, p. 12
- [11] Id., 24 May 1988, pp. 19-20.
- [12] Id., 20 July 1988, pp. 46-47.
- [13] Id., p. 43.
- [14] Id., 19 January 1989, p. 13.
- [15] Id., p. 15.
- [16] Id., 24 May 1988, pp. 31-35.
- [17] Id., 19 January 1989, pp. 17-18.
- [18] Id., 7 March 1989, p. 12.
- [19] Records, pp. 73-74.
- [20] Comment and Motion to Suspend Trial dated 4 October 1988; Records, p. 78.
- [21] Regional Trial Court of Tarlac, Tarlac, Br. 64, Judge Arturo U. Barrias, Jr., presiding.
- [22] Records, pp. 79-80.
- [23] Report, p. 3; Records, p. 105.
- [24] Petition for Release, p. 2; Records, p. 106.
- [25] Letter of Dr. Sylvia B. Santiago, M.D., Chief Forensic Psychiatry Service, NCMH, dated 24 April 1989.
- [26] Decision of the trial court, p. 25.
- [27] Id., p. 23.
- [28] Id., p. 25.

- [29] Rollo, p. 192.
- [30] *People v. Castillon*, G.R. No. 100586, 15 January 1993, 217 SCRA 76.
- [31] *People v. Adlawan, Jr.*, G.R. No. 100917-18, 25 January 1993, 217 SCRA 489.
- [32] *People v. Yumang*, G.R. No. 94977, 17 May 1993, 222 SCRA 119; *People v. Kyamko*, G.R. No. 103805, 17 May 1993, 222 SCRA 183.
- [33] *People v. Aruta*, G.R. No. 73907, 1 May 1993, 222 SCRA 201.
- [34] *People v. Clapano*, G.R. No. 106525, 8 November 1993, 227 SCRA 598.
- [35] *People v. Joma*, G.R. No. 95029, 24 March 1993, 220 SCRA 440.
- [36] Decision of the trial court, p. 19.
- [37] *People v. Arnan*, G.R. No. 72608, 30 June 1993, 224 SCRA 37.
- [38] *People v. Lascuna*, G.R. No. 90626, 18 August 1993, 225 SCRA 386.
- [39] *People v. Arnan*, see Note 37.
- [40] *People v. Arce*, G.R. Nos. 101833-34, 26 October 1993, 227 SCRA 406.
- [41] See *People v. Domingo*, G.R. No. 97921, 8 September 1993, 226 SCRA 156.
- [42] *People v. Joya*, G.R. No. 79090, 1 October 1993, 227 SCRA 9.
- [43] *People v. Alib*, G.R. No. 100232, 24 May 1993, 222 SCRA 517; *People v. Ulili*, G.R. No. 103403, 24 August 1993, 225 SCRA 594; *People v. Joya*, see Note 42.
- [44] *People v. Caco*, G.R. Nos. 94994-95, 14 May 1993, 222 SCRA 49.
- [45] *People v. Coloma*, G.R. No. 95755, 222 SCRA 255.
- [46] *People v. Dominguez*, G.R. No. 100199, 18 January 1993, 217 SCRA 170; *People v. De la Cruz*, G.R. No. 102063, 20 January 1993, 217 SCRA 283.
- [47] *People v. Cabuang*, G.R. No. 103292, 27 January 1993, 217 SCRA 675.
- [48] *People v. Manero, Jr.*, G.R. Nos. 86883-85, 29 January 1993, 218 SCRA 85.
- [49] *People v. Crisostomo*, G.R. No. 85434, 17 May 1993, 222 SCRA 93.

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