



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 182794

Present:

- versus -

VELASCO, JR.,*
LEONARDO-DE CASTRO,**
Acting Chairperson,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, JJ.

BOBBY BELGAR,
Accused-Appellant.

Promulgated:

SEP 08 2014

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DECISION

BERSAMIN, J.:

Circumstantial evidence, if sufficient and competent, may warrant the conviction of the accused of rape.

The Case

Accused Bobby Belgar appeals the decision promulgated on August 31, 2007 by the Court of Appeals (CA)¹ affirming his conviction for rape by the Regional Trial Court (RTC), Branch 30, in San Jose, Camarines Sur, and imposing on him the penalty of *reclusion perpetua*.

* In lieu of Chief Justice Maria Lourdes P.A. Sereno, who is on Wellness Leave, per Special Order No. 1772.

** Per Special Order No. 1771 dated August 28, 2014.

¹ *Rollo*, pp. 4-14; penned by Associate Justice Edgardo P. Cruz (retired) with Associate Justice Fernanda Lampas Peralta and Associate Justice Normandie B. Pizarro, concurring.

Antecedents

On March 6, 2000, the Office of the Provincial Prosecutor of Camarines Sur filed an information charging Belgar with rape, thus:

That on or about the midnight of January 20, 2000 at x x x, Municipality of Tigaon, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, with force and intimidation and after entering and pulling the victim from her house, did then and there, willfully, unlawfully and feloniously lie and have carnal knowledge with AAA,² a 15 year old lass, against her will and without her consent, to her damage and prejudice in such amount as shall be proven in court.³

Belgar pleaded *not guilty* to the charge.⁴ Testifying for the Prosecution were AAA, BBB (AAA's mother), and Dr. Penafrancia N. Villanueva, while Belgar was the lone witness for the Defense.

Version of the Prosecution

On January 20, 2000, at about 8:00 p.m., AAA and her two sisters were sleeping in their house in Tigaon, Camarines Sur, when she was awakened because someone was touching her feet. She saw that it was Belgar, who was poking her neck with a knife. She resisted but he warned her not to shout or he would stab her and her sisters. He dragged her outside the house and brought her to a nearby tree, where he injected an unknown substance into her stomach. She fell unconscious afterwards. Upon regaining consciousness, she found herself naked, and her vagina was aching and soaked with white and red substance. She put on her clothes and returned to the house. She attended school the next morning. During her class, she broke a mirror and slashed her left wrist. Her teacher came to her aid and had her treated. While being treated she confided the rape to her teacher.⁵ She was thus brought to the Municipal Health Office of Tigaon, Camarines Sur, and was examined there by Dr. Villanueva, who issued her medico-legal report containing the following findings:

Extragenital Findings:

- Brownish discoloration of the skin at the anterior area of the distal portion of the left lower arm.

² Pursuant to Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules, the real name of the victim, together with the real names of her immediate family members, is withheld and fictitious initials instead are used to represent her, both to protect her privacy. See also *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, 421-426.

³ *CA rollo*, p. 8.

⁴ Records, p. 33.

⁵ TSN, July 9, 2001, pp. 2-13.

Genital Examination:

- Multiple hymenal lacerations old, healed complete at 9' oclock and 6' oclock positions and old healed partial lacerations at 3' oclock and 12' oclock positions.
- Admits small finger with ease.⁶

Version of the Defense

Belgar denied raping AAA and interposed alibi, insisting that he was sleeping in his house in San Miguel, Tigaon, Camarines Sur at midnight of January 20, 2000, having gone to bed there at 8:00 p.m. on the same date and waking up at 5:00 a.m. of the next day; that he did not leave the house in that period of time; and that it was his first time to see AAA when she identified him inside the Municipal Jail of Tigaon as the one who had raped her at midnight of January 20, 2000.⁷

Judgment of the RTC

In its decision promulgated on June 17, 2003, the RTC found that all the elements of rape under Article 266-A (1) (a) of Republic Act No. 8353 had been duly established; that the State had shown that Belgar had committed carnal knowledge of AAA by force, threat, and intimidation; that AAA was candid and truthful as a witness; and that Belgar's alibi could not prevail because it was uncorroborated, and he did not show the physical impossibility for him to be at the crime scene at the time of the commission of the crime.⁸ It decreed thusly:

WHEREFORE, the accused BOBBY BELGAR is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua, with the inherent accessories provided by law, to indemnify the offended party AAA the sum of Fifty Thousand Pesos (₱50,000.00) as actual or compensatory damages and another Fifty Thousand Pesos (₱50,000.00) as moral damages, both of Philippine Currency, and for him to pay the costs.

The accused Bobby Belgar shall be entitled to full credit of his preventive imprisonment if he agreed to abide with the rules imposed upon convicted person (sic) otherwise he shall be entitled to four-fifth (4/5) credit thereof.⁹

Decision of the CA

On appeal, Belgar contended that the rape had not been proven because no direct evidence of the sexual intercourse was presented due to

⁶ TSN, April 27, 2001, pp. 2-5.

⁷ TSN, May 16, 2002, pp. 2-7.

⁸ CA *rollo*, pp. 26-28.

⁹ Id. at 28.

AAA having been unconscious during the rape; and that the non-submission for laboratory examination of the red and white substance in AAA's vagina casts doubt on the charge of rape.¹⁰

On August 31, 2007, the CA affirmed the conviction,¹¹ holding that the conviction for rape could be based on the circumstantial evidence adduced through the testimony of AAA; that the absence of spermatozoa from the vagina of the victim did not disprove rape because ejaculation was not an element of the crime; and that the RTC properly rejected Belgar's alibi upon finding AAA's testimony credible.¹²

Issues

Belgar's sole contention for reversal is that:

THE COURT A QUO ERRED IN FINDING THE ACCUSED GUILTY OF THE CRIME OF RAPE WHEN SAID VICTIM WAS UNCONSCIOUS WHEN THE INCIDENT HAPPENED.¹³

Belgar argues that the perpetrator was already gone when AAA regained consciousness; that she did not experience or feel the actual sexual intercourse; that she only jumped to the conclusion that she had been raped, and that it was the accused who had raped her; that there was no evidence showing that he had been the perpetrator;¹⁴ that the non-examination of the white and red substance found in AAA's vagina removed the proof of the possibility of the substance having come from a male organ; and that AAA did not properly identify the culprit.¹⁵

Ruling of the Court

The appeal lacks merit.

The information charged Belgar with rape committed through force, threat or intimidation as defined under Article 266-A (1) (a), Revised Penal Code, as amended by Republic Act No. 8353, to wit:

Article 266-A. *Rape; Rape; When and How Committed.* – Rape is committed.

¹⁰ *Rollo*, pp. 32-37.

¹¹ *Supra* note 1.

¹² *Id.* at 8-13.

¹³ *CA rollo*, p. 43.

¹⁴ *Id.* at 47.

¹⁵ *Id.*

1) By a man who have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat or intimidation;

x x x x

The elements of the crime charged are that the offender had carnal knowledge of a female, and that the same was committed by using force, threat or intimidation.¹⁶ The elements were proved beyond reasonable doubt. According to AAA, Belgar poked a knife at her neck, forced her to get up from her sleep, and dragged her outside of the house. She resisted and would have shouted but he warned her against shouting, and threatened to stab her and her sleeping sisters. Once they were outside, he injected a substance into her belly, thereby causing her to lose consciousness. Upon regaining her consciousness, she was already naked and had blood in her vagina.

Belgar employed force, threat and intimidation in order to commit carnal knowledge of AAA. Her relevant testimony ran as follows:

- Q. Why? On January 20, 2000 what time did you sleep?
A. 8:00 o'clock, sir.
Q. And what time were you awoken?
A. I do not know what the time [was] because we have no watch inside our house, sir.
Q. Now, while you were sleeping and you were awake tell us the cause why you were awoken?
A. We were all asleep inside the house and I was suddenly awoken because there was somebody holding my feet, sir.
x x x x
Q. When you were awoken when (sic) somebody holding your feet, tell us what happened next?
A. When I was awoken I suddenly rose up and I saw a man, he, he suddenly poked me with [a] balisong/knife.
Q. When you said he, whom are you referring?
A. Bobby Belgar, sir.
x x x x
Q. Tell us the illumination of your room at that time when you recognized the accused Bobby Belgar who was inside your room on January 20, 2000?
A. It was not dark because we have kerosene lamp which served as a light, sir.
x x x x
Q. When you identifie(d) Bobby Belgar who was already inside your room on January 20, 2000 at barangay Casuna tell us what happened next if any?

¹⁶ *People v. Lupac*, G.R. No. 182230, September 19, 2012, 681 SCRA 390, 398; *People v. Taguilid*, G.R. No. 181544, April 11, 2012, 669 SCRA 341, 350; *People v. Butiong*, G.R. No. 168932, October 19, 2011, 659 SCRA 557, 568.

- A. When he poked the knife on me he forced me to stand and forced me to let me go out of the house, sir.
x x x x
- Q. While you were being poked upon by (sic) that batangas knife, what did you do?
- A. I was resisting and I was able to shout but he told me that if I shout he will stab me and also my two (2) sisters, sir.
x x x x
- Q. After you answered to the query of the accused, what happened next?
- A. When we reached the tree he suddenly injected something to my stomach. I just don't know what is it, sir.
- Q. The one being used by the doctor?
- A. I just don't know because I have not seen it, sir.
- Q. Describe how did you feel when that gadget was injected as you said?
- A. I just felt weak and I don't know what happened because my eyes got blurred.
- Q. What part of your stomach was injected?
- A. (Witness pointing to the left side of her stomach parallel to her navel).
- Q. When that gadget injected to the left side of your stomach and you felt dizzy, what happened next?
- A. When I was awoken he was no longer there and I was naked, sir.
x x x x
- Q. When you were brought by the accused outside of your house, the accused was pointing a knife at your neck, how did the accused bring you to that tree that you are referring to?
- A. He was pushing me towards the outside, sir.
- Q. At that time what happened to your hands?
- A. I was pushing him because I was resisting on his bringing me.
x x x x
- Q. And what happened to your vagina if any you woke up and completely naked?
- A. I saw as (sic) if liquid, sir.
- Q. Describe to us that liquid you observe[d]?
- A. Reddish and whitish, sir.
- Q. What did feel in your vagina when you woke up if any beside[s] that red and white substance that you saw?
- A. It was painful, sir.
- Q. Because it was painful, what happened? What did you do if any?
- A. I was still lying I felt pain and when I sitted as if I could not get up, sir.
- Q. Because of that what happened next?
- A. I stood up and proceeded inside our house, sir.
x x x x
- Q. You did not report this matter to your parents and to your sisters?
- A. No, sir.
- Q. Tell us why?
- A. Because of his threat to my family, sir.
- Q. What is the threat all about?
- A. That if I report he will kill all of us, sir.¹⁷
x x x x

¹⁷ Supra note 5, at 3-11.

Q. How were you able to know that the accused is responsible to the crime being charged?

x x x x

A. I am sure that he was the one who rape[d] me because while I am (sic) still sleeping he was the one who went inside and pulled my legs toward the creek and there he injected.

FISCAL SOLANO: In other words, you are 100% sure because the accused is the only one who get (sic) near you and nobody else?

A. Yes, sir.

COURT: Was the pulling of legs prior or after you become (sic) unconscious.

A. While I was still conscious.

Q. When you become (sic) conscious after you were unconscious who were the very persons around by the way?

A. No more, sir.¹⁸

Like the RTC and the CA, we find AAA's narration of her ordeal as credible and truthful. The assessment by the RTC on the credibility of AAA should be respected because the trial court had personally observed her demeanor while testifying. This appreciation held true because the CA affirmed the factual findings of the RTC.¹⁹

We likewise note that AAA did not hesitate or waver in her narration even during her rigorous cross examination. As such, her sole but credible testimony as the rape victim sufficed to convict the accused of his crime.²⁰ It is remarkable, indeed, that there was neither allegation nor proof of any ill motive on her part or on the part of her family in accusing him of raping her.

Belgar's alibi was rightly rejected. Alibi, to prosper, must be substantiated with clear and convincing evidence.²¹ He must demonstrate not only that he was somewhere else when the crime occurred, but also that it was physically impossible for him to be at the crime scene when the crime was committed.²² But he failed to adequately support his alibi. Although he attested that on January 20, 2000, he slept in his house situated in Barangay San Miguel, Tigaon, Camarines Sur continuously from 8:00 p.m. until getting up at 5:00 a.m. of the next day,²³ he did not dispute that his house was but two kilometers away from where the rape was committed.²⁴ Both barangays were actually within the Municipality of Tigaon, rendering it not physically impossible for him to leave his house during the period that he allegedly was home in order to reach AAA's house by midnight to commit the crime.

¹⁸ TSN, March 11, 2002, pp. 4-5.

¹⁹ *People v. Bulan*, G.R. No. 143404, June 8, 2005, 459 SCRA 550, 562.

²⁰ *People v. Sonido*, G.R. No. 148815, July 7, 2004, 433 SCRA 701, 708.

²¹ *People v. Moralde*, G.R. No. 131860, January 16, 2003, 395 SCRA 286, 296.

²² *Id.*

²³ TSN, May 16, 2002, p. 3.

²⁴ TSN, May 16, 2002, p. 7.

The commission of the rape was competently established although AAA had been unconscious during the commission of the act. Proof of the commission of the crime need not always be by direct evidence, for circumstantial evidence could also sufficiently and competently establish the crime beyond reasonable doubt. Indeed, the Court affirmed convictions for rape based on circumstantial evidence.²⁵ In this connection, circumstantial evidence is sufficient for conviction if the conditions set forth in Section 4, Rule 133 of the *Rules of Court* are shown to exist, to wit:

Section 4. *Circumstantial evidence, when sufficient.* – Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

In *People v. Perez*,²⁶ we affirmed the conviction of the accused for rape based on circumstantial evidence, there being no direct proof of the sexual intercourse. The accused was charged with having carnal knowledge of the 16-year old victim through force, intimidation and against her will. The Prosecution established that he had entered the victim's room and had covered her nose and mouth with a chemically-laced cloth, causing her to lose consciousness. Upon waking up, she felt pain in her vagina, and she then saw blood and a white substance in her vagina. Her clothes were in disarray and her underwear was in the corner of the room. He was no longer around. Nonetheless, the Court held:

Conviction for rape may be based on circumstantial evidence when the victim cannot testify on the actual commission of the rape as she was rendered unconscious when the act was committed, provided that more than one circumstance is duly proved and that the totality or the unbroken chain of the circumstances proven lead to no other logical conclusion than the appellant's guilt of the crime charged. Cristina's positive identification of the appellant as the person who came to the room where she slept one early morning towards the end of May 1994, and that he covered her nose and mouth with a foul smelling handkerchief until she lost consciousness, the blood and white substance she found on her vagina which ached the following morning, her torn shorts and her panty removed, all lead to one inescapable conclusion that the appellant raped her while she was unconscious.²⁷

²⁵ *People v. Tabarangao*, G.R. Nos. 116535-36, February 25, 1999, 303 SCRA 623, 637; *People v. Abiera*, G.R. No. 93947, May 21, 1993, 222 SCRA 378, 384; *People v. Ulili*, G.R. No. 103403, August 24, 1993, 225 SCRA 594, 606; *People v. Santiago*, G.R. No. 46132, May 28, 1991, 197 SCRA 556, 569.

²⁶ G.R. No. 124366-67, May 19, 1999, 307 SCRA 276.

²⁷ *Id.* at 290-291.

This case has factual kinship with *People v. Perez*. The Prosecution proved through AAA's testimony that: (1) Belgar had poked the knife at her neck; (2) he had dragged her outside the house and had brought her to a nearby tree; (3) he had injected an unknown substance into her belly that had then rendered her unconscious; (4) upon waking up, she had found herself lying naked on the ground; (5) she had felt pain in her vagina, which held a red and white substance in it; and (6) he had been the only person last seen by her before she had passed out. The lack of direct evidence against him notwithstanding, these circumstances sufficed to prove his guilt beyond reasonable doubt because they formed an unbroken chain that unerringly showed Belgar, and no other, had committed the rape against her.

Both lower courts correctly concluded that the non-examination of the red and white substance found in AAA's vagina did not negate the commission of the rape. A finding of the presence of spermatozoa on the victim did not define the commission of rape. Indeed, neither the medical examination of the rape victim nor the laboratory test of anything related to the crime was an element of the crime of rape.²⁸ As the Court aptly observed in *People v. Parcia*:²⁹

This contention has no merit. The absence of spermatozoa in the genitalia of the victim does not disprove rape since ejaculation is not an element thereof. What consummates the crime is the contact of the penis of the perpetrator, however slight, to the vagina of the victim without her consent. The Court has held in numerous cases that a medical examination is not a requisite for a rape charge to prosper as long as the victim positively and consistently declares that she has been sexually abused. In the instant case, aside from the victim's unwavering testimony, the medical examination showed fresh lacerations, indicating that she had recent sexual intercourse.³⁰

The RTC and the CA were also correct in their uniform findings that AAA's identification of Belgar as the rapist was reliable. AAA's view of the face of the rapist was unquestionable because of the illumination from a lighted kerosene lamp inside the room.³¹ She could not be mistaken about him because she was familiar with his face from always seeing him whenever she went to her school in Barangay San Miguel, Tigaon, Camarines Sur.³² He was also the man who had raped her before in November 1999 in San Jose, Camarines Sur.³³ It is noteworthy that she immediately identified him as the rapist while he was under detention in the Municipal Jail of Tigaon,³⁴ and repeated her identification of him in the course of her court testimony in this case.³⁵

²⁸ *People v. Saldivia*, G.R. No. 55346, November 13, 1991, 203 SCRA 461, 472.

²⁹ G.R. No. 141136, January 28, 2002, 374 SCRA 714.

³⁰ *Id.* at 722-723.

³¹ TSN, July 9, 2001, p. 5.

³² TSN, July 9, 2001, p. 3.

³³ TSN, July 9, 2001, pp. 4-5.

³⁴ TSN, May 16, 2002, p. 5.

³⁵ TSN, July 9, 2001, p. 2.

In rape committed through force and intimidation, the award of civil indemnity and moral damages, each for ₱50,000.00, is mandatory.³⁶

In addition, pursuant to Article 2229 and Article 2230 of the *Civil Code*, exemplary damages are to be granted to the victim of a crime when at least one aggravating circumstance was attendant. AAA was entitled to exemplary damages of ₱30,000.00³⁷ due to the attendance of the aggravating circumstances of nighttime and the use of the deadly weapon in the commission of the rape. It was of no consequence that the information did not allege the circumstances, for, as the Court observed in *People v. Catubig*:³⁸

The term “aggravating circumstances” used by the Civil Code, the law not having specified otherwise, is to be understood in its broad or generic sense. The commission of an offense has a two-pronged effect, one on the public as it breaches the social order and the other upon the private victim as it causes personal sufferings, each of which is addressed by, respectively, the prescription of heavier punishment for the accused and by an award of additional damages to the victim. The increase of the penalty or a shift to a graver felony underscores the exacerbation of the offense by the attendance of aggravating circumstances, whether ordinary or qualifying, in its commission. Unlike the criminal liability which is basically a State concern, the award of damages, however, is likewise, if not primarily, intended for the offended party who suffers thereby. It would make little sense for an award of exemplary damages to be due the private offended party when the aggravating circumstance is ordinary but to be withheld when it is qualifying. Withal, the ordinary or qualifying nature of an aggravating circumstance is a distinction that should only be of consequence to the criminal, rather than to the civil, liability of the offender. In fine, relative to the civil aspect of the case, an aggravating circumstance, whether ordinary or qualifying, should entitle the offended party to an award of exemplary damages within the unbridled meaning of Article 2230 of the *Civil Code*.

The Court imposes legal interest of 6% *per annum* on each of the civil liabilities, reckoned from the finality of this judgment until full payment.³⁹

WHEREFORE, we **AFFIRM** the decision of the Court of Appeals promulgated on August 31, 2007 in all respects subject to the **MODIFICATION** that accused **BOBBY BELGAR** is also liable to pay ₱30,000.00 as exemplary damages to AAA, plus interest at the rate of 6%

³⁶ *People v. Napudo*, G.R. No. 168448, October 8, 2008, 568 SCRA 213, 230.

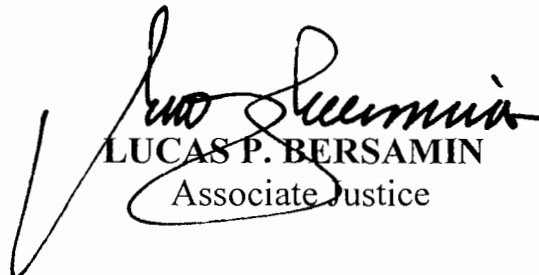
³⁷ *People v. Rante*, G.R. No. 184809, March 29, 2010, 617 SCRA 115, 127; *People v. Dalisay*, G.R. No. 188106, November 25, 2009, 605 SCRA 807, 820.

³⁸ G.R. No. 137842, August 23, 2001, 363 SCRA 621, 635.


³⁹ *Sison v. People*, G.R. No. 187229, February 22, 2012, 666 SCRA 645, 667.


per annum on the civil indemnity, moral damages and exemplary damages from the finality of this decision until full payment; and **ORDER** him to pay the costs of suit.


SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice

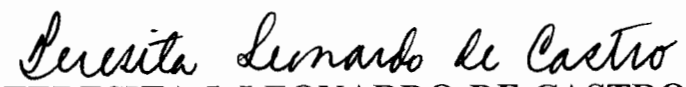

TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson


JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

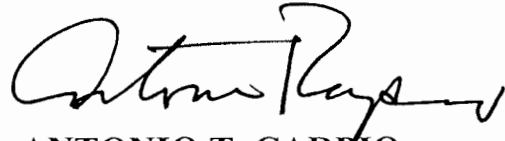
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

A handwritten signature in black ink, appearing to read 'Antonio T. Carpio', with a stylized flourish at the end.

ANTONIO T. CARPIO
Acting Chief Justice