599 Phil. 382

SECOND DIVISION

[G.R. No. 175238, February 24, 2009]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ELMER BALDO Y SANTAIN, APPELLANT.

DECISION

QUISUMBING, J.:

On appeal is the Decision[1] dated July 4, 2006 of the Court of Appeals in CA-G.R. CR-H.C. No. 01930, which affirmed the Decision[2] of the Regional Trial Court of Antipolo City, Branch 73 in Criminal Case Nos. 00-18080 to 00-18082, convicting and sentencing appellant Elmer S. Baldo to *reclusion perpetua* for the crime of rape.

On February 17, 2000, three Informations for rape were filed against appellant and were docketed as Criminal Case Nos. 00-18080 to 00-18082. Except for the dates, all three informations were similarly worded as follows:

> That on or about the 10th day of February 2000 in the City of Antipolo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a fan knife, by means of force and intimidation, did, then and there wilfully, unlawfully and feloniously have sexual intercourse with one [AAA],[3] against her will and consent.
>
> **CONTRARY TO LAW.**[4]

Upon arraignment on March 16, 2000, appellant pleaded not guilty to the three charges.[5] Trial on the merits thereafter ensued.

The facts as established by the prosecution are as follows:

Twenty-nine-year-old AAA, appellant, and Norman Echani were housemates in a small one-room house in *Purok Maligaya* II, Mambugan, Antipolo City. Appellant is her nephew while Echani is her cousin. As AAA recently resigned from her job and appellant worked during the night shift in a factory, the two were always left during daytime when Echani was at work.

On February 10, 2000 at 1:00 p.m., appellant professed his love for AAA in their living room. She, however, admonished him against his protestation for they are relatives. He then told her that if she ignores him, he would rape her. She pleaded to him not to do anything against her will if he really liked her. Appellant then held her left hand and poked a *balisong* (fan knife) at her, and then removed her pants and panty while she was seated at a bench. Then he dragged her and laid her on the floor, removed his shorts and brief, and placed himself on top of her. AAA tried to resist by kicking him but he was stronger. Thereafter he placed the knife aside, then held and pressed her thighs. He then fingered her vagina with his right hand

and inserted his penis into it. After two minutes, appellant stood up but threatened to kill her if she reported the incident to their relatives. As she was in shock, AAA just stayed in her room. Appellant thereafter left for work at 5:30 p.m.

According to AAA, appellant repeated his beastly act the following day, February 11 and on the next day, February 12, 2000.

In the evening of February 12, 2000, AAA decided to tell Echani what appellant had done to her. Echani and his brother, Abraham, then accompanied her to the barangay hall to file complaints against appellant.

The medico-legal police officer who examined AAA on February 13, 2000 found "deep healing laceration" in her hymen, "compatible with recent loss of virginity" but negative for spermatozoa.[6] Dr. James Belgira testified that the laceration could have been caused by a penetration of a hard object like an erect penis. He also found contusions on AAA's left arm and thighs.[7]

Appellant, in his own defense, denied the charges against him. He claimed that he and AAA were lovers since November 1999, and that she had consented to have sex with him even prior to February 2000. He contended that she charged him because her parents were against their affair, and that her parents learned of their relationship because two of their neighbors saw them having sexual intercourse. He likewise denied poking a knife at her when they "made love." To prove they are lovers, appellant presented two witnesses: Benjamin Eubra, *Purok Maligaya* Chairman, and Simeon de los Santos, appellant's uncle and neighbor.

Eubra and De los Santos testified that appellant and AAA were always together and held hands when walking. Being part of the barangay investigating team, Eubra said that the crime scene is a single-room house separated from adjacent houses by plywood and located in a place where market people usually hang out. He did not believe the charges because the neighbors could always see and hear what the occupants inside the house were doing.[8]

On September 26, 2002, the trial court found appellant guilty in Criminal Case No. 00-18080 but acquitted him in Criminal Case Nos. 00-18081 and 00-18082. The *fallo* reads as follows:

> WHEREFORE, premises considered, accused ELMER BALDO y SANTAIN is hereby found guilty of rape beyond reasonable doubt in Criminal Case No. 00-18080 and is hereby sentenced to suffer the penalty of Reclusion Perpetua.
>
> He is further ordered to pay to the complainant, [AAA], the amount of Php 50,000 as indemnity.
>
> Criminal Cases No[s]. 00-18081 and 00-18082 are hereby DISMISSED for insufficiency of evidence.
>
> SO ORDERED.[9]

Since the penalty imposed on appellant is *reclusion perpetua*, the case was elevated to this Court for automatic review. Pursuant to *People v. Mateo*,[10] however, we referred the case to the Court of Appeals.

On July 4, 2006, the appellate court affirmed with modification the trial court's decision. Its *fallo* reads:

> ***WHEREFORE***, the Decision appealed from is ***AFFIRMED***, with ***MODIFICATION*** by ordering accused-appellant Elmer Baldo y Santain to likewise pay [AAA] the amount of P50,000.00 as moral damages and the amount of P25,000.00 as exemplary damages.
>
> ***SO ORDERED***.[11]

Hence this instant petition based on a lone assignment of error:

> THE COURT *A QUO* ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN [PROVEN] BEYOND REASONABLE DOUBT.[12]

The issue to be resolved in the instant case is whether the crime of rape, particularly the element of force or intimidation, has been proved sufficiently.

Appellant insists that he and AAA are lovers and what happened between them was consensual. He likewise capitalizes on AAA's admission that he was no longer holding the knife when he inserted his finger and subsequently his penis into AAA's vagina. Thus, she had all the opportunity to resist his alleged sexual assault. Appellant further claims that AAA's failure to make an outcry to call the attention of their neighbors, as the partition between the rooms was only made of plywood, and to immediately disclose the incident to her cousin Echani, showed she consented to the sexual congresses. As he was not covering her mouth, she should have made her protestations in a voice loud enough for others to hear.

The Office of the Solicitor General (OSG) counters that findings of fact of the trial court deserve respect and that witnesses are usually reluctant to volunteer information. It stresses that the elements of simple rape, to wit, carnal knowledge and force or intimidation, were proven during trial. Even granting that appellant and AAA were lovers, such fact was not a valid defense as a man cannot force his sweetheart to have sexual intercourse with him. The OSG adds that AAA's account evinced sincerity and truthfulness and she never wavered in her story, consistently pointing to appellant as her rapist. Besides, no woman would willingly submit herself to the rigors, humiliation and stigma attendant in a rape case if she was not motivated by an earnest desire to punish the culprit.

In our considered view, the prosecution has proven all the elements of the offense of simple rape, including the use of force or intimidation. We affirm appellant's conviction.

For conviction in the crime of rape, the following elements must be proved beyond reasonable doubt: (1) that the accused had carnal knowledge of the victim; and (2) that said act was accomplished (a) through the use of force or intimidation, or (b) when the victim is deprived of reason or otherwise unconscious, or (c) when the