Supreme Court E-Library

FIRST DIVISION

[G.R. No. 141074. October 16, 2003]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **NORLY LIBRADO,** *appellant.*

SYNOPSIS

Appellant Norly Librado was convicted of rape by the Regional Trial Court of Ligao, Albay and was sentenced to suffer the penalty of *reclusion perpetua*. In his Brief before the Court, the appellant claimed that the trial court erred in finding him guilty beyond reasonable doubt by (1) giving undue credence and weight to the implausible testimony of the private complainant anent the alleged rape; (2) concluding that the private complainant was sexually assaulted by him despite the fact that she did not offer any tenacious resistance; and (3) not giving credence to his evidence, which was amply corroborated on material points.

The Supreme Court found the appeal meritorious and acquitted appellant. In reversing the judgment of conviction of the trial court, the Court applied the settled principles in the review of rape cases. After cautiously scrutinizing the testimony of the complainant Emilia Cantila on the alleged commission of rape, the Court found her testimony insufficient to overturn the presumption of innocence in favor of appellant Norly. According to the Court, the prosecution failed to show that the element of voluntariness was not "absolutely lacking." From Emilia's testimony, all that is shown is that Norly embraced her tightly and kissed her repeatedly. The appellant was not armed with anything. There was no threat of physical harm upon her or her family. Neither was there any showing of intimidation felt by her or employed by the appellant. In sum, it appeared that the only force employed by the appellant was his tight embrace and his kisses. Furthermore, Emilia did not really exert any effort to ward off the advances of the appellant had she been adamant about protecting the integrity of her person. To justify the obvious lack of resistance on her part, Emilia gave the lame excuse that she felt weak. The said argument, however, failed to persuade the Court.

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SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; GUIDING PRINCIPLES IN REVIEWING RAPE CASES; TESTIMONY OF COMPLAINANT MUST BE SCRUTINIZED WITH EXTREME CAUTION.**— As we expressed at the outset, this case calls for the application of the guiding principles in reviewing rape cases. These are (1) that an accusation of rape can be made with facility, but is difficult to prove and even more difficult for the accused 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. As a rule, we do not disturb the factual findings of the trial court unless there exists a fact or circumstance of weight and influence that has been ignored or misconstrued by the trial court. We find that the exception applies here. From the very nature of the crime of rape, the usual absence of eyewitnesses, apart from the complainant, means that the evidence that the prosecution can use to establish the guilt of the accused rests upon the credible testimony of the complainant. Given that the same is true in the present case, we must, therefore, "scrutinize with extreme caution" the testimony of Emilia Cantila on the alleged commission of rape

2. **CRIMINAL LAW; RAPE; PROSECUTION FAILED TO SHOW THAT THE ELEMENT OF VOLUNTARINESS WAS NOT "ABSOLUTELY LACKING".**— From the above-quoted testimony of Emilia, we find that the prosecution failed to overturn the presumption of innocence in favor of the appellant Norly Librado. In construing the word *force* as an element of the crime of rape, we have held: [I]t is imperative for the prosecution to establish that the element of voluntariness on the part of the victim be absolutely lacking. Otherwise stated, the prosecution must prove that force or intimidation was actually employed by the accused-appellant upon his victim to achieve his end. Failure to do so is fatal to its cause. Proceeding from this, we find that the prosecution failed to show that the element of voluntariness was not "absolutely lacking." Under similar facts in *People v. Gavina* and *People*

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v. Peligro, the Court held that the absence of a weapon or anything that could produce sufficient fear in a woman as to render helpless one who would otherwise be deemed strong or worldly enough to put up a fight, or the failure to show the disparity in strength between the complainant and the accused sufficient to overpower a complainant into acceding to the sexual act is deemed a failure on the part of the prosecution to prove the guilt of the accused "beyond peradventure of doubt."

3. **ID.; ID.; ELEMENT OF FORCE AND INTIMIDATION; NOT ESTABLISHED IN CASE AT BAR.**— From Emilia's testimony, all that is shown is that Norly embraced her tightly and kissed her repeatedly. The appellant was not armed with anything. There was no threat of physical harm upon her or her family. Neither was there any showing of intimidation felt by her or employed by the appellant. In sum, it appears that the only force employed by the appellant was his tight embrace and his kisses. Furthermore, Emilia did not really exert any effort to ward off the advances of the appellant had she been adamant about protecting the integrity of her person. According to her, she was still standing at the door when Norly started kissing and embracing her, and yet she later followed him inside the kitchen. When the appellant first kissed and embraced Emilia, his intention became clear and should have given Emilia sufficient warning against following him into the dark and unoccupied house had she so minded. To justify the obvious lack of resistance on her part, Emilia gave the lame excuse that she felt weak. This same argument failed to persuade the Court in *People v. Alvarez*, and again fails to do so here. Thus, for the inability of the prosecution to prove the guilt of herein appellant Norly Librado beyond reasonable doubt, his acquittal is proper.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Public Attorney's Office for accused-appellant.

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DECISION

DAVIDE, JR., *C.J.*:

In this appeal from the 22 September 1999 Decision of the Regional Trial Court of Ligao, Albay, Branch 11, in Criminal Case No. 3767, we are, once again, called upon to apply the guiding principles in the review of a conviction for rape.

In an Information dated 25 April 1999, herein appellant Norly Librado was charged with the crime of Rape, as defined and penalized under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659. The accusatory portion reads:

> That on January 22, 1999 at about 5:00 o'clock in the morning, at Barangay Tagpo, Municipality of Ligao, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with EMILIA CANTILA *y* [L]EGASPI, who is his first cousin, against her will and consent, to her damage and prejudice.[1]

The appellant pleaded not guilty upon arraignment. This was followed by a pre-trial conference during which the parties entered into a stipulation of facts.[2] Trial ensued thereafter.

The evidence of the prosecution relied mainly on the testimonies of the complainant, Emilia Cantila, and the Municipal Health Officer, Dr. Lea F. Remonte, who examined Emilia on the day the rape complaint was filed.

Emilia Cantila, then a 37-year-old married woman, testified that at around 11:00 p.m. on 21 January 1999 she arrived in Tagpo, Ligao, Albay, from Manila. Since it was late and unsafe to proceed directly to her home in Barangay Tupas, Ligao, she decided to spend the night in the house of her cousin, herein appellant Norly Librado. At around 5:00 a.m. the following

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[1] Original Record (OR), 18.

[2] *Id.*, 28.

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morning, Emilia was awakened by Norly, who said that he would accompany her home provided that they leave early because he had to go to work immediately afterwards. While they were walking, Norly suggested that they pass by the house of his mother, to which suggestion Emilia readily agreed. Although it appeared that nobody was home, Norly entered the house through the kitchen door. Emilia refused to enter and remained standing at the door of the kitchen.[3]

Without warning, the appellant embraced Emilia and began kissing her. In the course of the struggle to free herself, Emilia fell down and, as a result thereof, felt weak. The appellant then stripped himself of his clothes and dragged Emilia to the bed situated near the kitchen. Holding her tightly, the appellant lay on top of Emilia, relieved her of her denim pants and underwear, and promptly had sexual intercourse with her. After he satisfied himself, he left her.[4]

Emilia went to the house of her mother, Maria Legaspi, in Barangay Tastas, Ligao, arriving at around 7:00 a.m. that same day. After narrating the rape incident, Maria sent for Emilia's husband. When the latter arrived, they agreed that Emilia would report the incident to the police on the following Monday. On Monday, 25 January 1999, Emilia reported the incident to the police and filed a criminal complaint. Dr. Lea F. Remonte, the Municipal Health Officer of Ligao, Albay, examined Emilia on the same day.[5]

On the witness stand, Dr. Remonte testified to having conducted an external and internal examination on Emilia and identified the Medical Certificate[6] she issued. She confirmed the finding of hematomas on Emilia's left shoulder and at the dorsal aspect of her right forearm. Asked to explain the cause of the hematomas, she cited the possibilities of trauma, self-inflicted injuries, hitting a blunt or hard object upon falling, or attempting to free oneself

[3] TSN, 7 April 1999, 3-7.

[4] TSN, 7 April 1999, 7-9.

[5] *Id.*, 9-12.

[6] Exhibit "A," OR, 3.

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from the grip of another. That Emilia was no longer a virgin was apparent, having had four live births. She testified to having asked Emilia questions about the rape during the physical examination, observing Emilia's coherent responses.[7]

Emilia's mother confirmed Emilia's arrival in her house at 7:00 a.m. on 22 January 1999 and the latter's report of the rape. She admitted having previously heard Emilia's claims of being bewitched, but denied having personally observed any manifestation of it.[8]

From the testimonies of its witnesses the version of the defense can be summarized as follows:

Norly Librado and his wife Marivic were at home on the night of 21 January 1999, entertaining a certain Amado Pobre, a *kagawad* of their Barangay. Emilia arrived at around 11:00 p.m. with towel on her head, claiming that her family had been massacred and that the NBI forced her to sign a piece of paper stating that she was the one who got the gun and cassette. After calming her down, the Librados let Emilia sleep with their children. The next morning, at 4:00 a.m., Emilia woke up the couple saying that somebody was trying to force his way into the house. Emilia did not want the light switched on for fear that she would be seen by the NBI and the police who were after her. Norly and Marivic agreed to bring Emilia to the house of their aunt Gloria Gomez, who they thought could better help Emilia with her "problem." Gloria Gomez is the sister of both appellant's and Emilia's mothers.[9]

Emilia left with Norly at 5:00 a.m. While on their way to Gloria Gomez's house, Emilia changed her mind about going there, fearing the presence of the NBI. Instead, she wanted to go to the house of Norly's mother, Christina Librado, who lived 50 meters away. As they were near his mother's house, Norly saw Ruben Buenaobra, a neighbor of his mother, drawing water

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[7] TSN, 20 April 1999, 4-15.

[8] TSN, 7 April 1999, 43-46.

[9] TSN, July 1999, 40-44.

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from a jetmatic pump. Knowing that no one was home, Norly let Emilia sit on a bench in front of his mother's house before leaving to fetch Gloria Gomez.[10]

Ruben testified to having seen Norly and Emilia going to Christina's house. Afterwards, Norly left, while Emilia remained and sat in the front of Christina's house. When Ruben finished drawing water, he went back to his own house and, from there, saw Norly's return with Gloria Gomez.[11]

In the meantime, Norly sought the help of Gloria Gomez, informing her of Emilia's claims. Gloria accompanied Norly back to the house of her sister Christina, and there saw Emilia sitting on the balcony with a towel around her head. Emilia began telling Gloria that her husband and three children, who went to Naga City to meet her, had all been killed. Remembering that Emilia's mother had told her about Emilia suffering from a mental ailment the year before, Gloria suggested that Emilia stay with her and that she would send for her mother. But Emilia insisted that she would go to the house of her mother, Maria Legaspi. Gloria then asked Norly's brother, Joven, to accompany Emilia. At the same time, she sent Norly home, taking note of the fact that it was almost time for work.[12]

Normito Legaspi, the brother of Emilia, testified that at around 7:00 a.m. on 22 January 1999, he was on his way to buy animal feed when he came across Emilia walking with Joven Librado towards his house. Upon seeing him, Emilia tried to run away to the grassy portion beside the road. Normito took hold of her arm, and asked her why she was running away. Emilia told him about the massacre of her husband and children because of bad body odor, and about her need to escape because someone was chasing her. Still holding her arm, he decided to bring her to his house, which was near their mother's house, and left Emilia to his wife.[13]

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[10] *Id.*, 45-46.

[11] TSN, 30 June 1999, 4-16.

[12] TSN, 15 June 1999, 23-34.

[13] TSN, 14 July 1999, 5-32.

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While Salvador Perez was on his way to work, he came upon Normito, Emilia, and Joven on the road. He noticed Normito holding Emilia and asked what they were doing so early in the morning. Emilia began telling him the story about the massacre of her husband and children by the NBI. When he found out that the reason for the massacre was their bad body odor, he laughed and continued on his way.[14]

On Monday, 25 January 1999, Norly was surprised when the police picked him in his house on account of the rape charge filed by Emilia.

As a rebuttal witness, Emilia denied having said anything about her family being massacred because of bad body odor. She also denied having seen Gloria Gomez or Ruben Buenaobra on the morning of 22 January 1999. She claimed that Joven was not her companion, but that she had seen him in front of his house as he was leaving to get coconuts from his sister. She admitted to having met her brother Normito, who accompanied her to her mother's house, but denied having seen Salvador Perez. Emilia explained that she did not immediately tell Normito about the rape because she wanted to tell her mother first. It was only on the following day that she informed Normito about the rape, and then became angry with him when he did not believe her and told her instead not to report it if it was not true.[15]

On 22 September 1999, the Regional Trial Court of Ligao, Albay, Branch 11, rendered a decision [16] finding Norly Librado guilty of the crime of rape defined and penalized under Article 266-A of the Revised Penal Code, as amended by R.A. No. 8353, otherwise known as the *Anti-Rape Law of 1997*, and sentencing him to *reclusion perpetua* and to indemnify the victim ₱50,000. Hence, this appeal.

In his Brief before this Court, the appellant claims that the trial court erred in finding him guilty beyond reasonable doubt

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[14] TSN, 30 June 1999, 20-28.

[15] TSN, 25 August 1999, 15-41.

[16] OR, 119-128. Per Judge Emmanuel R. Real.

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by (1) giving undue credence and weight to the implausible testimony of the private complainant anent the alleged rape; (2) concluding that the private complainant was sexually assaulted by him despite the fact that she did not offer any tenacious resistance; and (3) not giving credence to his evidence, which was amply corroborated on material points.

In its Brief, the Office of the Solicitor General recommends the affirmation of the trial court's decision convicting the appellant of the crime of rape, with the modification that moral damages be awarded to Emilia in addition to the ₱50,000 civil indemnity.

Before proceeding to the discussion on the merits, we note that the Information charged the appellant with rape "as defined and penalized under Art. 335 of the Revised Penal Code as amended by Republic Act No. 7659." The act of rape, for which the appellant was convicted, was allegedly committed on 22 January 1999, more than one year after R.A. No. 8353 became effective on 22 October 1997.[17] Prosecutor Angeles S. Vasquez, who filed the Information, is hereby reminded to keep himself updated on recent amendments of the laws to avoid mistakes in filing informations.

Notwithstanding the error in the designation of the offense in the Information, the Information remains effective insofar as it states the facts constituting the crime alleged therein. Thus, we come now to discuss the first and second assignments of error.

As we expressed at the outset, this case calls for the application of the guiding principles in reviewing rape cases. These are (1) that an accusation of rape can be made with facility, but is difficult to prove and even more difficult for the accused 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

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[17] *People v. Padilla*, 361 Phil. 216 (1999).

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own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.[18]

As a rule, we do not disturb the factual findings of the trial court unless there exists a fact or circumstance of weight and influence that has been ignored or misconstrued by the trial court.[19] We find that the exception applies here.

From the very nature of the crime of rape, the usual absence of eyewitnesses, apart from the complainant, means that the evidence that the prosecution can use to establish the guilt of the accused rests upon the credible testimony of the complainant.[20] Given that the same is true in the present case, we must, therefore, "scrutinize with extreme caution" the testimony of Emilia Cantila on the alleged commission of rape, the substance of which we hereunder reproduce:

Q- Did you pass by the house of his mother?

A- Yes, sir.

Q- Then, what happened?

A- We passed by the house of his mother because according to him his mother was there but she was not there.

Q- Was the house of his mother occupied at that time?

A- No, sir.

Q- Then, what happened after that?

A- He told me to get inside but I was standing at the kitchen. He was trying to let me in but I did not because it was dark.

Q- Now, after that, what happened next?

A- I just kept standing in the kitchen because I did not want to enter the house because it was very dark. At that moment, he embraced me and kept on kissing me.

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[18] *People v. Subido*, 323 Phil. 240 (1996); *People v. Rafales*, G.R. No. 133477, 21 January 2000, 323 SCRA 13; *People v. Manlod*, G.R. Nos. 142901-02, 23 July 2002.

[19] *People v. Fernandez*, G.R. No. 137647, 1 February 2001, 351 SCRA 80.

[20] *People v. Geraban*, G.R. No. 137048, 24 May 2001, 358 SCRA 213.

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Q- Alright. Where did he embrace you, at the back or your front?

A- In front and he kept on kissing me.

Q- What did you do while he was kissing you?

A- I was trying to free myself from his hold.

Q- And then, what happened next while you were trying to free yourself from the hold of the accused?

A- I fell down and he held me and he brought me to the bed.

COURT:

Q- These things happened where?

A- In the kitchen.

Q- Inside the kitchen?

A- Yes, your Honor.

Q- So you were able to get inside the house?

A- The kitchen is inside the house.

Q- So, it is not true that you were outside the house, that you were able to get in the house?

A- Inside the house.

Q- How were you able to get inside the kitchen since you said there were no people around?

A- He got inside and I also got inside the kitchen.

Q- You followed him inside the kitchen?

A- I was not expecting that he would do these things to me.

COURT:

Go ahead.

PROS. VEGA:

Q- Now, in entering the house of the mother of Norly, where did he pass by or what entrance did you use?

A- At the kitchen.

Q- Then, after you fell down and you said you were brought, where were you brought?

A- On the bed.

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Q- Where is this bed situated in relation to the house?

A- Near the kitchen.

Q- Now, while on the bed, what happened next?

A- He undressed me and he placed himself on top of me. I could not do anything because I was already feeling weak and he undressed me.

Q- What else happened after undressing you?

A- He used me and I could not move anymore.

Q- What happened afterwards?

A- After he used me, he left and I also left and I proceeded to the house of my mother.[21]

From the above-quoted testimony of Emilia, we find that the prosecution failed to overturn the presumption of innocence in favor of the appellant Norly Librado.

In construing the word *force* as an element of the crime of rape, we have held:

> [I]t is imperative for the prosecution to establish that the element of voluntariness on the part of the victim be absolutely lacking. Otherwise stated, the prosecution must prove that force or intimidation was actually employed by the accused-appellant upon his victim to achieve his end. Failure to do so is fatal to its cause.[22]

Proceeding from this, we find that the prosecution failed to show that the element of voluntariness was not "absolutely lacking."

Under similar facts in *People v. Gavina*[23] and *People v. Peligro*,[24] the Court held that the absence of a weapon or anything that could produce sufficient fear in a woman as to render helpless one who would otherwise be deemed strong or worldly enough

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[21] TSN, 7 April 1999, 7-9.

[22] *People v. Subido, supra* note 18, at 252.

[23] G.R. No. 143237, 28 October 2002.

[24] G.R. No. 148899, 28 October 2002.

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to put up a fight, or the failure to show the disparity in strength between the complainant and the accused sufficient to overpower a complainant into acceding to the sexual act is deemed a failure on the part of the prosecution to prove the guilt of the accused "beyond peradventure of doubt."[25]

From Emilia's testimony, all that is shown is that Norly embraced her tightly and kissed her repeatedly. The appellant was not armed with anything. There was no threat of physical harm upon her or her family. Neither was there any showing of intimidation felt by her or employed by the appellant. In sum, it appears that the only force employed by the appellant was his tight embrace and his kisses.

Furthermore, Emilia did not really exert any effort to ward off the advances of the appellant had she been adamant about protecting the integrity of her person. According to her, she was still standing at the door when Norly started kissing and embracing her,[26] and yet she later followed him inside the kitchen.[27] When the appellant first kissed and embraced Emilia, his intention became clear and should have given Emilia sufficient warning against following him into the dark and unoccupied house had she so minded.

To justify the obvious lack of resistance on her part, Emilia gave the lame excuse that she felt weak.[28] This same argument failed to persuade the Court in *People v. Alvarez*,[29] and again fails to do so here.

Thus, for the inability of the prosecution to prove the guilt of herein appellant Norly Librado beyond reasonable doubt, his acquittal is proper.

Accordingly, there is no need for us to dwell or look into the merits of the evidence presented by the defense because, in the

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[25] *People v. Delmendo*, 196 Phil. 121 (1981).

[26] TSN, 7 April 1999, 24.

[27] *Id.*, 8.

[28] TSN, 7 April 1999, 24.

[29] 154 Phil. 81 (1974).

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first place, the prosecution failed to discharge its burden of proof. As stated earlier, the third guiding principle in reviewing rape cases is that 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."

WHEREFORE, the appealed decision of the Regional Trial Court of Ligao, Albay, Branch 11, is hereby *REVERSED*, and the accused is *ACQUITTED* of the charge of rape and ordered immediately released from confinement unless his further detention is warranted by virtue of any lawful cause. The Director of Bureau of Corrections is directed to submit a report of such release within five (5) days from notice hereof.

Costs *de oficio*.

SO ORDERED.

Vitug, Carpio and *Azcuna, JJ.*, concur.

Ynares-Santiago, J., is on leave.

FIRST DIVISION

[G.R. No. 144881. October 16, 2003]

BETTY T. CHUA, JENNIFER T. CHUA-LOCSIN, BENISON T. CHUA, and BALDWIN T. CHUA, *petitioners, vs.* **ABSOLUTE MANAGEMENT CORPORATION and COURT OF APPEALS,** *respondents*.

SYNOPSIS

Petitioners Jennifer T. Chua-Locsin, Benison T. Chua, and Baldwin T. Chua filed a petition for letters of administration with the Regional Trial Court, Branch 112, Pasay City. Betty T. Chua was appointed as administratrix of the intestate estate of her deceased husband Jose L. Chua. Respondent Absolute