Supreme Court E-Library

Conchita Uri, by virtue of the sale executed by Francisco Guia, who lost in said civil case. In both cases, the question boils down to ownership of the land. Thus, there is identity of causes of action.

Anent the second assigned error, records reveal that a hearing on appellee's motion to dismiss appellants' complaint was conducted on August 12, 1974. There is, therefore, no basis for appellants to say that a hearing was never held in the case.

Finally, appellants claim that the lower court erred in declaring that *res judicata* is indubitable and patent from the face of the complaint itself, without the appellee pleading the same as an affirmative defense. From a cursory reading of the pleadings, extant in the records of the case, We find that in his motion to dismiss, appellee had thoroughly discussed the issue of *res judicata* and, coupled by the fact that it was the same court which heard and decided Civil Case No. SP-488, the trial court can rightfully rule on said issue.

ACCORDINGLY, for lack of merit, the appeal is hereby DISMISSED.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Plana, Gutierrez, Jr., and *de la Fuente, JJ.*, concur.

Alampay, J., No part.

SECOND DIVISION

[G.R. No. L-46524. January 31, 1985]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **LEONARDO BANIA,** *defendant-appellant.*

Supreme Court E-Library

SYLLABUS

1. CONSTITUTIONAL LAW; PRESUMPTION OF INNOCENCE; REQUIREMENT OF PROOF BEYOND REASONABLE DOUBT; COMPLAINANT'S DECLARATIONS DISPROVE CONSUMMATION OF THE SEXUAL ACT WITH FORCE; APPELLANT ACQUITTED OF RAPE.— In her direct testimony and when she was cross-examined, when asked whether her panties were not "completely rolled down or was not removed from her feet," complainant replied: "It was rolled down to my knees." When the next question was whether it stayed there, even after the sexual intercourse. Her answer was categorical: "Yes, sir." That circumstance was stressed in the brief for appellant pointing out that the sexual act could not have been consummated when her legs were closed as her panties were rolled down only to her knees where it remained until after the act. Doubt was likewise expressed as to the worth of her testimony that appellant was removing his pants with his left hand while holding the dagger with his right hand. She did add that appellant did not take off his pants completely, only the left being left without it. They were tight-fitting at that. It thus clearly appears that the lower court apparently overlooked such circumstance disproving the assertion that force was employed. At the very least, it misinterpreted the significance of the inherently weak testimony of complainant fatal to its claim that she was compelled to submit against her will because she had no choice considering that appellant was armed. For if her version were to be believed, the sexual act could not have been consummated.

2. ID.; ID.; ID.; MORAL CERTAINTY REQUIRED.— Once again, reliance can be placed on People *v.* Dramayo, L-21325, Oct. 29, 1971, where after stressing that accusation is not, according to the fundamental law, synonymous with guilt, it was made clear: "Only if the judge below and the appellate tribunal could arrive at a conclusion that the crime had been committed precisely by the person on trial under such an exacting test should the sentence be one of conviction. It is thus required that every circumstance favoring his innocence be duly taken into account. The proof against him must survive the test of reason; the strongest suspicion must not be permitted to sway judgment. The conscience must be satisfied that on the defendant could be laid the responsibility for the offense charged; that not only did he perpetrate the act but that it amounted to a crime. What is required then is moral certainty."

Supreme Court E-Library

APPEARANCES OF COUNSEL

Citizen's Legal Assistance Office for defendant-appellant.
Solicitor General for plaintiff-appellee.

DECISION

FERNANDO, *C.J.:*

There is no dispute in this prosecution and later conviction for rape of appellant Leonardo Bania as to the fact of sexual intercourse having taken place between him and complainant Priscilla Aringo, a married woman. It was her version, however, as to such act having been attended by force and intimidation, that was believed by the lower court. Hence his being adjudged guilty and sentenced to suffer the penalty of *reclusion perpetua,* to indemnify the family of complainant in the sum of P20,000.00, and to pay the costs. Appellant in the lower court contended and at present reiterates that there was no need for the employment of force and intimidation, as there was then an illicit relationship between them. It is incumbent, therefore, as is usually the case in offenses of this nature, with diametrically opposed versions between the two persons who had direct knowledge of such incident, that this Court take the utmost care and circumspection to determine whose testimony is worthy of belief. That was done. As will be shown, there are circumstances testified to by complainant herself that lead to well-founded doubts as to the veracity of her assertion that consent was lacking. Hence, reversal of the judgment is indicated. In the light of the credible evidence of record, then, we reverse and grant the prayer of acquittal.

In the appealed decision, after mention of appellant, then a detention prisoner, having pleaded not guilty to the charge of rape, the version of complainant is set forth thus: "Priscilla de Aringo, a young wife, 21 years old, housekeeper, and resident of Esperanza, Putiao, Pilar, Sorsogon, testified that at about 3:30 o'clock in the morning of December 6, 1975, she was alone in the only room of her house with her three small children, one three months old, another two-year old, and the eldest about four-year old, because

Supreme Court E-Library

her husband Gregorio Aringo was then cook in the house of Alfredo Nicol whose daughter was celebrating her birthday. While breast-feeding the youngest child, Leonardo Bania suddenly went up the house to the room armed with a double-bladed dagger, and as Priscilla sat up, the accused pushed her down, telling her not to shout or else he would kill her. Priscilla pleaded to him not to do her wrong and [to] pity her, as her two children who were lying down beside her started to cry. Leonardo Bania demanded her to submit to his sexual desire or else he would kill her, the accused holding a dagger in his right hand. The accused proceeded to pull her [panties] down to her knees with his left hand and thereafter removed or pulled down his pants with his left hand and his shorts. Leonardo went on top of Priscilla with his right hand still holding the dagger to the left side of the body of Priscilla, the blade touching her side. Afraid to be killed, Priscilla while crying, submitted to his animal desire, and after the accused finished, he told her not to tell her husband about the rape or else he would kill her, and that everytime Priscilla's husband is away she should please him. Priscilla did not say anything. The accused left. The accused gone, Priscilla by surprise went to the nearest house of Roger Montalban, but found his wife, to whom she narrated what the accused did and then asked her to send her niece to fetch Gregorio Aringo. After the arrival of Priscilla's husband, the rape was reported to him and immediately, he proceeded to the PC detachment in Putiao. (Transcript of testimony of Priscilla de Aringo at the hearing had on Sept. 14, 1976 before Judge de Leon of Branch III, CFI-Sorsogon) Leonardo Bania was taken into custody the same morning in the house of Alfredo Nicol. Priscilla was also examined that same day by a physician."[1] The lower court Judge then referred to the testimony of policeman Melchor Agnote, to whom complainant's husband, Gregorio Aringo, went at 9:00 a.m. that morning to file the complaint, and the medical certificate of Dra. Salvacion M. Lee, characterized as "not of much importance,"[2] there being no sign of physical violence inflicted on complainant.

Thereafter, mention was made of the version of the accused, Leonardo Bania: "In his defense, the accused Leonardo Bania

[1] Decision of the lower court, 1-2.

[2] *Ibid.*, 2.

Supreme Court E-Library

admitted having had sexual intercourse with Priscilla de Aringo about 3:30 A.M. of December 6, 1975, but asserted that the intercourse was not by force and/or intimidation as he and Priscilla were in illicit amorous relationship even prior thereto. Leonardo said on August 24, 1975, he had sexual intercourse with Priscilla at 10:00 P.M., while her husband was out fishing. Again on September 29, 1975, Leonardo had intercourse with her at 11:30 P.M. in the kitchen. The third sexual intercourse was the early morning of December 6, 1975 in the house. Leonardo Bania however claimed that he did not carry any dagger that morning of December 6, 1975 at 3:30 because he left the dagger with his aunt Irene Bania at 7:00 P.M. on December 5, 1975 in the birthday feast of the daughter of Alfredo Nicol and got said dagger from Irene at 6:30 A.M. on December 6, 1975 after coming from Priscilla's house. Bania claimed to have borrowed the dagger from Abelardo Maniego at noon of December 5, 1975. He admits that the dagger was found on his person when he was taken into custody. No other witness testified for the defense."[3] The lower court apparently was unconvinced. As was stressed in the decision: "To our mind, having admitted the sexual intercourse at the unholy hour while accused knew that Priscilla's husband was the cook in the house of Alfredo Nicol, the burden has been shifted upon Leonardo Bania to show by clear and convincing evidence that it did not happen as narrated by his victim, who immediately reported the rape to her husband and the authorities, submitting herself to physical and medical examination, and courting the resulting embarrassment and shame of being exposed as an unhappy victim of rape at her young age as a housewife."[4]

In reversing the judgment, the Court is not unmindful that ordinarily the question of credibility is for the lower court. Justice Moreland, in one of the earliest cases on record, United States *v.* Pico,[5] pointed out that in case of conflict in the testimony of witnesses, the peculiar province of the trial court is to resolve the question of credibility. Unless it can be shown that the appraisal is

[3] *Ibid.*, 2-3.

[4] *Ibid.*, 4-5.

[5] 15 Phil. 549 (1910).

Supreme Court E-Library

tainted by "something impeaching by fair interpretation the resolution of the trial court on that question," this Court "will assume that [it] acted fairly, justly, and legally in the exercise of that question."[6] The more common formulation is what was set forth in People *v.* de Otero[7] by Justice Malcolm. Thus: "After everything is said and done, we come back, as we invariably do in cases of this nature, to a recognition of the rule that the Supreme Court will not interfere with the judgment of the trial court in passing on the credibility of the opposing witnesses, unless there appears in the record some fact or circumstance of weight and influence, which has been overlooked or the significance of which has been misinterpreted."[8]

A careful study of the records of the case discloses the existence of a fact or circumstance of weight and influence which has been overlooked, or at the very least, the significance of which has been misinterpreted by the lower court. Necessarily, then, the constitutional presumption of innocence in the absence of proof beyond reasonable doubt prevails.[9] It has not been overcome. Hence the reversal.

1. There was a joint discussion of the three errors assigned by counsel *de oficio* Teodoro C. San Juan of the Citizens Legal Assistance Office of the Ministry of Justice, namely, the lack of persuasiveness of the testimony of the complainant; the failure to consider the testimony of appellant; and the finding of guilt. There is no need to pass upon the testimony of appellant if the version of the complainant does not suffice to overcome the constitutional presumption of innocence. Appellant considered her testimony as "simply incredible, and a careful perusal of it would reveal glaring

---

[6] *Ibid.*, 551.

[7] 51 Phil. 201 (1927).

[8] *Ibid.*, 209. Reference was made to United States *v.* Remigio, 37 Phil. 599 (1918).

[9] Article IV, Section 19 of the Constitution provides: "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, * * *."

Supreme Court E-Library

inconsistencies."[10] If so, then it cannot be said that force was used to enable appellant to perform the sexual act.

2. Appellant's brief cited her testimony.[11] In her direct testimony, she was asked the position of the appellant when her panties were removed. Her answer was that he was squatting while she was lying on her back.[12] Then, as to whether or not the panties were removed, it was clarified by a direct question from the fiscal whether he was able to do so. Her answer was categorical: "No, sir," for it was only rolled down to her knees.[13] Then she added that at that time he was still holding the double-bladed weapon with his right hand[14] and with his left hand he rolled down her panties.[15] The fiscal even repeated the fact that the panties were rolled down only to her knees. When asked what she did then, this was her answer: "I tried to free myself but my children were crying, and because I was trying to avoid hurting them, I submitted or stopped resisting."[16] That such indeed was the truth became even more certain when she was cross-examined. She was asked whether her panties were not "completely rolled down or was not removed from her [feet];"[17] she replied: "It was rolled down to my knees."[18] Then the next question was whether it stayed there, even after the sexual intercourse. Her answer was categorical: "Yes, sir."[19] That circumstance was stressed in the brief for appellant pointing out that the sexual act could not have been consummated when her legs were closed as her panties were rolled down only to

---

[10] Brief for the Defendant-Appellant, 5.

[11] Appellant's Brief, 5-9.

[12] T.s.n., Session of September 14, 1976, 9.

[13] *Ibid.*

[14] *Ibid.*, 9-10.

[15] *Ibid.*, 10.

[16] *Ibid.*

[17] *Ibid.*, 21.

[18] *Ibid.*

[19] *Ibid.*

Supreme Court E-Library

her knees where it remained until after the act.[20] Doubt was likewise expressed as to the worth of her testimony that appellant was removing his pants with his left hand while holding the dagger with his right hand.[21] She did add that appellant did not take off his pants completely, only the left leg being left without it.[22] They were tight-fitting at that.[23] Thus: "Are [they] tight fitting pants?[24] The answer: "Yes, sir."[25]

3. It thus clearly appears that the lower court apparently overlooked such circumstance disproving the assertion that force was employed. At the very least, it misinterpreted the significance of the inherently weak testimony of complainant fatal to its claim that she was compelled to submit against her will because she had no choice considering that appellant was armed. For if her version were to be believed, the sexual act could not have been consummated. There is relevance, therefore, to this excerpt from the opinion of Justice Vasquez in People *v.* Apat:[26] "The manner by which the appellant allegedly raped Gregoria, as narrated by her, defies the imagination. It may hardly be envisioned how a man can successfully consummate the sexual act on an unwilling woman with his left hand placed over her mouth (supposedly to prevent her from shouting for help) and with his right hand holding a hunting knife pointed at the woman's forehead and, while so positioned, was able to manage to remove the pantie of the woman, spread her legs, unbotton his short pants, and perform the sexual intercourse."[27]

4. It is true that the prosecution's case stands or falls on its showing that the constitutional presumption of innocence has been

---

[20] Appellant's Brief, 6.

[21] *Ibid.*, citing T.s.n., Session of September 14, 1976, 22.

[22] *Ibid.*

[23] *Ibid.*, 23.

[24] *Ibid.*

[25] *Ibid.*

[26] L-28323, June 29, 1982, 114 SCRA 620.

[27] *Ibid.*, 628.

Supreme Court E-Library

overcome. In that sense, the defense posed by the accused need not even be inquired into. Appellant's brief did not stop in exposing the weakness of the version testified to by complainant. It stressed that on the question of credibility, he is entitled to credence and belief. Thus: "That he went to Priscilla's house as per agreement. That her eldest child woke up and asked who the man was. This could have frightened her (Priscilla) as she might be found out by her husband, so she decided to report to him that she was raped. She knows that on the morning her husband would not be around. Accused knew this fact also and counted on it to keep his date with Priscilla de Aringo without risk."[28]

5. Nor did appellant stop there. His brief made reference to this portion of the decision of the lower court: "'The claim of the accused that the reason why she filed the charge of rape was because the eldest child was awakened can hardly be believed. Being barely four years old, the child could have been easily satisfied with an explanation that it was her father who just went out.' (Decision p. 4)"[29] Then came this refutation: "We beg to differ. A child barely 4 years old can, due to her innocence, blurt out what she saw. A child of that age is prone to asking questions. She (the child) will not ask who the man was if the man she saw was her father. Certainly a child knows her own father. It must be that Priscilla, afraid of being found out, took it the better part [of discretion] to report the alleged rape to her husband. We must not forget the mentality of the Filipino husband who can kill his wife without second thoughts if he thinks he was hoodwinked by his wife."[30] The above observation is not lacking in persuasive quality.

6. It is evident that once again, reliance can be placed on People *v.* Dramayo,[31] where after stressing that accusation is not, according to the fundamental law, synonymous with guilt, it was made clear: "Only if the judge below and the appellate tribunal could arrive at a conclusion that the crime had been committed precisely by the

---

[28] Appellant's Brief, 8-9.

[29] *Ibid.*, 9.

[30] *Ibid.*

[31] L-21325, October 29, 1971, 42 SCRA 59.

Supreme Court E-Library

person on trial under such an exacting test should the sentence be one of conviction. It is thus required that every circumstance favoring his innocence be duly taken into account. The proof against him must survive the test of reason; the strongest suspicion must not be permitted to sway judgment. The conscience must be satisfied that on the defendant could be laid the responsibility for the offense charged; that not only did he perpetrate the act but that it amounted to a crime. What is required then is moral certainty."[32]

WHEREFORE, the appealed judgment is reversed. Appellant Leonardo Bania is acquitted. He is to be released forthwith unless he is held on any other valid charge.

Aquino, Concepcion Jr., Abad Santos, Escolin, and *Cuevas, JJ.,* concur.

Makasiar, J., reserves his vote.

SECOND DIVISION

[G.R. Nos. L-47381 & L-47420. January 31, 1985]

REPUBLIC OF THE PHILIPPINES, duly represented by the Honorable Secretary of Education and Culture, *petitioner, vs.* COURT OF APPEALS; the PRESIDING JUDGE, Court of First Instance of Manila, Branch VI;

---

[32] *Ibid.,* 64. Cf. People *v.* Alvarez, L-34644, Jan. 17, 1974, 55 SCRA 81; People *v.* Joven, L-36022, May 22, 1975, 64 SCRA 126; People *v.* Ramirez, L-30635-6, Jan. 29, 1976, 69 SCRA 144; People *v.* Godoy, L-31177, July 15, 1976, 72 SCRA 69; People *v.* Lopez, L-41974, Nov. 29, 1976, 74 SCRA 205; People *v.* Poblador, L-44129, April 29, 1977, 76 SCRA 634; People *v.* Quiazon, L-44299, Aug. 31, 1977, 78 SCRA 513; People *v.* Nazareno, L-45533, Nov. 29, 1977, 80 SCRA 484; People *v.* Gabilan, L-45245, July 2, 1982, 115 SCRA 1; People *v.* Gabiana, L-39716, Sept. 30, 1982, 117 SCRA 260; People *v.* Ibanga, L-39502, Sept. 24, 1983, 124 SCRA 697.