

SECOND DIVISION

[G.R. No. 90419, June 01, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROMANO VIDAL Y DANIEL, GLEN ALA Y RODRIGUEZ, AND
ALEXANDER PADILLA Y LAZATIN, ACCUSED-APPELLANTS.**

D E C I S I O N

BUENA, J.:

Sir William Blackstone once said, "It is better that ten guilty persons escape than one innocent suffer."^[1]

Appellants Glen Ala, Romano Vidal and Alexander Padilla were charged with, tried for and thereafter convicted of kidnapping with rape under an amended Information reading:

"That on or about the 19th day of September, 1987, in the municipality of Marikina, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding one another, while armed with a knife and ice pick, did, then and there willfully, unlawfully and feloniously kidnap Geraldine Camacho y Sibarutan by then and there forcing the latter to a waiting automobile and bringing her against her will to an uninhabited house in Rodriguez Rizal, Philippines and while in said uninhabited house, the accused, by means of violence, intimidation and by the use of noxious chemical substance, one after the other in conspiracy with each other, willfully, unlawfully and feloniously have carnal knowledge of Geraldine Camacho y Sibarutan against her will."^[2]

They were sentenced by the Regional Trial Court of Pasig, Branch 156, to suffer the penalty of *reclusion perpetua* and to indemnify, jointly and severally, the complainant-victim Geraldine Camacho, in the amount of Thirty Thousand (P30,000.00) Pesos without subsidiary imprisonment in case of insolvency and to pay their proportionate share of the costs;^[3] while the other accused, Christopher Cristobal, Henson Salas and Meliton Reyes were acquitted. The dispositive portion of the decision *a quo* reads:

"IN VIEW OF ALL THE FOREGOING, the Court finds the accused ROMANO VIDAL y Daniel, GLEN ALA y Rodriguez and ALEXANDER PADILLA y Lazatin guilty beyond reasonable doubt of the offense charged and hereby sentences said accused to suffer the penalty of *reclusion perpetua*, to indemnify, jointly and severally, the complainant-victim, Geraldine Camacho y Sibarutan, in the amount of THIRTY THOUSAND PESOS (P30,000.00) in compliance with the mandate in Articles 100, 104(3), 107 and 345 of the Revised Penal Code without subsidiary

imprisonment in case of insolvency and to pay their proportionate share of the costs.

"In the service of their sentence, the accused shall be credited in full with the period of their preventive imprisonment.

"On the other hand, accused CHRISTOPHER CRISTOBAL y Masagana, MELITON RAYOS y Santos and HENSON SALAS y Calderon are hereby acquitted of the offense charged with costs de oficio.

"The Warden of the Marikina Municipal Jail and the OIC, National Training School for Boys, Sampaloc, Tanay, Rizal are hereby ordered, respectively, to release the persons of accused CHRISTOPHER CRISTOBAL y Masagana, MELITON RAYOS y Santos and HENSON SALAS y Calderon from custody/confinement unless there exists any other order or orders to the effect that they should remain confined under detention.

"SO ORDERED."^[4]

The prosecution's version of the incident was anchored mainly on the testimony of the victim, 16 year old Geraldine Camacho. She recalled that on September 19, 1987, she was at the Roosevelt College in Marikina taking a dry-run examination preparatory to the National College Entrance Examination (NCEE). Geraldine left the compound at about 12:45 in the afternoon and waited for a jeepney ride at the corner of Sta. Teresita Village along J.P. Rizal Street, Lamuan, Marikina. The six accused then approached her. One of the accused poked a knife at her left side while another poked an ice pick at the right side of her body. The four others surrounded her, two in front and two behind her. Thereafter, Geraldine was led towards Sta. Teresita Chapel where a black car was waiting. Upon reaching the chapel, Geraldine was pushed inside the car and was blindfolded. Four of the accused boarded the car. Geraldine was later brought to a house after about an hour of travel. She was led inside a room where her hands and feet were tied to a chair. A few minutes later, she heard another car arrive and canned goods and alcoholic beverages being opened. Shortly, the accused went inside the room, untied her and forced her to lie down. Thereupon, Geraldine was made to smell a substance which made her drowsy. She felt that someone mounted her and had carnal knowledge of her for about 30 minutes, after which three more of the accused followed, one after the other for about the same duration as the first. At around 7 o'clock in the morning the following day, Geraldine was awakened by the noise of bottles being broken outside. Hungry and feeling pain in her groin and private part, she found herself still blindfolded and tied to the chair with her clothes and shoes already on. Moments later, the accused entered the room and repeatedly asked her if she knew the fraternity "Hard Core." Whenever she denied having knowledge about said fraternity, the accused would punch her on the different parts of her body.

Subsequently, Geraldine was untied, brought outside the house and made to board a car together with four of the accused. She was later dropped at the NGI Public Market in Marikina where her blindfold was removed. She was threatened not to tell what happened to her otherwise she and her parents will be killed.

Geraldine boarded a tricycle and went to her grandmother's house in Parang, Marikina and ate breakfast. Later, her mother arrived but did not talk to her for she

was mad at her for not going home that night. In the afternoon, she was brought home by her mother. Fearful that her parents would get angry, Geraldine lied that she attended a class reunion when asked where she went the previous night. Not believing her story, her parents went to her school the next day to verify her story and were told by her classmate that there was no class reunion. Geraldine finally revealed the incident to her parents.

On September 22, 1987, Geraldine and her parents went to the Marikina Police Station to report the incident. She was referred to the PC Crime Laboratory at Camp Crame, Quezon City for physical examination. The examination conducted by Dr. Desiderio A. Moraleda revealed that Geraldine suffered hematoma on the left breast and her internal sex organ showed a healing shallow laceration of the hymen at 3 and 9 o'clock. The external vaginal orifice offers strong resistance to the introduction of the examining index finger and virgin-sized vaginal speculum.^[5]

After submission of the above-stated medical examination report to the Marikina police, an investigation was conducted by Pat. Jota. Through the help of one Marites Quasay, they were able to trace the whereabouts and identity of one of the appellants, Romano Vidal. During the interrogation, Romano Vidal denied the accusation but named appellant Alexander Padilla. On September 30, 1987, during the investigation, appellant Padilla voluntarily admitted being in the company of appellants Vidal and Ala when they abducted Geraldine but denied participation in the rape.

On the same day, Geraldine positively identified appellants Vidal, Padilla and Ala in a police line-up after which she executed a sworn statement.^[6] Thereafter, the police, together with the appellants and Geraldine, proceeded to Aqua Pool Resort, San Rafael, Montalban where the crime was committed, per appellant Padilla's confession. The appellants re-enacted the crime and the police photographer took pictures thereof. On October 3, 1987, in another police line-up, Geraldine identified the other two accused and thereafter executed a Supplemental Affidavit.^[7]

The accused-appellants denied any participation in the crime imputed against them, alleging that they were somewhere else when the crime was committed.

Appellant Romano Vidal claimed that on September 19, 1987 at around 12:30 in the afternoon, he went to the house of appellant Alexander Padilla at Batino St., Project 3, Quezon City to fetch their girlfriends Harlene Baldemero and Maritess Aclad at Quirino High School. When they arrived at the school premises, they did not find their girlfriends. After waiting for about one half hour, appellant Vidal went home but asked appellant Alexander to wait for the girls and to fetch him in his house should the girls arrive. Fifteen minutes after appellant Vidal arrived in his house, appellant Padilla arrived and told him to meet their girlfriends at St. Joseph Church located at the corner of Narra St. and Aurora Boulevard, Project 3, Quezon City. They reached the church at about 3:30 p.m. and met their girlfriends near the office of the priest. Both appellants helped their girlfriends copy their assignments. They left each other's company at 11:30 P.M. Appellant Vidal went home, had supper and slept.

Appellant Glen Ala, on the other hand, narrated that he was playing basketball at the plaza of Rona's Garden, Loyola Heights, Quezon City on September 19, 1987 at around 10 o'clock in the morning. He went home at 12:30 noon, ate his lunch and

slept until 3 o'clock p.m. Thereafter, he went to Rona's Garden and assisted in fixing the fence because a public dance will be held there until 5 o'clock. Then he went home to take a bath for the dance. He went back to the plaza to check on the sound system but since it had not arrived, he proceeded to the house of Leonila Batiller where he played chess with the latter's son Bong, until 8:00 p.m. The dance was postponed so he headed back to Batiller's house and played chess till 11 o'clock in the evening, afterwhich, he headed for his home and slept.

Appellant Padilla, other than his voluntary confession, did not present any evidence although he participated in the trial.

Weighing the evidence presented by the prosecution and the defense, the trial court gave credence to the prosecution's version ratiocinating in this wise:

"There is not much ado (sic) to the fact that complainant was, indeed, a victim of multiple rape. Her positive and categorical narration of abduction, detention and rape bears the earmarks of credibility. While there are certain inconsistencies in her testimony, the same refer merely to minor details and do not shaken (sic) her overall credibility. The evidence amply demonstrate that after she was abducted by six (6) men, she was brought to an undisclosed house and there detained. Just prior to the consummation of the rape, she was made to smell a substance which caused her to become dizzy and drowsy until she fall (sic) asleep. Her abusers employed a subtle or sophisticated form of overcoming her resistance by the use of such substance so they were able to consummate their felonious objective. x x x x

But the Court's primary concern centers on whether or not all the accused were really participants in the commission of the crime charged considering that during the police line-up identification, not all of the them were positively identified by the complainant. Besides, as admitted by complainant herself, she had been ravished only four (4) times on that same occasion by different men.

x x x x x x x x

Upon the foregoing factual findings, there can be no doubt about the participation of accused Romano Vidal, Alexander Padilla, Glen Ala and Christopher Cristobal in the crime charged as having been established by sufficient and competent evidence. The first three (3) accused were identified to have brought the victim to the undisclosed house where the rape occurred while the fourth accused was instrumental only as to the abduction of the victim. The latter was never identified as one of those who boarded the car. Concerning accused Henson Salas, while he was positively identified by the victim, his participation in the criminal act was not established beyond reasonable doubt. The oral confession of accused Alexander Padilla is not binding upon him and therefore, hearsay. The same is true with respect to accused Meliton Rayos more so that he was not positively identified by the complainant as one of the perpetrators of the act. Thus, there was no conspiracy.

The Court notes that the extra-judicial confession of accused Alexander

Padilla was taken without the advice of counsel. Even granting that said accused waived his right to counsel, the same was never made in writing and with the assistance of counsel and, therefore, the waiver is not valid. However, even if the Court rejects the admissibility of said confession, accused Alexander Padilla is not absolved from criminal responsibility because there is still much from the prosecution evidence which sustains his conviction of the crime charged.

The alibi and denial interposed by accused Romano Vidal, Alexander Padilla, Glen Ala and Christopher Cristobal even if supported by their relatives, friends and neighbors cannot prevail over their positive identification by the victim as perpetrators of the crime. It is well-settled rule that alibi is a weak defense for it is easy to concoct but hard to disprove. For the defense of alibi to prosper, it is not enough to prove that the accused was somewhere else when the crime was committed, he must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime during its commission.

In the case at bar, the place of Montalban where the crime was committed is just a few kilometers from Quezon City or Marikina where the aforementioned accused reside and the same could be traversed in less than an hour and therefore, the possibility of their being at the crime scene is beyond question."^[8]

The case was certified to this Court which required the parties to submit their respective briefs. Accused-appellant Glen Ala filed his brief on May 3, 1990 assigning the following errors:

1. The court *a quo* erred in giving credence to the lone and highly incredible testimony of complainant Geraldine Camacho that the accused was one of those who kidnapped and raped her on September 19, 1987 based on serious inconsistencies, uncertainties and improbabilities in her testimony.
2. The court erred in completely disregarding the credible testimony of disinterested defense witnesses spouses Federico and Erlinda Magayon.
3. The court erred in convicting the accused of the crime charged despite failure of the prosecution to prove his guilt beyond reasonable doubt.

Accused-appellants Romano Vidal and Alexander Padilla filed their brief on April 6, 1995 averring that:

"The trial court erred in giving credence to the testimony of the complaining witness, Geraldine Camacho, despite the inconsistencies, improbabilities and contradictions that riddled her testimonies which seriously eroded her credibility."

Reduced to bare essentials, the only issue to be resolved is one of credibility. In reviewing the findings of trial courts respecting credibility of witnesses, we have, in a plethora of cases, accorded great weight and respect to the conclusions reached