

FIRST DIVISION

[G.R. No. 203315, September 18, 2013]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEY BACATAN, ACCUSED-APPELLANT.

DECISION

REYES, J.:

For review^[1] is the Decision^[2] dated January 28, 2011 of the Court of Appeals (CA) in CA-G.R. CEB-CR.-H.C. No. 00635 which affirmed the Decision^[3] dated June 20, 2002 of the Regional Trial Court (RTC) of Cebu City, Branch 18, convicting and sentencing accused-appellant Joey Bacatan (Bacatan) to *reclusion perpetua* for the crime of rape.

The Facts

On January 19, 1998, Bacatan and Danilo Mabano (Mabano) were having a drinking spree outside the house of 18-year old private complainant, AAA^[4]. Mabano is the childhood friend of AAA's brother, a neighbor and family friend. Bacatan, on the other hand, was a stranger to AAA until that night. When they ran out of beer, Bacatan and Mabano decided to look for a store to buy some more. Such is the only certain and undisputed episode in this present debacle because, as in other criminal cases, the parties tendered different versions of the ensuing incidents.^[5]

The prosecution claimed^[6] that Mabano invited AAA to join them in buying beer. She declined at first but the two men prodded that storeowners will surely sell to her than to them. Sensing no evil motive cloaked behind their request, she eventually obliged. The three boarded a motorcycle with Mabano as driver while AAA sat in the middle of the two men. They were able to buy four (4) bottles of beer from a nearby store but the same was not enough. Upon Mabano's suggestion, they proceeded to *Tabunok*. However, instead of heading directly to *Tabunok*, Mabano turned left towards a place called *Pook*.

In *Pook*, they disembarked at NAZ Beach Resort where they were offered a cottage. At that point, AAA got worried so she decided to walk away. Mabano followed her and warned that it is dangerous for her to go home alone. Bacatan then ordered AAA to board the motorcycle with a promise that they will already bring her home. Bacatan, however, diverted to a different direction and proceeded towards Litmon Talisay.

Upon arriving at Litmon Beach, Bacatan talked to an old man as Mabano held AAA. When AAA inquired from Mabano about the purpose of their stopover, the latter told her to wait for a few minutes. She saw Bacatan and the old man enter the cottage and the latter placed beer inside. AAA and Mabano thereafter joined Bacatan.

Afterwards, Mabano took the beer outside and walked towards the parked motorcycle leaving AAA and Bacatan inside.

Bacatan continued drinking beer. Moments later, he pushed AAA towards the elevated portion of the cottage causing her to slump on the floor. He asked her to have sex with her. Confused, AAA asked him what was sex all about to which he replied by knocking her thigh thrice using his forefinger. Terrified, AAA brushed his hand aside and told him that such act should be done only by married couples. She tried to escape by running to the door but it failed to open as someone from the outside was seemingly holding the lock to prevent her from escaping. Bacatan then pulled her back and forced her to lie on the floor, got on top of her and endeavoured to separate her legs. She resisted by wiggling from his hold and kicking him but he was stronger. Suddenly, Mabano, wearing only his underwear, entered the cottage and asked Bacatan if he was already through.

Mabano held AAA's hands as Bacatan removed her pants and inserted his sexual organ in her private part. After consummating his beastly act, Bacatan got up and went out of the cottage. Mabano then expressed his desire to have carnal knowledge with AAA but he changed his mind after she pleaded for him not to do so. He tried to exculpate himself by telling her that he was merely a witness to the incident. Mabano then brought her to the motorcycle with a plan to leave Bacatan behind, but they fell after running a short distance. Bacatan, who was following them, was thus able to ride and drive the vehicle. Instead of heading home, the trio returned to *Tabunok* where they stopped at an open store. Bacatan offered AAA softdrinks which she declined. He instructed her to sit on a bench and remarked: "I believe in *provinciana*." Upon that instance, AAA's parents and brother arrived. Apparently, they have been looking for her the entire night. Mabano immediately went inside the store as AAA ran towards her mother and told her to go to the police because she was raped by Bacatan and Mabano. AAA's mother and brother went to the *Tabunok* police precinct but nobody responded to them because the policemen were sleeping.

Meanwhile, AAA's father confronted Mabano who, before attempting to run, denied having any participation in the incident. AAA's father called the attention of the nearby *barangay tanods* who arrested Mabano and brought him to the police station. Bacatan, on the other hand, was able to escape because the storeowner prevented the *barangay tanods* from entering the store where he hid.

AAA reported the incident to the police on the same evening and at around 1:00 to 2:00 o'clock of the following morning, she underwent medical examination by Dr. Bessie Acebes of the Don Vicente Sotto Memorial Medical Center. The results of the examination yielded: "discharged bloody, minimal sperm identification."

The defense proffered a whirlwind romance version.^[7] Bacatan claimed that he and AAA were sweethearts and that she voluntarily went with them. She even sat between him and Mabano on the motorcycle. AAA's parents saw her board the vehicle but they expressed no objections.

The three went to Nashville Beach and ordered beer but nothing was available. They proceeded to *Tabunok* and then to Canton Beach. Still unable to find beer, Bacatan and AAA just decided to pass time in an open cottage while Mabano left to buy some cigarettes.

AAA asked him if he was already married. He replied that he is still single. AAA then said that she has seen him before at Esperanza when he was playing basketball. The entire time, AAA was leaning her back towards his body. They were in that position for half an hour talking about basketball. He then asked AAA if she was still single. When she replied yes, he insinuated that since they were both single, they can get married. When AAA agreed for them to be sweethearts, he kissed her. She kissed him back. She embraced him and they continued kissing for about 30 minutes. He then hinted that they should head home as it was almost midnight but AAA didn't want to go home because her parents might scold her.

The trio proceeded to Hernando Beach located at *Poblacion*, Talisay where they rented a cottage and bought a crate of beer. The two men continued drinking while AAA went upstairs to rest. A few minutes later, she bid for him to go up. He complied.

AAA held his hand, hugged him and kissed his lips. He responded with an equal degree of affection. She told him to remove his clothes as well as hers and they copulated. Thereafter, Bacatan went outside to urinate. Mabano attempted to go upstairs but Bacatan forbade him causing the former to get angry and mount the motorcycle. Bacatan then told AAA to come down and they both boarded the motorcycle with Mabano driving. They fell down after a few meters prompting Bacatan to take over the steering wheel.

The trio went back to *Tabunok* and had refreshments at the store of Priscilla Raga (Raga). AAA and Bacatan sat beside each other; she leaned on and kept caressing him. A little later, her parents arrived. Sensing that her father was furious, Bacatan went inside the store, left his sunglasses with the owner and headed home. On October 14, 1998, he voluntarily surrendered to the police after learning that there is a warrant for his arrest in connection with a criminal case for rape filed against him.

Meanwhile, for unexplained reasons, Mabano, was able to abscond. He still remains a fugitive from justice. Only Bacatan was taken in court custody and he pleaded "Not Guilty" to the following charges, *viz*:

That on January 19, 1998 at around 10:45 in the evening, more or less, at Barangay Poblacion, Tanke, Talisay, Cebu, Philippines, and within the jurisdiction of this Honorable Court, said accused, conspiring, confederating and mutually helping one another, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and feloniously, accused Joey Bacatan lie and succeed in having carnal knowledge with one [AAA], 18 years old, while accused Danilo Mabano held her hands by indispensable cooperation, against her will and consent.

CONTRARY TO LAW.^[8]

Ruling of the RTC

After due proceedings, the RTC rendered a Decision^[9] on June 20, 2002 finding Bacatan guilty beyond reasonable doubt. The RTC accorded weight and credibility to

the testimony of AAA and rejected the sweetheart defense interposed by Bacatan, disposing thus:

WHEREFORE, premises all considered, JUDGMENT is hereby rendered convicting accused Joey Bacatan of the crime of Rape as defined under Article 266-A and penalized under Article 266-B of the Revised Penal Code and he is hereby imposed [sic] to suffer the penalty of *Reclusion Perpetua* with the inherent accessory penalties provided by law and to indemnify the victim in the sum of [P]50,000.00 as moral damages and to pay the costs.

Let separate proceedings be conducted as soon as co-accused (Danilo) Mabano is brought within the ambit of the law. In the meantime, the case against accused (Danilo) Mabano is archived without prejudiced [sic] to its revival as soon as accused (Danilo) Mabano is apprehended. Let an alias warrant of arrest be issued against him.

SO ORDERED.^[10]

Bacatan appealed contending that there was no evidence of force and intimidation employed upon AAA. He insisted that the intimate act that occurred was consensual and the charge of rape was filed to force him into marrying her, to save her from public humiliation and from the wrath of her parents. According to Bacatan, her failure to put up a tenacious and aggressive resistance negates the fact that Bacatan forced himself on her. She also had several opportunities to ask for help from the people near the alleged crime scene and from persons in authority they met along the way, but she didn't.

He further argued that her medical certificate did not indicate that she sustained bruises and abrasions which are common and natural in rape cases committed thru force and intimidation especially considering that Bacatan is a stout man who stands six (6) feet tall. He questioned the failure of the prosecution to present the underwear AAA was wearing during the alleged rape. He insinuated irregularity in the mysterious appearance of AAA's pants during trial despite its absence in the earlier proceedings and tags the same as manufactured evidence. He discredited the contents of AAA's medical certificate since it was never testified to by the signatory himself. He also disputed the truthfulness of AAA's first affidavit on the ground that it did not indicate the time of commission of the alleged crime.^[11]

The case was directly elevated to this Court for automatic review. However, pursuant to this Court's ruling in *People v. Mateo*^[12], the case was transferred to the CA in a Resolution dated March 27, 2006.^[13]

Ruling of the CA

The CA affirmed the RTC's ruling that the prosecution met the required quantum of evidence necessary to convict Bacatan. It also upheld the credibility of AAA's testimony and stressed that no sensible woman will concoct a rape story and thereby put herself and her family in public disrepute. The sweetheart theory advanced by Bacatan was adjudged unavailing as it is anchored only on his self-

serving allegation with no other evidence to prove the same. The decretal portion of the CA's Decision^[14] dated January 28, 2011 thus read:

WHEREFORE, the herein assailed decision of the Regional Trial Court of Cebu City, Branch 18 dated June 20, 2002 is **AFFIRMED**.

SO ORDERED.^[15]

Hence, the present review. In our Resolution^[16] dated October 15, 2012, the Court required the parties to file their respective supplemental briefs but, in their Manifestations,^[17] they waived the filing of the same and instead adopted their respective briefs filed before the CA. Bacatan lobbies for his acquittal and insists that his guilt was not proved beyond reasonable doubt.

The Court's Ruling

The Court affirms the conviction of Bacatan. Evidence on record shows that the following elements of rape were proved beyond reasonable doubt, viz: (1) Bacatan had carnal knowledge of AAA; and (2) it was accomplished through the use of force.^[18]

The first element is undisputed as it is an admission inherent in the sweetheart defense advanced by Bacatan,^[19] which in turn, was correctly, rejected by the courts *a quo* for lack of substantial corroboration.

As a rule, bare invocation of sweetheart theory cannot stand alone. To be credible, it must be corroborated by documentary, testimonial, or other evidence. Usually, these are letters, notes, photos, mementos, or credible testimonies of those who know the lovers.^[20]

To substantiate the claim of whirlwind romance between AAA and Bacatan, the defense presented the testimony of people who saw them after the incident. Raga, the owner of the store in *Tabunok* where they had refreshments testified that AAA and Bacatan sat side by side and were affectionate towards each other because she leaned on his shoulder.^[21] Elizalde Labuca, a *barangay tanod* assigned to watch La Moderna Pawnshop across Raga's store, narrated the same observation.^[22]

These testimonies are, however, not enough to lead to the conclusion that a romantic relationship existed between Bacatan and AAA. They are mere hasty inferences based on a fleeting occurrence that do not essentially indicate the presence of a relationship. The observations made by the said defense witnesses were intermittent and spanned for merely 20 minutes.^[23]

At any rate, even if it were true that they were sweethearts, a love affair does not justify rape. As repeatedly stressed by the Court, a man does not have the unbridled license to subject his beloved to his carnal desires.^[24]

With the presence of the first element being settled, the prosecution only had to prove the employment of force upon AAA.