Supreme Court E-Library

FIRST DIVISION

[G.R. No. 149531. July 22, 2003]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **ERNESTO RAMIREZ, JR.,** *y* **MARQUEZ,** *appellant.*

SYNOPSIS

Appellant herein was charged and convicted of rape of a married woman who was his distant cousin. For his defense, appellant claimed that the alleged victim was his former girlfriend and what happened to them was an act of two consenting adults. In the instant appeal, appellant insisted that the testimony of his alleged victim lacked credibility and that the trial court erred in giving weight and credence to her improbable testimony.

The Supreme Court, unfortunately for the appellant, found no cogent justification to reverse the findings of the trial court. The review made on the records did not show any indication that the trial court had manifestly overlooked a matter of substance or significance in making its assessment of the evidence. The admission of carnal knowledge of the complainant by appellant effectively placed upon him the burden of proving his defense by convincing evidence that the sexual congress was an act of two consenting adults. The two conflicting versions were heard by the trial court; it gave credence to the testimony of the victim as against that proffered by appellant. The assailed judgment convicting the appellant and sentencing him to suffer the penalty of *reclusion perpetua* was affirmed by the Supreme Court.

SYLLABUS

1. CRIMINAL LAW; RAPE; PHYSICAL RESISTANCE; NOT AN ELEMENT THEREOF; APPLICATION IN CASE AT BAR. — *Physical resistance* in establishing rape, however, would be inconsequential when intimidation was clearly exercised upon the victim, submitting herself to the rapist's lust, not because she willed it, but because of fear for her life and safety. Felisa testified that appellant had used a gun to

Supreme Court E-Library

cow her into submission; indeed, she remained handcuffed until the next day. The defense would call attention to the fact that the medical examination of the victim disclosed no sign of injury on her person and no indication that she was raped. Admittedly, Felisa belatedly submitted herself to a medical examination. It should not then be surprising that Dr. Villena would find no sign of the victim having been violated. It might be stated, in any event, that physical injury, not being an element of rape, need not necessarily be proven; neither would a medical examination of the victim be indispensable for conviction in rape.

2. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES ; NOT IMPAIRED BY THE DELAY IN FILING OF COMPLAINT.** — It had long been settled that the failure to promptly file a complaint to the proper authorities would not necessarily destroy the truth *per se* of the complaint nor would it impair the credibility of the complainant, particularly if such delay were satisfactorily explained. In this case, Felisa elucidated that Col. Villaroman, the superior officer of both her husband and appellant, advised the couple against the filing of the complaint at the time for it could imperil a police operations still then being undertaken against a drug syndicate.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
David B. Agoncillo for accused-appellant.

D E C I S I O N

VITUG, *J.*:

An appeal is interposed by Ernesto Ramirez, Jr., from the decision of the Regional Trial Court, Branch 27, of Manila, convicting him of rape. The accusatory Information charging him with the crime reads:

"That on or about April 10, 1997, in the City of Manila, Philippines, the said accused, did then and there willfully, unlawfully and feloniously, by means of force, violence and intimidation, to wit: by poking his .45 cal. Pistol against one FELISA CLAVEL DE

Supreme Court E-Library

MAGHINANG, threatening to kill her should she create a noise, forcing her to undress, thereafter slapping and handcuffing her, lying on top of her and inserting his penis into her private part, and succeeded in having carnal knowledge of her, against her will and consent."[1]

Upon his arraignment, Ramirez entered a plea of "not guilty" to the accusation. Culled from the findings of the trial court and the records of this case, the prosecution and the defense presented conflicting versions of the incident.

The case for the prosecution. —

On 09 April 1997, around five o'clock in the afternoon, Felisa Clavel de Maghinang left her home at No. 27 Avendaño Street, Poblacion, Plaridel, Bulacan, following a quarrel with her husband Cesar Maghinang. Felisa proceeded to her aunt's house in Tondo, Manila, arriving thereat at about ten o'clock in the evening. The following day, Olive Ramirez, a cousin, accompanied Felisa to the house of the latter's brother, Norman. Later, Ernesto Ramirez arrived at Norman's house. She requested Ernesto to help her find a job. After Ernesto had left, Felisa stayed in the house for about six more hours, tending to Norman's sick child. At seven o'clock in the evening, Norman accompanied Felisa to LRT station. Arriving thereat, they saw Ernesto in front of the Jollibee fastfood restaurant. Ernesto offered to accompany Felisa to the Baliwag Transit bus terminal after he would have first reported to the Western Police District (WPD) headquarters at United Nations Avenue, Manila, where he was assigned. Felisa acceded, and they took the LRT. At the UN Avenue, Ernesto requested her to wait on the sidewalk. After about an hour, Ernesto returned. The two then took a taxicab and asked the driver to proceed to the Baliwag Transit terminal. Before reaching the terminal, Ernesto told the driver to pull over. Alighting from the taxicab, they crossed the street and entered a building, along the LRT line, where Ernesto said he would introduce her to a prospective employer.

The building where they went turned out to be a hotel. Ernesto talked to a person, and they were ushered to a room. Felisa

[1] *Rollo*, p. 23.

Supreme Court E-Library

asked Ernesto what they were doing there and insisted that he bring her to the bus terminal. Ernesto, however, slapped her and pointed a gun at her. He ordered Felisa to take off her clothes. After taking off his own clothes, he handcuffed her right hand and put the other end of the handcuff on his left hand. Ernesto placed the gun on top of a small table and ordered Felisa to lie on the bed. He parted her legs, placed himself on top of her, kissed her neck and breast, and succeeded in having carnal knowledge of her. Ernesto then went to sleep without removing the handcuff joining them. Felisa cried and remained awake.

Early the following morning, Ernesto brought Felisa from the hotel to the bus station. Felisa took the bus and arrived in Plaridel, Bulacan, at around seven o'clock in the morning. She proceeded to her mother's house. Felisa, accompanied by her mother, returned home and informed her husband Cesar of what had transpired. Cesar immediately sought the help of Col. Francisco Villaroman for whom he worked as an "informer." Col. Villaroman advised him to defer the filing of the complaint against Ernesto as it might jeopardize their surveillance operations against a certain Tongco and one Pareña.

Finally, on 15 September 1997, Felisa filed a complaint before the National Bureau of Investigation (NBI) and subjected herself to medical examination. Dr. Aurea P. Vilena, an NBI Senior Medico-Legal Officer, conducted a medico genital examination on Felisa on 15 September 1997 but found no extra-genital injury on her body.

P/Supt. Francisco J. Villaroman, Chief Intelligence of the Philippine National Police (PNP) Regional Office 4, confirmed that Cesar Maghinang was a police informer. Sometime in April, Cesar asked for his help regarding the alleged rape committed by Ernesto Ramirez, then also his subordinate, against Cesar's wife Felisa. He advised Cesar to seek help from the NBI, cautioning him, however, against filing a case at that time since it could jeopardize their surveillance operations against Alfredo Tongco and Rey Pareña. He gave Cesar and Felisa some financial support to enable them to get the services of a lawyer.

Supreme Court E-Library

The case for the defense.

The accused Ernesto Ramirez, Jr., asserted that Felisa, aside from being a close relative, was his former girlfriend. The two met on 30 May 1980 in a town *fiesta* when he was seventeen years old and Felisa was sixteen. It was love at first sight and already had sexual relations the following day. Later, they discovered that they were relatives, his grandmother and Felisa's grandmother being sisters; nevertheless, they continued to see each other. He would visit her in Bulacan while, at other times, she would go to Manila. The affair lasted for one and a half years until it was discovered by elders who opposed their plans of getting married. Ernesto admitted that he had sexual relations with Felisa on 10 April 1997 but maintained that it was an act of two consenting adults. According to him, at about eight o'clock in the morning of that day, he was fetched by his brother Norman who told him that someone was waiting for him in Norman's house. He went with Norman. Upon seeing Ernesto, Felisa immediately kissed and embraced him, and sat on his lap in the presence of Norman and his wife Glady. Felisa informed him that she had left home because she was mauled by her husband. She told him that she wanted to leave her husband and to instead stay with Ernesto. He reminded her, however, that they now had their own respective families. He gave her some money for lunch, and he then left to report for duty at the WPD headquarters. At approximately eight o'clock in the evening of the same day, while he was at Jollibee Tayuman branch, he saw Felisa who again professed that she would like to be with him. He agreed but told her that he had to go first to the WPD headquarters. He and Felisa took the LRT. She waited for him in front of the headquarters. After about two hours, they boarded a taxicab and checked-in at the Sogo Hotel. He paid for a room and Felisa entered it ahead of him. Felisa then took off her clothes and took a shower. The "lovers" had sexual relations twice, spending the night at the hotel. He admitted that he had his .38 caliber gun at that time but denied having used it to intimidate Felisa. He claimed that Felisa later told him that she had filed the complaint against him due to her husband's insistence.

Supreme Court E-Library

Glady Escaño Ramirez, seeking to corroborate the testimony of Ernesto, narrated that on the morning of 10 April 1997, Felisa, together with Olive, arrived at their house and told her husband Norman that she wanted to see Ernesto. When Ernesto arrived, Felisa kissed and embraced him. Felisa also sat on Ernesto's lap. Ernesto, apparently embarrassed, told Felisa to take another chair. He gave her lunch money, and they ate together. Ernesto then left for work while she accompanied Felisa to Olive's house to get the former's belongings. It was already dark when Felisa left their house again. Norman accompanied Felisa downstairs, and he returned fifteen minutes later.

Erlinda Ramirez, mother of the accused, confirmed that she and Felisa's mother were first cousins. She recalled that when Felisa was still single, she and her mother went to their house and told her of the marriage plans of Felisa and Ernesto. She objected. When Felisa arrived at their house in April 1997, she admonished her and reminded her that she and Ernesto already had families of their own. Erlinda averred that Cesar was demanding ₱50,000.00 from Ernesto in exchange for the settlement of the case.

The trial court found for the prosecution; in its decision, dated 31 July 2001, it adjudged:

"WHEREFORE, in view of all the foregoing, judgment is hereby rendered finding accused ERNESTO RAMIREZ, JR. *y* MARQUEZ guilty beyond reasonable doubt of the crime of RAPE and hereby sentencing him to suffer the penalty of *Reclusion Perpetua*; to indemnify the offended party in the amount of ₱50,000.00; to further pay her the amount of ₱50,000.00 as moral damages; ₱50,000.00 as exemplary damages and to pay the costs."[2]

In the instant appeal, appellant would insist that Felisa lacked credibility and that the trial court erred in giving weight and credence to her improbable testimony.

---

[2] *Rollo*, p. 34.

Supreme Court E-Library

The Court, unfortunately for appellant, finds no cogent justification to reverse the findings of the trial court to which an issue on credibility of witnesses is primarily addressed. A review of the records does not disclose any indication that the trial has manifestly overlooked a matter of substance or significance in making its assessment of the evidence.

The admission of carnal knowledge of the complainant by appellant effectively placed upon him the burden of proving his defense by convincing evidence,[3] *i.e.*, that the sexual congress was an act of two consenting adults. The two conflicting versions were heard by the trial court; it gave credence to the testimony of Felisa as against that proffered by appellant. Felisa, recalling her ordeal before the trial court, testified:

"COURT:

"Q That building you entered, is there a name or sign?

"A I did not notice, your Honor.

"PUB. PROS. REBAGAY:

"Q Now, after getting out of the elevator and you saw a table there and there are also people waiting there, what happen[ed] after that?

"A Ernesto Ramirez talk[ed] with somebody.

"Q And, then, after talking with somebody, what happen[ed]?

"A He called me and told me that he will introduce me to my prospective employer.

"Q Now, were you able to talk to this prospective employer?

"A There was no person in the place we entered.

"Q So, what did you do when you did not find any person inside that place where you enter[ed], Madam Witness?

"A Because when we enter[ed] the place I notice[d] that there was a bed. So, I ask[ed] him why he brought me there.

---

[3] See *People vs. Baldosa*, G.R. No. 138614, 07 May 2002.

Supreme Court E-Library

"Q Now, let me clarify this. What is that place that you entered?

"A It is a room where there was a bed.

"Q So, after entering that room, what happen[ed] next if any?

"A I told him to bring me to the Baliwag Transit Terminal because I am afraid [of] what he was intending to do.

"Q So, what was the reply of Ernesto Ramirez, if any?

"A Because I was crying and because he was also holding his gun he was telling me to stop crying and [when] I did not stop he slap[ped] my face and he was pointing his gun at me.

"xxx xxx xxx

"Q You said that you obey[ed], you undress[ed] yourself, what happen[ed] after that?

"A And he handcuffed my right hand.

"Q And how about the other handcuff, what happen[ed] to that, Madam Witness?

"A The other handcuff was placed on the left hand of Ernesto Ramirez.

"Q And, so after putting the handcuff on your right hand and to his left hand, what happen[ed] next?

"A He let me lay on the bed.

"COURT:

"Q Did not Ernesto Ramirez undress himself?

"A He undressed himself before handcuffing me.

"PUB. PROS. REBAGAY:

"Q Now, what happen[ed] to that gun which was poked at you Madam Witness?

"WITNESS:

"A He placed the gun on a small table.

"Q Now, let me also clarify this. You said he undress[ed] himself. When you said he undress[ed] himself totally, Madam

Supreme Court E-Library

Witness or partially. When you said partially there is a brief. When you said totally everything?

"A Everything, sir. Totally, sir.

"Q Now, let me also clarify this. You said that he was open to undress. Did you also undress partially or totally when you said partially you have still the bra and the panty.

"A Yes, sir totally.

"Q So, after putting the handcuff and then you were asked to lay down on the bed, what happen[ed] then after that?

"A He forcibly enter[ed] his penis to do my vagina.

"Q So, what did you do when he is trying to force by dragging his organ to enter by your vagina, what did you do?

"A I can not resist, sir because I was afraid because he was threatening to kill me.

"Q Now, did Ernesto Ramirez was able to satisfy himself, Madam Witness?

"COURT:

That's vague. Satisfy?. . .

"PUB. PROS. REBAGAY:

I'm sorry. Did Ernesto Ramirez was able to enter his organ into your vagina?

"WITNESS:

"A Yes, sir.

"Q And what did you do when he entered his penis into your vagina, Madam Witness?

"A None, sir. I was just crying and after that he was able to sleep.

"COURT:

"Q Aside from inserting his penis, what else did Ernesto Ramirez do?

"A He was kissing my neck and my breast and after using me he [fell] asleep.

Supreme Court E-Library

"Q Now, while he was sleeping, what did you do, Madam Witness?

"A None, sir. I was just lying down.

"Q While accused was sleeping, did you not try to get hold of the gun he placed on the small table?

"A No, your Honor.

"Q Why?

"A Because I was afraid, your Honor.[4]

The defense would claim that Felisa made no physical resistance but gave herself up to appellant's advances. *Physical resistance* in establishing rape, however, would be inconsequential when intimidation was clearly exercised upon the victim, submitting herself to the rapist's lust, not because she willed it, but because of fear for her life and safety.[5] Felisa testified that appellant had used a gun to cow her into submission; indeed, she remained handcuffed until the next day.

Appellant would fault Felisa for her delay in the filing of the complaint. It had long been settled that the failure to promptly file a complaint to the proper authorities would not necessarily destroy the truth *per se* of the complaint[6] nor would it impair the credibility of the complainant, particularly if such delay were satisfactorily explained.[7] In this case, Felisa elucidated that Col. Villaroman, the superior officer of both her husband and appellant, advised the couple against the filing of the complaint at the time for it could imperil a police operations still then being undertaken against a drug syndicate.[8]

The defense would attention to the fact that the medical examination of the victim disclosed no sign of injury on her

---

[4] TSN, 23 June 1998, pp. 18-24.

[5] *People vs. Cula*, G.R. No. 133146, 28 March 2000, 329 SCRA 101; *People vs. Mitra*, G.R. No. 130669, 27 March 2000, 328 SCRA 774.

[6] *People vs. Sagun*, G.R. No. 110554, 19 February 1999, 303 SCRA 382.

[7] *People vs. Tanail*, G.R. No. 125279, 28 January 2000, 323 SCRA 667.

[8] TSN, 14 July 1998, p. 6.

Supreme Court E-Library

person and no indication that she was raped. Admittedly, Felisa belatedly submitted herself to a medical examination. It should not then be surprising that Dr. Villena would find no sign of the victim having been violated. It might be stated, in any event, that physical injury, not being an element of rape,[9] need not necessarily be proven; neither would a medical examination of the victim be indispensable for conviction in rape.[10]

The Court need not belabor that a married woman, with a husband and children, would not publicly admit that she has been sexually abused, unless it be founded.[11]

Article 335 of the Revised Penal Code, as amended, prescribes the penalty of reclusion perpetua in simple rape. The awards of ₱50,000.00 civil indemnity and ₱50,000.00 moral damages accord with prevailing jurisprudence but the grant of the additional ₱50,000.00 exemplary damages must be deleted for lack of factual and legal basis.

WHEREFORE, the assailed judgment of the Regional Trial Court of Manila, Branch 27, dated 31 July 2001, convicting appellant Ernesto Ramirez, Jr. *y* Marquez and sentencing him to suffer the penalty of *reclusion perpetua* is *AFFIRMED*. The award of civil liability by the trial court in favor of complainant Felisa Clavel de Maghinang is *REITERATED* except for the grant of exemplary damages which is hereby *DELETED*. Costs against appellant.

SO ORDERED.

Davide, Jr., C. J. (Chairman), Ynares-Santiago, Carpio, and *Azcuna, JJ.,* concur.

---

[9] *People vs. Rapirosa*, G.R. No. 140934-35, 21 October 2001, 368 SCRA 170.

[10] *People vs. Lerio*, G.R. No. 116729, 31 January 2000, 324 SCRA 76.

[11] *People vs. Martinez*, G.R. No. 130606, 15 February 2000, 325 SCRA 601.