

THIRD DIVISION

[G.R. No. 143660, June 05, 2002]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. BOY DOMINGO, JOEL TEMPORAL (AT LARGE), BENEDICTO PEDRO (AT LARGE), HEHERSON RIVERA (AT LARGE), AND JESSING VALDEZ (AT LARGE), ACCUSED.

BOY DOMINGO, APPELLANT.

DECISION

PANGANIBAN, J.:

Appellant's alibi cannot prevail over the positive identification made by credible witnesses. Absent any plausible imputation of ill motive on their part to falsely accuse or implicate him, their candid and consistent testimonies should be given full faith and credit.

The Case

Boy Domingo appeals the January 5, 2000 Decision^[1] of the Regional Trial Court (RTC) of Santiago City (Branch 36)^[2] in Criminal Case No. 36-2321, finding him guilty of robbery with multiple rape. The Decision disposed as follows:

"WHEREFORE[,] in light of the foregoing considerations[,] the Court finds the accused Boy Domingo GUILTY beyond reasonable doubt of the crime of robbery with multiple rape and hereby sentences him to the penalty of reclusion perpetua. He is also ordered to pay the spouses Valentin Gabertan and Clara Gabertan the total sum of [e]leven [t]housand [t]wo [h]undred [p]esos (P11,200.00) representing the value of the things stolen, plus one [h]undred [t]housand [p]esos (P100,000.00) as moral damages."^[3]

In the Information^[4] dated January 27, 1997, appellant and his co-accused -- Joel Temporal, Benedicto Pedro, Heherson Rivera and Jessing^[5] Valdez -- were charged in these words:

"That on or about October 23, 1993, at Sitlo Malasin, Barangay Balintocatoc, Municipality of Santiago, (now a city) Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, conniving, confederating with each other and mutually helping one another with intent of gain and with violence against or intimidation of person, armed with a piece of bamboo, 2x2 piece of wood, ipil-ipil posts and bolo, did then and there wilfully, unlawfully and feloniously attack, assault, str[i]ke and hit one VALENTIN GABERTAN and then and ther[e] take, steal and carry away the following properties,

belonging to VALENTIN GABERTAN and Clara Gabertan, to wit:

Cash of P5,350.00;
One (1) ladies gold seiko with valued at P2,000.00;
Nine (9) turkeys valued at P3,600.00; and
Two (2) chickens valued at P200.00.

or of a total of P11,150.00 against their will, and by reason of or during commission of the robbery, the said Valentin Gabertan suffered injuries, to wit: 2 (cm) hematoma on (L) cheek area, tenderness on (R) anterior auxilliary area and multiple fracture on 8th and 9th rib (r) side, and also on the occasion of the robbery, the above-named accused with lewd design and by means of force and intimidation conspiring, confederating, conniving and mutually helping one another, did then and there, wilfully, unlawfully and feloniously take turn in having carnal knowledge [of] Clara Gabertan, against her will.”^[6]

During his arraignment on August 13, 1998, appellant, assisted by his counsel,^[7] pleaded not guilty.^[8] After pretrial and trial proper, the RTC rendered the assailed Decision.

The Facts

Prosecution’s Version

In its Brief,^[9] the Office of the Solicitor General (OSG) presents the prosecution’s version of the facts as follows:

“Around 11:00 p.m. of October 23, 1993, private complainant Valentin Gabertan [‘Valentin’] was lounging outside x x x his house while his children [lay] asleep, when he heard the incessant barking of dogs in the compound.

“The Gabertan compound, located at Sitio Malasin, Balintocatoc, Santiago, Isabela, consist[s] of two (2) main houses; one, where the children and a young houseboy stay and sleep and the other, where Valentin and his wife, Clara [‘Clara’] retire for the evening. There are also several barns to house the cows, goats and domestic fowls.

“Clara, who was then reposed on the bed, heard the barking at the same time. Instinctively, Clara stood up and took out a flashlight. She immediately gave it to her husband, who was then armed with a bolo [‘panabas’], to aid him in checking out the disturbance.

“Valentin ha[d] not walked far from the house when three (3) men suddenly entered the compound while two (2) others stayed outside. The men, initially identifying themselves as members of the New People’s Army (NPA), ferociously asked Valentin for money. Turned off by the demand, Valentin at once retorted that they could not be members of the NPAs as NPAs do not ask for money.

“The men, however, were unmasked. Valentin instantly recognized their

faces as that of appellant and his co-accused. It was easy for Valentin to recognize appellant, having known him for the past ten (10) years, as the latter usually pass[ed] by their house when he [went] fishing. Appellant and his co-accused were each armed with a piece of wood.

"Unruffled by Valentin's response, appellant and his co-accused nonetheless persisted. They demanded x x x guns and documents or certificates for the large cattle and asked who the owner of the cows was.

"Valentin, however, attempted to ward off the impending danger now reposed [i]n him. He promptly hacked one of the men [identified as Joel Temporal] on his right arm. A struggle ensued. Valentin, however, was easily outnumbered by the intruders as the latter clubbed him at the same time. Valentin soon let go of his defense when the intruders attempted to hurt his son.

"At this time, Clara sensed an intense level of fear as she stood frozen beside a table where a kerosene lamp was lighted. It only took a few minutes when Joel Temporal barged in, struck the kerosene lamp and ominously threatened, 'I will kill you if you will not give me what I want.'

"Joel Temporal thereafter pulled Clara out of the house where she was forcibly laid on the cogon grass.

"Meantime, Valentin could only watch his wife being pulled away as he was rendered weak and immobile at the clubbing he received at a moment's resistance. Jessing Valdez and Heherson Rivera stood guard. His attempt to rescue his wife was overtaken by the necessity to protect the son he was now embracing lest the intruders vent their rage on him.

"Clara's dress [duster] and panty were torn away. Her hands were held by appellant and her feet also held by Benedicto Pedro. Joel Temporal put himself on top of Clara and went inside her. After he consummated his lust, appellant came in next. Benedicto Pedro also took his turn. For his part, Jessing Valdez left Valentin and his son and rushed in to satiate, too, his carnal desire. Once finished, all four (4) men checked on Valentin but came back to see Clara, stepping on her vagina in the process. Agonized, Clara could only utter, 'Don't you have pity on me, you people from Bannawag?'

"Appellant and his co-accused thereafter left, bringing with them two (2) chickens and nine (9) turkeys which were carried around their necks.

"Valentin rushed to his wife's side and could only embrace her. A few minutes, later, neighbors and friends Leonardo Palafox and Celestino Capa came to their succor. At this time, Valentin had difficulty breathing. He could not be rushed to the hospital immediately because there was no transport available.

"Valentin and Clara had to content themselves to await the dawn. Back at the house, however, money worth the amount of P5,350.00 and a Seiko gold-plated watch worth P2,000.00 [were] found missing [from]

Clara's bag.

"At 8:00 a.m. the following morning, Valentin was admitted [to] the Cagayan Valley Sanitarium and Hospital for multiple physical injuries secondary to mauling. His diagnosis revealed the following injuries:

- '1. 2 cm. Hematoma on R and L temporal area
2. 2 cm. Hematoma on L cheek area
3. [Multiple] Incomplete fracture of 8th and 9th ribs R side.'

"Clara, on the other hand, was examined at the Outpatient Department. She sustained 'multiple scratch marks, inner thigh-bilateral, and multiple abraded areas per labia minora.' The certification further indicated:

'Specular exam. Introitus - Parous

Uterus - Not enlarged
Cervix - Hand & erosion at or [sic]
Adnexae - negative
Discharge - Whitish Muroid'

x x x

x x x

x x x.

"Both Valentin and Clara exhibited no qualms in identifying the perpetrators of the crime --- pinpointing their neighbors from Bannawag Norte, Santiago City --- Joel Temporal, Benedicto Pedro, appellant Boy Domingo, Heherson Rivera and Jessing Valdez."^[10] (Citations omitted)

Defense's Version

Appellant, on the other hand, argues that his guilt was not proven beyond reasonable doubt. His statement of facts is as follows:

"The defense presented in evidence the testimony of accused Boy Domingo. He testified that [i]n the month of October 1993, he was harvesting palay somewhere in Barangay Salvador, Santiago City. On October 23, 1993, he started working at 7:00 o'clock in the morning up to 5:00 o'clock in the afternoon. Afterwards, he proceeded to the house of his sister. While in the house of his sister, he rested for [a while], ate supper at 8:00 o'clock in the evening and went to sleep. After finishing his work on October 31, 1993, he went home to the house of his mother in Bannawag, Santiago City. He was apprehended on July 27, 1998 while driving a tricycle.

"The next witness presented was Florentina Pingaron, the sister of accused Boy Domingo. She testified that her brother Boy Domingo stayed at her place in Salvador, Santiago City from October 3, 199^[3] in order to do some harvesting. Her brother stayed with her for about a month. On October 23, 199^[3] at around 8:00 o'clock in the evening [her] brother was at home sleeping and did not leave the house. During the month [her] brother stayed with her, he did not leave the place at all except when he [went] to the farm to harvest.

"The next witness was Pepito Martin who corroborated the testimony of accused-appellant Boy Domingo that the latter worked in his farm from October 5, 1993 up to October 31, 1993. He claimed that the accused worked on his farm from 7:00 o'clock up to 11:00 o'clock in the morning and from 2:00 o'clock up to 5:00 o'clock in the afternoon. On October 24, 1993, he saw the accused-appellant harvesting on his farm the whole day.

"The next witness was Sonny Solomon. He testified that on October 23, 1993 as well as October 24, 1993 he saw the accused-appellant work [o]n the farm of Mr. Martin because they were together at that time.

"The last witness for the defense was Barangay Captain Rodante Angel. He testified that he ha[d] known the accused Boy Domingo Jr. since the latter was a child. According to him, the accused ha[d] no derogatory record at all. He issued a certification attesting to this fact."^[11]
(Citations omitted)

Ruling of the Trial Court

After careful study and judicious assessment of the evidence submitted by both parties, the RTC ruled that appellant was guilty of the special complex crime of robbery with multiple rape. It concluded that the principal intention of appellant and his co-accused was to rob complainants,^[12] and that the rape was a mere afterthought.

The RTC also held that the alibi of appellant - that he was at his sister's house harvesting palay when the crime was committed -- could not prevail over the positive identification made by the victims.

Hence, this appeal.^[13]

The Issue

Appellant assigns this sole alleged error for our consideration:

"The trial court erred in disregarding the defense of alibi interposed by accused-appellant Boy Domingo."^[14]

The Court's Ruling

The appeal has no merit.

Sole Issue: **Defense of Alibi**

Appellant argues that the RTC should not have disregarded his alibi because it was duly supported by testimonies of disinterested persons, not merely of his relatives.

We are not persuaded. We believe that the RTC did not err in its factual findings. Well-settled is the rule that the assessment by the lower court of the credibility of