

SECOND DIVISION

[G.R. No. 122359, November 28, 1996]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LINO CATOLTOL, SR., ACCUSED-APPELLANT.

D E C I S I O N

REGALADO, J.:

Accused-appellant Lino Catoltol, Sr. seeks the reversal of the judgment rendered by the Regional Trial Court, Branch 114, Pasay City in Criminal Case No. 89-3837 convicting him of the crime of rape. The prosecution therefor was based on the sworn written complaint filed on November 9, 1989 by Rosanna Reyes y Salazar^[1] alleging that on or about May 10, 1989, in their house in Pasay City, appellant had carnal knowledge of her by means of force and intimidation and against her will or consent.

Upon arraignment with the assistance of counsel de parte, appellant pleaded not guilty to the crime charged. He waived the pre-trial hearing and the case was immediately set for trial thereafter on the merits. The verdict on his guilt was eventually handed down in a decision of the trial court dated May 18, 1990.^[2]

It appears, however, that the original records of the case were burned on January 18, 1992 in the fire which gutted the Pasay City Hall where the trial courts were housed. On January 2, 1994, the Public Attorney's Office (PAO) of the Department of Justice, which had been appointed by this Court as counsel *de officio* for appellant, manifested its inability to retrieve copies of the burned records and requested for the reconstitution thereof.

Subsequently, however, in another manifestation dated May 17, 1994, the PAO informed the Court Atty. Ulysses M. Rosal, who had elevated this case on appeal, had located and turned over some records of the case during the proceedings in the trial court, consisting of (1) the complaint of the offended party, (2) "*Malaya at Kusang Loob na Salaysay*" of Rosanna Reyes, and (3) certified transcripts of the stenographic notes of (a) the testimony of Dr. Roberto Garcia (January 4, 1990); (b) additional direct examination (January 16, 1990), cross-examination and re-direct examination of Rosanna Reyes (January 31, 1990); and (c) the testimony of Arsenia Rada-Reyes (January 23, 1990). Although not mentioned in the manifestation, the transcripts also included the testimony of Pfc. Reynaldo Paculan (January 31, 1990).

Since the transcripts of the direct testimony of the complainant were incomplete, the Court resolved on June 15, 1994 to refer the matter to the trial court for appropriate action. However, presiding Judge Vicente L. Yap reported on March 13, 1995 that despite three orders issued therefor, the additional testimony of complainant could not be obtained as her whereabouts could not be ascertained. Hence, in a comment dated July 7, 1995, the PAO stated that it was foregoing the

taking of and dispensing with such projected testimony.

The facts of this case can nonetheless be ascertained from the decision of the trial court,^[3] the findings wherein have been adopted by the Solicitor General and are not seriously controverted by the defense. On the bases of the extant records, we find the same to be correct and reproduce them hereunder, with referential documentation added thereto:

"The prosecution's evidence showed that the private complainant Rosanna Reyes y Salazar, a fourteen year old girl, was staying with her mother Rosita Salazar at No. 143 Gamban-Riverside, BLTB, Pasay City. Rosita Salazar had been estranged from her husband Domingo Reyes for sometime. In the same house lived Lino Catoltol y Corpin, the live-in partner of Rosita Salazar, their lovechild, Lino, Jr., and two (2) of the former's daughters, Luzviminda and Irene."

x x x

Things seemed to go on smoothly until November 6, 1989 when Rosanna, who was already fourteen (14) years old, ran away from home. Her failure to come home alarmed her mother who very early in the morning rushed to her son Dante's house at the reclamation area in Pasay City to seek his help. With her daughter-in-law Arsenia Rada and her own son Dante Reyes, the distraught mother went to look for Rosanna among her known friends at Apelo St. And Vizcarra St. in Pasay City, but she was not there. They decided to look for her in Pateros, Rizal, where Rowena, a married sister of the missing girl, resided. Still there was no sign of Rosanna. They returned to their residence at No. 143 Gamban-Riverside, BLTB, Pasay City, and had a late lunch. They were mulling their next moves when Rosanna arrived accompanied by her classmate's mother. The woman explained that Rosanna had spent the night at their house and did not want to go home because she appeared to have a very serious problem. While Rosita Salazar conversed with the mother of Rosanna's classmate, Arsenia Reyes took her sister-in-law Rosanna to the kitchen and talked with her in confidence. It was then that the young girl unburdened herself and confided everything. She cried that she could no longer bear the abuse and indignities inflicted on her chastity by her stepfather Lino Catoltol, Sr. who was bent again, with the frequent power blackouts, to quench his lust. To avoid his threats, she thought of running away from home as the only way out.^[4]

Rosanna declared that on the night of May 10, 1989, while she was sleeping beside Luzviminda and Irene Catoltol in a room in the upper part of the house, she was awakened when she felt a body beside her. At first she surmised it was Irene who must have rolled over to her side. Her mother did not come home that night. She was taken by surprise to find her stepfather Lino, Sr. beside her. Instinctively, she pushed him away but he quickly went on top of her and threatened her not to shout or he would kill her. He glared at her, covered her mouth with one hand and took off her blouse with the other. She tried to resist by moving her shoulders but he pressed her down. He kissed her from the ear

downward, took off her skirt and her shorts and touched her private part. She tried to remove his hand but he simply brushed away her hand. He mounted her even as he moved his finger in and out of her womanhood. She struggled to pull away her body but he held her by the shoulder and pressed his weight upon her. Then he inserted his manhood into her private part and made the 'push and pull' movement. She began to cry in her helplessness. She felt something hot that was discharged inside her after which he withdrew.

Rosanna also confided that she had been abused several times before by her stepfather who was a drunkard. She recalled that by means of force and intimidation, he first violated her chastity sometime in August, 1987. After satisfying his lust, he glared at her and warned her not to tell anyone or he would kill her. She was only twelve (12) years old then. There were several times more after that but she could not complain to anyone, much less to her mother, because he threatened to kill all of them."^[5]

Expectedly, appellant denied the accusations against him. He claimed that the charge of rape was fabricated by complainant and her sister-in-law, Arsenia Rada-Reyes, to force the separation between him and their mother, Rosita Salazar. He claimed that there was a misunderstanding between him and Arsenia's husband, Dante Reyes, over some goods entrusted to them in Baclaran which they failed to account for. He also questioned the fact that it took complainant almost six months before she complained and denounced the alleged horrendous acts committed against her.^[6]

The lower court, after thorough evaluation and discussion of the evidence on record, entertained no doubt that complainant Rosanna Reyes was telling the truth and had been raped by appellant. It accordingly rendered the aforementioned judgment of conviction, as follows:

"WHEREFORE, this Court finds the accused LINO CATOLTOL, SR. Y CORPIN guilty beyond reasonable doubt as principal of the crime of Rape defined in and penalized under Article 335 of the Revised Penal Code, as amended, and, there being neither mitigating nor aggravating circumstance attending the commission of the crime, hereby sentences him to suffer the penalty of reclusion perpetua (life imprisonment), to indemnify Rosanna Reyes in the amount of twenty-five thousand (P25,000.00) pesos by way of moral damages, and to pay the costs."^[7]

Hence, this appeal on a lone assignment of error, with appellant contending that the trial court gravely erred when it overlooked certain facts of substance and value which, if considered, will reverse its pronouncement against herein appellant.^[8]

Appellant impugns the findings of the court below for giving more weight and credence to the testimony of complainant, rather than to his denial. This Court has ruled, time and again, that the findings of facts of a trial court carry great weight and are entitled to respect by the appellate courts since the trial court is in a better position to decide the question of credibility, having heard the witnesses and observed their deportment and manner of testifying during the trial.^[9] Furthermore, the denial by the accused cannot prevail over the clear and positive testimony of the