

TWENTY-THIRD DIVISION

[CA-G.R. CR HC NO. 01014-MIN, February 27, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO RAGAS ALIAS "DODONG", AND AUTIDIO PAUNILLAN,
ACCUSED-APPELLANTS,**

DECISION

SANTOS, J.:[1]

This is an Appeal^[2] from the Decision^[3] dated June 20, 2008 rendered by the Regional Trial Court (trial court), 11th Judicial Region, Branch 19, Digos City, Davao del Sur in Criminal Case No. 196(01) for Special Complex Crime of Robbery with Multiple Rape. The dispositive portion of the assailed Decision reads:

WHEREFORE, BY THE EVIDENCE presented by the prosecution, this Court finds accused ROLANDO RAGAS alias "Dodong" and AUTIDIO PAUNILLAN GUILTY BEYOND REASONABLE DOUBT of the above-cited offense. ACCUSED are hereby sentenced to suffer the penalty of Reclusion Perpetua.

Accused are further ordered to pay the offended party AAA the amount of One Hundred Thousand (P100,000.00) Pesos as moral damages, exemplary damages in the amount of One Hundred Thousand (P100,000.00) Pesos, Thirty Thousand (P30,000.00) Pesos as attorney's fees and for the restitution of the sum of Six Thousand (P6,000.00) Pesos to private complainant and Three Thousand (P3,000.00) Pesos to Esteban Rizada.

SO ORDERED.^[4]

The Antecedents

In an Information^[5] dated April 15, 2001, accused-appellants Rolando Ragos alias "Dodong" and Autidio Paunillan (accused-appellants) were indicted for the special complex crime of Robbery with Multiple Rape under Article 294 of the Revised Penal Code allegedly committed against "AAA"^[6] as follows:

That on or about 23 February 2001, at around 8:00 o'clock in the evening, at Barangay Manual, Kiblawan, Davao del Sur and within the jurisdiction of this Honorable Court, the accused aforementioned, with intent to gain, being then armed with long firearms, in conspiracy with each other, by means of intimidation of one AAA, being then the Barangay Treasurer of Barangay Manual and after getting inside her house by announcing their allegedly good intentions, did then and there willfully,

unlawfully, and feloniously take the sum of P9,000.00 belonging to said barangay but under her care and custody; and which robbery was accompanied by multiple rape committed by same accused upon same AAA, to her damage and prejudice.

Contrary to law, and with the aggravating circumstances of the acts being committed in the dwelling of the offended party, that same were done in the nighttime, and that craft, fraud or disguise was employed.

Upon arraignment, accused-appellants pleaded "not guilty."^[7] Trial on the merits thereafter ensued.

The prosecution presented as evidence the testimonies of private complainant AAA (private complainant),^[8] private complainant's brother-in-law Adriano Rizada (Adriano),^[9] private complainant's father-in-law Esteban Rizada (Esteban),^[10] and expert witness Dr. Nixon Yee.^[11] The defense, on the other hand, presented as witnesses the two (2) accused-appellants themselves Rolando Ragas (Rolando),^[12] and Autidio Paunillan (Autidio).^[13]

The prosecution's version of the events is as follows:

At about 8:00 o'clock in the evening of February 23, 2001, private complainant was at home with her two (2) daughters when she heard his neighbor accused-appellant Rolando calling her from outside. Rolando called for her to open the door as he purportedly had something to ask private complainant.^[14] Before she obliged, private complainant called out to her brother-in-law Adriano whose house was a mere 10 meters away.^[15] When accused-appellants entered the house, private complainant noticed they were heavily armed with long firearms.^[16] Accused-appellants poked their firearms at private complainant and demanded for P20,000.00.^[17] When private complainant refused saying she did not have that amount, accused-appellant Rolando insisted that he saw her counting money the previous night.^[18] Private complainant was forced to hand to accused-appellant the amount of P9,000.00.^[19] At gun point, private complainant and her daughters were forced to go to the house of Esteban, private complainant's father-in-law, whose house was a mere twenty (20) meters away, to ask for more money there.^[20] While there, Esteban was forced to give accused-appellants the amount of P3,000.00.^[21] Not satisfied, accused-appellants broke Esteban's cabinets.^[22] They then dragged private complainant outside the house towards a grassy isolated area 100 meters away from Esteban's house and there they took turns ravishing and having carnal knowledge of her.^[23] The next day, private complainant reported the incident to the police and barangay officials.^[24] She also submitted herself to a medical examination and secured a medical certificate^[25] with the following findings:

MEDICO LEGAL

Nature of Incident	:	Rape
Time of Incident	:	9:00 P.M.
Place of Incident	:	Manual, Kiblawan, Davao del Sur

Date of Incident : February 23, 2001

P.E. FINDINGS:

= (+) Hematoma (L) arm, (R) forearm

SPECULUM EXAM:

= (+) hymenal laceration at 9 and 6 o'clock position.

The defense' version, on the other hand, is as follows:

Accused-appellant Autidio, brother-in-law of private complainant, testified that on the morning of the date of the alleged incident, he went to Astorga to peddle fish. He remained at Astorga on February 20, 2001 up to February 27, 2001 when he was arrested by the police and brought him to Kiblawan.^[26] It was at detention where he first met accused-appellant Rolando.^[27] On cross, accused-appellant Autidio clarified that Astorga is merely four (4) hours away from Kiblawan.^[28]

Accused-appellant Rolando, for his part, admitted that he and private complainant were neighbors but he denied having committed the crime insisting that he was at home with his family on the date and time of the alleged incident.^[29] He was surprised when he was arrested by members of the Civilian Volunteers Organization (CVO) dawn of February 24, 2001.^[30] Two weeks after, fellow accused Autidio was also arrested and detained.^[31] On cross, Rolando insisted that he was in good terms with Esteban and Adriano and was civil with private complainant.^[32]

Upon the termination of the trial, the trial court convicted accused-appellants of the crime charged. Thus, this instant appeal interposed by the accused-appellants.

Assignment of Error

In their Appellant's Brief,^[33] accused-appellants, through the Public Attorneys' Office, ascribe to the trial court this lone error, viz:

I.

THE COURT A QUO ERRED WHEN IT CONVICTED THE APPELLANTS OF ROBBERY WITH RAPE DESPITE INSUFFICIENT AVERMENTS OF FACTS AS REGARDS THE CRIME OF RAPE IN THE CRIMINAL INFORMATION.^[34]

This Court's Ruling

The appeal is impressed with merit.

At the core of this appeal is the issue of whether the accused-appellants were correctly charged with, and convicted of, the Special Complex Crime of Robbery with Multiple Rape.

In their Appellant's Brief,^[35] accused-appellants assert that they were denied of their constitutional right to be informed of the nature and cause of the accusation against them because the Criminal Information for which they were prosecuted, and thereafter convicted, for robbery with multiple rape did not specifically allege that they had carnal knowledge of, or sexual intercourse with, the private complainant. According to accused-appellants, the allegation in the Criminal Information that the "*robbery was accompanied by multiple rape committed by same accused upon same AAA,*" is not a sufficient averment of the facts constituting the crime of rape as required under the Rules. Thus, according to accused-appellants, the Information is void for being violative of their constitutional right to be informed of the nature and cause of the accusation against them.

This same view is shared by the Republic, through the Office of the Solicitor General (OSG), when it stated in its Brief for Plaintiff-Appellee^[36] that accused-appellants cannot be convicted of the complex crime of robbery with rape since the Information failed to allege the elements of the component crime of rape in violation of Section 14, Article III of the Constitution and Section 8, Rule 110 of the Revised Rules on Criminal Procedure. Accordingly, the Republic recommended the downgrading of the conviction of the accused-appellants to robbery aggravated by dwelling, the commission of which the prosecution was able to prove beyond reasonable doubt.

This Court agrees with the contentions of both the accused-appellant and the Republic.

Our Bill of Rights guarantees rights to every person accused of a crime, among them is the right to be informed of the nature and cause of the accusation against him/her, viz:

Section 14. (1) **No person shall be held to answer for a criminal offense without due process of law.**

(2) **In all criminal prosecutions, the accused** shall be presumed innocent until the contrary is proved, and **shall enjoy the right** to be heard by himself and counsel, **to be informed of the nature and cause of the accusation against him**, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable. (Emphasis supplied)

In relation, Sections 8 and 9, Rule 110 of the Rules on Criminal Procedure provide for the proper manner of alleging the nature and cause of the accusation in the information, to wit:

Sec. 8. *Designation of the offense.* – The complaint or information shall state the designation of the offense given by the statute, **aver the acts or omissions constituting the offense**, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

Sec. 9. *Cause of the accusation.* – **The acts or omissions complained of as constituting the offense** and the qualifying and aggravating circumstances **must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged** as well as its qualifying and aggravating circumstances and for the court to pronounce judgment. (Emphasis supplied)

In the case at bar, accused-appellants were charged with, and convicted of, the special complex crime of robbery with multiple rape. The elements of the special complex crime of robbery with rape are as follows: (1) the taking of personal property is committed with violence against or intimidation of persons; (2) the property taken belongs to another; (3) the taking is characterized by intent to gain or *animus lucrandi*; (4) the robbery is accompanied by rape.^[37]

In *Patula v. People of the Philippines*,^[38] the Supreme Court held that an accused cannot be convicted of an offense that is not clearly charged in the complaint or information, thus:

The importance of the proper manner of alleging the nature and cause of the accusation in the information should never be taken for granted by the State. **An accused cannot be convicted of an offense that is not clearly charged in the complaint or information. To convict him of an offense other than that charged in the complaint or information would be violative of the Constitutional right to be informed of the nature and cause of the accusation. Indeed, the accused cannot be convicted of a crime, even if duly proven, unless the crime is alleged or necessarily included in the information filed against him.** (Emphasis supplied)

A cursory reading of the Information^[39] in the instant case shows that it does not contain the essential facts constituting the offense of rape, but merely a statement of a conclusion of law. In *People v. Bongat*,^[40] it was held that the elements necessary to sustain a conviction for rape are: (1) *the accused had carnal knowledge of the victim; and* (2) 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 victim is under 12 years of age or is demented.

Thus, while the Information completely pleaded the crime of robbery as defined and penalized under the Revised Penal Code within the context of the substantive law and the rules, it failed to aver with particularity the elements constituting the crime of rape. Thus, this Court agrees with accused-appellants in their assertion that the allegation in the Information that the "*robbery was accompanied by multiple rape committed by same accused upon same AAA,*" is not a sufficient averment of the facts constituting the crime of rape as required under the Rules.

Verily, that there was necessity for the Information to state the essential facts constituting the crime of rape alleged to have been committed by accused-appellants cannot be overemphasized. In *People v. Pangilinan*,^[41] the Supreme