

## SECOND DIVISION

[ G.R. No. 189324, March 20, 2013 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
GILBERT PENILLA Y FRANCIA, ACCUSED-APPELLANT.**

### D E C I S I O N

**PEREZ, J.:**

Challenged in this appeal *via* Notice of Appeal is the Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. CR-H.C. No. 03206, which affirmed the finding of guilt by the Regional Trial Court (RTC), Branch 119, Pasay City in Criminal Case No. 00-0138.<sup>[2]</sup> Appellant Gilbert Penilla y Francia (Penilla) was convicted by the RTC of the crime of rape and sentenced to suffer the penalty of *reclusion perpetua*.

Penilla was charged in an Amended Information which reads:

That on or about the 22<sup>nd</sup> day of October, 1999, in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, GILBERT PENILLA Y FRANCIA, by means of force, threats and intimidation, did then and there, willfully, unlawfully and feloniously and with the use of deadly weapon, had carnal knowledge of the complainant, [AAA],<sup>[3]</sup> against her will and consent.<sup>[4]</sup>

AAA recounts that, at the time of the incident, she was renting a room at a boarding house in Pasay City which was owned by Penilla's grandmother. Around midnight of 22 October 1999, she was sleeping alone in her room and was suddenly awakened by Penilla's angry voice berating her for the loud volume of her television which was disturbing his sleep and rest in the adjacent room. AAA rose and was surprised to see Penilla by her bedside, naked and holding a kitchen knife of about eight (8) inches long. When AAA asked how Penilla entered the room, the latter did not answer and switched off the light. AAA picked up her clothes lying near the door and tried to put distance between her and Penilla, who then pushed her towards the bed. Penilla then knelt on top of AAA, poking the knife at the right side of her body. Paralyzed with fear and physically overpowered by Penilla, AAA remained silent and did not shout for help while Penilla forced himself on AAA, his penis penetrating into AAA's vagina.

After fifteen minutes and still not sated, Penilla ordered AAA to suck his penis, but AAA refused. For the second time, Penilla again ravished AAA for another thirty minutes. Thereafter, he left AAA's room.

After four (4) days, AAA filed a complaint for Rape against Penilla before *Barangay* Chairperson Imelda San Jose of *Barangay* XXX, Zone XXX, Pasay City. During the

scheduled conference, only AAA appeared.

In a subsequent turn of events, on 30 October 1999, the grandmother of Penilla, AAA's landlady at the time, filed a complaint for ejectment against AAA before *Barangay XXX*. At the conciliation meeting for the ejectment case, Penilla was present and confronted AAA on her accusation of rape. Penilla denied that he raped AAA, insisting that their sexual encounter was consensual and was, in fact, even initiated by AAA. Not unexpectedly, emotions ran high, and the parties hurled invectives at each other.

In connection with the physical examination of AAA, Medico-Legal Officer Dr. Annabelle L. Soliman issued Living Case No. MG-99-1043:

#### CONCLUSIONS:

1. No evident sign of extragenital physical injury was noted on the body of the subject at the time of examination.
2. Hymen, reduced to carunculae myrtiformis.
3. Vaginal orifice wide (3.0 cms. in diameter) as to allow complete penetration by an average-sized adult Filipino male organ without producing any new genital injury.<sup>[5]</sup>

Penilla vehemently denied that he raped AAA. Penilla painted a picture of his and AAA's mutual attraction brought about by the close proximity of their living quarters, his room being adjacent to the room rented by AAA from his grandmother. Penilla recounted on the witness stand, that, in several instances, he helped AAA, who made a living selling eggs, carry trays of eggs to and from her room. On different occasions and for various seemingly innocuous reasons, such as AAA borrowing video tapes from Penilla and giving him food, AAA would ask Penilla personal questions on his civil status, if he was in a relationship, and where he worked.

Penilla related that on 22 October 1999, he could not sleep due to the loud volume of AAA's television which he could hear even in his room. Penilla knocked on AAA's room and told her to lower the volume of her television. As a supposed pretext, AAA invited Penilla to enter her room, sit beside her on the bed so they could watch the shows aired on television. AAA went to the comfort room to wash herself. Upon her return, she removed her panty and began caressing Penilla's neck and penis, arousing Penilla. While stroking Penilla, who claimed to be a virgin at that time, AAA was talking about sex and how it was exciting for a woman of her age (38 years old) to have intercourse with a younger man (23 years old). They both soon undressed and engaged in their first round of consensual intercourse where AAA was on top of Penilla and which lasted for approximately thirty minutes. Immediately thereafter, AAA assumed the prone position allowing Penilla to penetrate her from behind which intercourse lasted for another thirty minutes. Subsequently, Penilla fell asleep. Upon waking up, Penilla and AAA had another go at sexual intercourse.

Penilla averred that AAA's charge of rape came as a shock to him. He surmised that AAA must have been afraid that her common law partner at that time would learn of their sexual encounter, thus compelling her to fabricate a story of rape.

After trial, the RTC convicted Penilla of rape and sentenced him to suffer the penalty of *reclusion perpetua*:

WHEREFORE, the prosecution having proved beyond reasonable doubt the guilt of accused **Gilbert Penilla y Francia** of the crime of rape, defined and penalized under Article 335 of the Revised Penal Code, he is hereby sentenced to suffer a penalty of **reclusion perpetua**. The said accused is likewise ordered to indemnify the complainant [AAA] the amount of P50,000.00, by way of civil liability ex-delicto.<sup>[6]</sup>

On appeal likewise *via* Notice of Appeal before the appellate court, Penilla was adamant on his innocence. However, the Court of Appeals affirmed the RTC's finding of guilt.

Penilla now appeals to us assigning grave error in the Court of Appeals's decision, thus:

## I

THE COURT A QUO GRAVELY ERRED IN GIVING FULL CREDENCE [TO] PRIVATE COMPLAINANT'S TESTIMONY.

## II

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME OF RAPE DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.<sup>[7]</sup>

The sole issue for our resolution is whether Penilla indeed raped AAA.

As the lower courts were, we are likewise convinced that Penilla raped AAA.

We proceed straight to determining the actual circumstances surrounding the sexual encounter between AAA and Penilla, as carnal knowledge of AAA is admitted by Penilla, only that it was alleged as consensual sex, and not rape.

Rape case principles have not changed: (1) 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; (2) in view of the nature of the crime of rape where only two persons are usually involved, the testimony of the complainant is scrutinized with extreme caution; and, (3) the evidence for the prosecution stands or falls on its own merits and cannot be allowed to draw strength from the weakness of the defense.

<sup>[8]</sup> Thus, in a prosecution for rape, the complainant's credibility becomes the single most important issue.<sup>[9]</sup>

In this case, accused-appellant casts aspersions on AAA's credibility by portraying AAA as a morally loose woman, separated from her husband, living with another

man, and hankering for the affection of a younger man. For good measure, Penilla contends that there is bad blood between AAA and his grandmother concerning money: AAA initially shouldered the expenses for the repairs on the room she was renting from Penilla's grandmother with the understanding that the latter would deduct the expense from the monthly rentals. When Penilla's grandmother collected payment for back rentals and transferred AAA to another room, AAA suddenly became disenchanted with Penilla, thus this concocted allegation of rape.

The contentions of Penilla on the credibility of complainant refer only to peripheral and trivial matters; they do not touch on the issue of whether or not the crime of rape was in fact committed.<sup>[10]</sup>

We emphasize that in rape cases the accused may be convicted based solely on the testimony of the victim, provided that such testimony is credible, natural, convincing and consistent with human nature and the normal course of things.<sup>[11]</sup>

By the very nature of the crime of rape, conviction or acquittal depends almost entirely on the credibility of the complainant's testimony because of the fact that, usually, only the participants can directly testify as to its occurrence.<sup>[12]</sup> Since normally only two persons are privy to the commission of rape, the evaluation of the evidence thereof ultimately revolves around the credibility of the complaining witness.<sup>[13]</sup> Thus, we revert to the testimony of the witnesses.

AAA remained steadfast and unyielding, even on cross-examination and questioning by the trial court, that an already naked Penilla suddenly appeared in her room on the pretext that the volume of her television set was bothering his sleep, and in a quick and horrifying turn of events, Penilla pushed her on to her bed, poked a knife by her right side, and had carnal knowledge of her.

Q: So at that date you were awaken[ed] because the accused was already in front of your (*sic*) or you were only awaken[ed] by the accused?

A: Yes sir and he was already naked.

Q: He was already naked when he was telling you that your t.v. was very noisy[,] [and] that is why you were awaken[ed]?

A: Yes sir.

Q: So in fact, you did not actually see how the accused opened your door?

A: No sir.

Q: And you already saw the accused naked?

A: Yes sir.

Q: And he was carrying a bladed weapon?

A: Kitchen knife[,] sir.

Q: And you saw that knife at that very moment already?

A: No sir, when I was awaken[ed], the light was still on and I saw the knife.

Q: It was the first time that you saw the deadly weapon being held by the accused?

A: Yes sir.

Q: When you stood up?

A: Yes sir.

Q: But he pushed you to [the] bed?

A: No sir.

Q: Did you immediately shout?

A: No sir, because of fear.

Q: But of course, the wall of your room is made of ordinary wood, and you have adjacent neighbors living in that place, isn't it?

A: Yes[,] sir.

Q: You have neighbors living in the adjacent room?

A: I don't remember[,] sir.

Q: And there were many?

A: I cannot remember[,] sir.

Q: It appears[,] madam witness[,] that you are fond of not remembering anything, can you still remember the contents of your *Sinumpaang Salaysay*?

A: Yes[,] sir.

Q: And you stated in your *Sinumpaang Salaysay* that [the accused was holding a kitchen knife] at the very time [he woke you up]?

A: Yes[,] sir.

Q: It was not at the time the accused was already on top of you?

A: When [he] entered the room he was already carrying a knife and told me not to shout.

Q: And you clearly saw the knife?

A: Yes sir because the light was still on.

Q: In question no. 7, you have an answer, will you please read your answer[:] "*tinanong ko siya kung bakit siya nasa loob at hindi siya sumagot, basta na lang niya pinatay ang ilaw, tapos hinarangan niya ang pinto para hindi ako makalabas, tapos lumapit siya sa akin dahil nakatayo ako at hinawakan niya ako sa balikat at tinulak ako sa kama, may naramdaman akong matulis na bagay na alam kong patalim, tapos itinaas niya ang aking duster at pumatong siya sa akin at ipinasok niya ang ari niya sa ari ako.*"

Q: Did you see it or just [felt] it while the knife was poked at your side?

x x x x

A: I saw it but when I was moving, [I] felt it so that his organ cannot enter.

COURT:

Q: But the first time you saw him, he was already holding a bladed weapon?

A: Yes[,] sir.

Q: At the time he was holding the knife, he was already naked?

A: Yes[,] sir.

Q: Do you know if he was drunk?

A: I smelled it when he was on top of me.

Q: He did not touch you first before he put down your panty?

A: He touched me and he pushed me down the bed.

Q: Did he touch your private part before he [pulled] down your panty?