

FIRST DIVISION

[G.R. No. 191258, July 08, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VINCENT GARRIDO Y ELORDE, ACCUSED-APPELLANT.**

D E C I S I O N

PEREZ, J.:

This is an appeal filed by herein accused Vincent Garrido y Elorde (Garrido) from the Decision^[1] of the Court of Appeals in CA-G.R. CR-HC No. 03017 dated 20 October 2009, affirming the Decision^[2] rendered by the Regional Trial Court (RTC) of Las Piñas City in Criminal Case No. 04-0931 dated 12 September 2007, in finding the accused guilty of rape [under Article 266-A in relation to Article 266-B of the Revised Penal Code].

The Facts

Before the RTC of Las Piñas City, Garrido was charged with several counts of the crime of rape.^[3]

That on or about the 21st day of October, 2004, in the City of Las Piñas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one AAA^[4] for several times against her will and consent.

CONTRARY TO LAW.^[5]

Upon arraignment on 8 March 2005, Garrido pleaded not guilty to the offense charged.^[6]

Version of the Prosecution

The victim AAA, then 19 years old, narrated that on or about seven in the evening of 20 October 2004, she went to retail shop in one of the shopping centers in Las Piñas accompanied by her sister's friend BBB to submit her application for work. While inside the shopping center, they met two male friends of BBB, the herein accused Garrido and a certain James (James). Garrido and James talked with BBB and invited them to attend the latter's birthday party. AAA initially declined to go, but upon BBB's prodding, she accepted the invitation to accompany the latter. Thereafter, they went to the jeepney terminal going to Moonwalk and Cavite and proceeded to the house of James.^[7]

Upon arrival at the house of James, AAA was surprised to learn that it was a drinking session instead of a birthday party. Nevertheless she stayed and drank one bottle of Red Horse beer. As the night went on, several more people arrived at the house, delaying her plans to go home. She was asked to drink liquor but she declined as she already drank beer. However, upon further prodding of the guests, she was acceded to drink liquor. While AAA was drunk, James sat beside and kissed her. Garrido interceded and offered to take her home. Thereafter, AAA, BBB, Garrido and his cousin Vernel^[8] left the house. On their way, AAA walked assisted by Garrido. Instead of going straight to AAA's house, Garrido decided to pass by his house to drink coffee first. Trusting his concern, AAA agreed to the accused's suggestion.^[9]

Upon reaching the house, Garrido brought AAA, BBB and Vernel inside one of the bedrooms and went out of the room to take a bath. Feeling very weak, she sat on one of the beds and leaned on the wall to support herself. Meanwhile, BBB and Vernel occupied the other bed while talking and exchanging jokes. Upon Garrido's return, the accused turned off the lights and went on top of AAA and kissed her on her lips and neck. She tried to resist him but Garrido was stronger. Garrido removed her clothes and succeeded in a sexual intercourse despite her resistance.^[10] After a few minutes, Garrido repeated his act on AAA. Due to weakness and exhaustion, AAA fell asleep in bed beside Garrido.^[11]

After a few hours, Garrido once again laid on top of her for the third time and violently inserted his penis inside her vagina. When it was over, AAA tried to look for her clothes but Garrido hid them. AAA looked for Vernel and saw him still asleep on the other bed. She looked for BBB and asked for help but the latter just bowed her head. When Garrido woke up, he threw clothes he had hidden at AAA and ordered her to fix herself. AAA then waited for Garrido to take her and BBB to the jeepney terminal for a ride home.^[12]

Upon reaching home at around 9:00 in the morning, AAA took a rest and woke up at 1:00 in the afternoon of the same day. When her sister CCC took notice of the marks all over her body, she narrated that she was raped by Garrido. Out of anger, CCC cried and confided that Garrido was the same man who raped her sometime in June 2004.^[13]

The prosecution presented as witness Dr. Bonnie Yap Chua (Dr. Chua), the medico legal expert assigned at PNP Crime Laboratory, National Headquarters, Camp Crame, Quezon City, who examined AAA. Dr. Chua narrated that on 23 October 2004, he examined AAA about her complaint of sexual abuse. Upon his examination of AAA's external physical appearance, Dr. Chua found several ecchymosis, also known as kiss marks, on the breast area of the victim. As to AAA's genital examination, Dr. Chua found deep healed lacerations on the hymen of the victim probably caused by an insertion of a blunt object.^[14]

Version of the Defense

Accused denied the charge of rape and maintained that the sexual intercourse between him and AAA was consensual. He narrated that it was AAA who insisted to stay in their house for the night after the drinking session as she could not go home

drunk in the early hours of the day. Thus, Garrido brought AAA, together with BBB and Vernel, to his house in Las Piñas City. The four of them stayed in one room, Vernel and BBB occupied one bed while AAA occupied the other. Thereafter, Garrido took a bath, returned to the room at around 3:00 in the morning and switched off the light. As there was no more bed available, he laid beside AAA. At that moment, AAA initiated sexual intimacy between them by placing her legs over his thighs. He then kissed her and consummated sexual intercourse. He insisted that what transpired between them was between two consenting adults.^[15]

At around 7:00 in the morning of the same day, Garrido and AAA voluntarily consummated sexual intercourse. Afterward, they took their breakfast and he accompanied AAA and BBB to the jeepney terminal.^[16]

The accused's version was corroborated by Vernel, his brother Vivence Garrido (Vivence) and mother Walita Garrido (Walita).

Vernel, who was with AAA, BBB and Garrido from the house of James until the early morning of 21 October 2004 denied that AAA was raped by Garrido. He narrated that when the four of them arrived at Garrido's house, he noticed that AAA was just slightly drunk noting the clarity of her speech and actions. When they entered the room, he and BBB occupied one bed while AAA and Garrido occupied the other. He took note that in the other bed, AAA and Garrido were romancing each other. When he woke up at 6:00 in the morning, he saw that AAA and Garrido were embraced in their sleep. He also corroborated the narration of Garrido that after breakfast, the latter accompanied AAA and BBB to the jeepney terminal to go home.^[17]

Vivence narrated that his brother, accused Garrido, arrived at their house in the early morning of 21 October 2004 accompanied by AAA, BBB and Vernel. He recalled that AAA did not appear drunk as she was able to talk clearly and even greeted their mother Walita when she opened the door for them.^[18] The next day, he saw AAA kissed his brother on his cheek before leaving the house to go to the jeepney terminal.^[19]

In further corroboration of the defense version, Walita confirmed that her son Garrido arrived at their house in the early morning of 21 October 2004 with AAA, BBB and Vernel to spend the night. She woke up at around 7:00 in the morning and saw AAA, BBB, Vernel and Garrido eating breakfast. She did not notice anything unusual on the actions of AAA until the time Garrido accompanied them to the jeepney terminal.^[20]

The Ruling of the RTC

The trial court on 12 September 2007 found Garrido guilty beyond reasonable doubt of the crime of rape and imposed upon him the penalty of *reclusion perpetua*. The dispositive portion reads:

WHEREFORE, the Court finds accused VICENTE GARRIDO GUILTY beyond reasonable doubt of the crime of Rape. Accordingly, he is hereby sentenced to suffer the penalty of *reclusion perpetua*, and ordered to pay AAA the sum of P75,000.00 civil indemnity, P50,000.00 as moral damages in line with current jurisprudence and ordered to acknowledge

the offspring as his son/daughter and to support the child at P3,000.00 per month until he/she reaches the age of majority and to pay the costs.

SO ORDERED.^[21]

In its ruling, the trial court found more credible the testimony of AAA than the testimony of the defense's witnesses. It concluded that though AAA was already drunk, weak and physically exhausted to resist the sexual advances of the accused, her mental faculties were still lucid as gleaned from her narration of the ill-fated incident.

The Ruling of the Court of Appeals

Upon appeal, the appellate court on 20 October 2009 affirmed the ruling of the trial court with modification on the civil indemnity reduced to P50,000.00.^[21]

The appellate court sustained AAA's credibility in her full recollection of rape. AAA recounted the material details of the acts committed against her. The lack of physical resistance was of no moment as there is no standard reaction to rape. Further, it dismissed the argument of denial and underlined the merit of the categorical and positive declarations of AAA in open court worthy of credence.

Our Ruling

After a careful review, we reverse the finding of guilt and acquit the accused of the offense charged.

The elements necessary to sustain a conviction of rape are: (1) that the accused had carnal knowledge of the victim; and (2) that said act was accomplished (a) through the use of force, threat 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.^[22]

In finding guilt, the appellate court affirmed the decision of the trial court. However, upon careful evaluation, we find that the prosecution failed to prove beyond reasonable doubt the offense charged.

In the case of rape, a review begins with the reality that rape is a very serious accusation that is painful to make; at the same time, it is a charge that is not hard to lay against another by one with malice in her mind. Because of the private nature of the crime that justifies the acceptance of the lone testimony of a credible victim to convict, it is not easy for the accused, although innocent, to disprove his guilt.^[24] We are mindful that the lone testimony of the rape victim is sufficient to sustain conviction. However, the probative value of the victim's testimony should be measured against the evidence for the defense and must be carefully evaluated.^[25] Thus, the court has the duty to scrutinize with caution the testimony of the victim to rule a conviction.

Jurisprudence lay down the following guidelines in evaluating the testimony of the victim. *First*, while an accusation for rape can be made with facility, it is difficult to prove but more difficult for the person accused, though innocent, to disprove;

Second, in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and *lastly*, the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence of the defense.^[26]

Guided by these principles, we find a nagging doubt on the credibility of the testimony of AAA on what really transpired on those fateful hours.

AAA's vacillating statements raise doubt on whether or not she did refuse to be inside the room with Garrido and whether the succeeding sexual intercourse was consensual or not. During her direct examination, AAA recounted that when she, Garrido, BBB and Vernel arrived at the house of Garrido, she felt nervous and surprised that Garrido took them to the room and not to the kitchen. Once inside, AAA who was already feeling weak then, sat on the side of the bed and leaned on the wall. On the other hand, AAA noticed her other companions BBB and Vernel were sitting and talking on another bed. However, in her cross-examination, AAA recalled that she was pulled inside the room by Garrido and could not recall with clarity whether BBB and Vernel were also inside the room with her. She was unsure whether they were inside the room though she heard them creating sounds. When asked again during cross examination^[27] she testified that BBB and Vernel were inside the room when she was raped by Garrido.

Another significant inconsistency was AAA's reaction when Garrido approached her while she was abed. In her affidavit, AAA recounted that she fell asleep while waiting for Garrido. She was awakened when the accused forced her to lie on her back and kissed her all over her face and body. She was not able to resist or fight him as she was shocked during the time Garrido was raping her. She wrote, "*Di na po ako nakapanlaban kasi namamanhid ako at tulala sa nangyayari, para po akong nananaginip.*"^[28] However, in her cross examination, AAA narrated that when she was approached by Garrido, the latter covered her mouth when she was about to shout.^[29]

While we agree with the settled principle that lust is no respecter of time and place,^[30] this should not be applied *tout de suite* without considering the attending circumstances.

During her direct examination, AAA narrated that while inside the room, AAA sat on one bed while BBB and Vernel shared the other one. For a moment, Garrido went out of the room. When he returned, Garrido turned off the light and went on top of her and kissed her on her lips, face and neck. He then removed AAA's clothes and succeeded in having sexual intercourse with her despite her resistance. Ten minutes later, after minutes of violent sexual intercourse he again successfully satisfied his lust. In this case, however, what raises disbelief is the fact that from the time Garrido entered the room until those times she was sexually abused by the accused, Vernel and BBB were present in the room, laughing and talking, and did not even offer to help her.

Furthermore, if indeed AAA was raped by Garrido, human reaction dictates that she could have at least at the earliest opportunity taken the chance to escape when her rapist fell asleep. Her claim that she was not able to leave as she was not familiar