

THIRD DIVISION

[G.R. No. 105556, April 04, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODOLFO SAN JUAN, ACCUSED-APPELLANT.
D E C I S I O N**

PANGANIBAN, J.:

Rape is horrible and nauseating. The crime is even more disgusting and infuriating when the victim is a mental retardate who is incapable of giving intelligent consent to the sexual act.

This is an appeal from the Decision^[1] dated September 2, 1991 of the Regional Trial Court of xxx, Metro Manila, Branch xxx,^[2] in Criminal Case No. 9370-V-89 convicting Accused Rodolfo San Juan of the crime of rape, sentencing him to suffer the penalty of *reclusion perpetua*, and ordering him to indemnify the offended party in the amount of P20,000.00 and to pay the costs.^[3]

The Criminal Complaint, which was treated as the Information^[4] after a preliminary investigation had been conducted by Asst. Provincial Prosecutor xxx, reads as follows:

"The undersigned complainant, assisted by her father, accuses Rodolfo San Juan of the crime of rape, penalized under the provisions of Art. 335 of the Revised Penal Code, committed as follows:

That on or about the 30th day of September, 1988, in the municipality of xxx, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused Rodolfo San Juan did then and there wilfully, unlawfully and feloniously, by means of force, threats and intimidation, have carnal knowledge of the offended party AAA, a mentally retarded, (sic) against her will and consent.

Contrary to law."

When arraigned, the accused, assisted by Counsel de Oficio Ricardo Neri, pleaded not guilty.^[5] After trial, the trial court found the accused guilty as charged. Hence, this appeal.

The Facts

Version of the Prosecution

The prosecution presented four witnesses: (1) the offended party and complainant AAA, who gave an account of the rape; (2) the victim's father BBB, an eyewitness to the crime; (3) Dr. xxx, who testified on the mental condition of the victim; and (4)

Dr. xxx, who testified on the results of his medical examination of the victim.

Their testimonies were summarized by the trial court as follows:

"BBB, father of victim AAA, substantially testified that his daughter AAA who is 26 years old is mentally retarded. That on September 30, 1988 between the hours of 6:00 and 6:30 in the evening while he was by the window of his house tending to his grandchild in the cradle, he was watching his daughter AAA fetching water from a communal water system located in front of his house. That he has been keeping watch of his daughter AAA because he received news that the accused often called her. That after a while, he noticed that AAA was no longer in (sic) the faucet so he started to look for her. That he went to the residence of his nephew about 10 meters away from the faucet but failed to find AAA there. That he returned home and accompanied by his son CCC, they proceeded to a vacant house owned by the sister of the accused about 3 to 4 meters away from his house and saw the accused on top of the body of his daughter AAA with the accused's penis inserted inside the sex organ of his daughter AAA. That AAA's dress was raised up to the shoulder and the hands of the accused were on the breast (sic) of AAA. That when the accused noticed them, the accused rose up, put on his brief and short pants and jumped out of the window. That he and his son CCC chased the accused but the accused jumped over the fence and they failed to overtake him. That he returned to the house where he found AAA and the accused and asked AAA to go home. That because of his anger, he slapped AAA and the latter revealed to him that she was often threatened by the accused, placed his arms around her neck and admonished not to shout. (sic) That AAA informed him that the accused had sexually abused him (sic) about five (5) times. That he went to the house of the eldest sister of the accused where the accused was but the latter did not come out so he went home. That after a while, accused called him and invited him to the store. That he followed and while they were walking, he told the accused, 'Traidor kang kapitbahay' and the accused boxed him twice. That he fell down to the ground and the accused's brother-in-law approached and kicked him. That his children came to his assistance but the accused threw stones to (sic) his children. That he brought his daughter AAA to the xxx District Hospital and then to the xxx Police Station. That AAA was examined by the NBI.

x x x

x x x

x x x

AAA, substantially testified that in the afternoon of September 30, 1988, she saw the accused in front of his house. That the accused approached her and asked her to go with him to an empty house. That the accused told her that if she will not go with him, her parents, brothers and sisters will die. That inside the empty house, the accused embraced her and asked her to lay (sic) down. That the accused removed her panty and inserted his penis inside her organ. That she felt painful (sic). That accused raised her upper clothes and embraced her tightly and had sexual act with her. That her father saw them through the window of the accused and the accused ran away. That her father slapped her and brought her home. That the empty house is near the house of the accused and near the public faucet. That she told the accused not to remove her panty but the accused continued removing her panty. That she could not resist because the accused was on top of her and her hands were not free to move. That the accused touched her breasts and her sex organ and she resisted because it was painful and told the accused she don't like (sic). That the accused raped her several times before the incident at bar.

That while the accused was performing sexual act with her, she resisted and told the accused 'Wag na ho' and she slapped his arms. That she did not continue to struggle while the accused was doing the sexual act because she felt weak and her arms were painful and the accused held her hands.

On redirect, she said that she affixed her thumbmark on the complaint.

On Court's clarificatory question, she said that she attended school and reached up to Grade V. That she cannot write her name without sample from where she could copy. That she do (sic) not know her age and do (sic) not know when she was born.

DRA. XXX, Psychiatrist and Officer-in-Charge of the Neuro-Psychiatric Service of the NBI, testified that she examine (sic) and evaluate (sic) mentally sick people referred to their section by the Medico Legal Section of the NBI. That she conducted examination and made evaluation on the mental condition of the victim AAA when she was referred to their department by their Medico Legal Section. That victim AAA is premature or childish in her ways and her mental age is only of a five (5) years and ten (10) months old child. That her speech is delayed and she is playful. That she can also be taught to do something and relay things that she has experienced or happened (sic) to her. That victim is suffering from mental retardation. That she prepared a Neuro-Psychiatric Evaluation Report. That psychological test was conducted by xxx who concluded that AAA is within the mentally retarded group with a mental age of five years and ten months.

DR. XXX, Medico Legal Officer of the NBI, substantially testified that he conducted examination on the person of the victim. That he did not find physical injuries on the body of the victim on account of lapse of time. That he found old healed hymenal laceration which under the normal course could be caused by fully erected (sic) male organ. That the old hymenal laceration was inflicted for a long time. That he prepared the Living Case Report.

On cross-examination, he said that the old healed hymenal laceration could have been inflicted more than three months ago. That hymenal laceration could also be caused by instrumentation, horse or bicycle riding and masturbation."^[6]

Version of the Defense

Against the prosecution's theory that AAA was raped by Accused-appellant Rodolfo San Juan in the empty house of his elder sister, the defense relies on denial, claiming that the accused-appellant spent almost half the day drinking tuba with his brothers-in-law and that, when he went to his sister's house that afternoon, he slept on the floor because he was already very tipsy. He claims not to have seen anybody else there.

The defense presented three witnesses, to wit: the accused himself, his brother-in-law Domingo Jubilla, and Purificacion Roldan. Their testimonies were summarized by the trial court as follows:

"Accused (herein appellant San Juan) substantially testified that on September 30, 1988 from 9:00 in the morning, he was in his house and had a drinking spree with his brothers-in-law Domingo Jubilla, Jaime Jubilla, Jr. and Boy Jubilla up to 4:00 in the afternoon. That at about 4:00 in the afternoon, he left his

companions and went to a nearby fence and answered to the call of nature. That the fence where he urinated is about 1 1/2 arms length to the place where his companions were (sic). That because he was drunk, he was not able to return to his companions and he went to the house of his sister which is about two arms length from where his companions were. That he was drunk that he could not stand without support or hold on solid thing and cannot recognize the things before him (sic). That upon entering the house of his sister, he almost stumbled down. That the house of his sister has no partition and the windows are made of glass and visible to the place where they had a drinking spree. That the house is also visible to the house of AAA which is about two arms length away. That he had not seen AAA. That the communal water system is near the house of his sister and about 1 1/2 arms length from the place he urinated. (sic) That while urinating, he heard voices of people coming from the communal water system. That he fell asleep at about 4:00 in the afternoon and woke up between 5:00 and 6:00 in the same afternoon. That when he woke up, he went home and noticed BBB and CCC in their yard. That when he reached home, he took a bath and changed his clothes to go to his stall at the 'talipapa' in xxx. That it is not true that he raped AAA. That it is not also true that he was on top of AAA and inserted his sex organ inside her private part. That he was then sleeping. That there was no occasion that (sic) BBB confronted him on that day. That there was a misunderstanding that existed between him and BBB and/or his children in the past because they envy (sic) him since their (accused) financial standing improved. That there are (sic) times that they fought with each other that resulted to (sic) bodily harm/physical injuries.

PURIFICACION ROLDAN substantially testified that on September 30, 1988 between 5:00 and 6:00 in the afternoon she was at the artesian well located along the roadside fetching water. That there were many people fetching water at that time. That she the accused sleeping in the house of his (accused) sister located about two meters away from the faucet with the door and windows opened. (sic) That the accused was sleeping because he was drunk. That she saw AAA entered (sic) the house and stood (sic) inside the house and after about 30 seconds, her (AAA's) father and CCC arrived and took her. That the house of the sister of the accused and the house of AAA is around four to five meters away. That after AAA was brought home, there was altercation between AAA's father BBB and the accused. That they had a long time grudge and she saw them having heated argument on the New Year of 1988.

DOMINGO JUBILLA substantially testified that on September 30, 1988 at 9:00 in the morning he was in the house of the accused at xxx, Metro Manila on occasion of the baptismal party of the child of his (witness) elder brother Renato alias Boy held in the house of the accused because his brother do (sic) not own yet a house. That upon arriving in the house of the accused, he, his elder brother, the accused and the latter's elder brother had a drinking spree at the terrace of the house of the accused that lasted up to 5:00 in the afternoon. That at 5:00 in the afternoon, they left the accused sleeping in the house of his sister about one house away to (sic) the house of the accused. That he know (sic) that the accused was sleeping because they located him upon his (accused) wife (sic) request and found him sleeping inside his sister's house. That upon seeing the accused sleeping, they prepared to leave and go home. That they left the house of the accused at about 5:30 in the afternoon. That while in the house of the accused, he saw BBB and AAA in their house looking out their window."^[7]

The Trial Court's Ruling

Granting full credence and probative weight to the prosecution witnesses' testimonies, the trial court, on September 2, 1991, rendered its Decision convicting the appellant, viz.:

"In sum, the Court is convinced beyond doubt of the existence and commission of the offense. AAA's mental deficiency, her lack of sufficient discretion, judgment and moral courage to seriously resist was taken advantage of by the accused who is experienced in the ways of life.

WHEREFORE, finding the accused Rodolfo San Juan guilty beyond reasonable doubt of the offense charged in the complaint, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA, with the accessory penalties prescribed by law and to pay the costs.

Accused is hereby ordered to indemnify the offended party the sum of P20,000.00.
[8]

SO ORDERED." [9]

The Issues

In his appeal brief, appellant through Counsel Manuel A. Dalucapas^[10] submitted the following assignment of errors:^[11]

I

The lower court erred in giving full faith and credit to the testimonies of complainant and her witnesses, while rejecting altogether the truthful and credible testimony of accused-appellant which was corroborated by his witnesses.

II

The lower court erred in convicting the accused-appellant despite the prosecution's failure to prove his guilt beyond reasonable doubt."

Ultimately, the errors assigned by the appellant may be reduced to the single issue of credibility of witnesses.

The Court's Ruling

The appeal is unmeritorious.

Credibility of Witnesses

In deciding this appeal, the Court is guided by three well-entrenched principles in reviewing rape cases, to wit:

"(a) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, though innocent,