

EN BANC

[G.R. Nos. 152586-87, March 30, 2004]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ANDRES PAAS ISLABRA, APPELLANT.

DECISION

PUNO, J.:

Before us for automatic review is the Decision dated November 27, 2001^[1] of the Regional Trial Court of Isulan, Sultan Kudarat, Branch 19, in Criminal Case Nos. 2522-23 finding Andres Paas Islabra guilty beyond reasonable doubt of one count of simple rape and sentencing him to suffer the penalty of *reclusion perpetua*, and one count of qualified rape and sentencing him to death.

The private complainant, thirteen-year-old Hilda Paas, and accused-appellant, thirty-two-year-old Andres Islabra, are first cousins, the former's father, Rogelio, being the brother of the latter's mother, Rosita. In 1997 Hilda and her brothers, Rodelio, Rolando, and Rodolfo came to Magsaysay, Sultan Kudarat to study and work as farmhands, respectively, while their parents remained in Columbo, Sultan Kudarat. They stayed in the house of accused-appellant upon the latter's invitation while their own house was still under construction. Younger sisters Margielyn, eight years old, and Mary Jane, seven years old, joined them later on. All was apparently well. However, on July 29, 1998, Hilda executed a sworn written complaint accusing Andres of raping her on two occasions. Two separate Informations were filed against Andres, *viz*:

Criminal Case No. 2522

That on or about 8:00 o'clock in the evening of July 4, 1998, at Barangay Magsaysay, Municipality of Esperanza, Province of Sultan Kudarat, Philippines, and within the preliminary jurisdiction of this Honorable Court, the said accused, with lewd and unchaste design and by means of force and intimidation, did then and there, wilfully (*sic*), unlawfully and feloniously lie and succeeded in having carnal knowledge of one HILDA A. PAAS, a thirteen (13)-year old girl, against her will and consent.

CONTRARY TO LAW, particularly Article 335 of the Revised Penal Code of the Philippines, as amended by Republic Act 7659.^[2]

Criminal Case No. 2523

That on or about 11:30 o'clock in the morning of July 12, 1998, at Barangay Magsaysay, Municipality of Esperanza, Province of Sultan Kudarat, Philippines, and within the preliminary jurisdiction of this Honorable Court, the said accused, with lewd and unchaste design and by means of force and intimidation, did then and there, wilfully (*sic*),

unlawfully and feloniously lie and succeeded in having carnal knowledge of one HILDA A. PAAS, a thirteen (13)-year old girl, against her will and consent.

CONTRARY TO LAW, particularly Article 335 of the Revised Penal Code of the Philippines, as amended by Republic Act 7659.^[3]

Accused-appellant pleaded "not guilty" to both Informations. Trial ensued.

Private complainant testified that at around 8:30 in the evening of July 4, 1998 she was sleeping in the house of accused-appellant while her three brothers were watching television in a neighbor's house. Accused-appellant woke her up, warned her not to make any noise, kissed her face, removed her underwear and took his penis out of his short pants. She asked accused-appellant, whom she called "Kuyang Andres," why he was doing those things but the latter again warned her not to make any noise or she would be killed. Accused-appellant then inserted his penis into her vagina but after a partial penetration, withdrew the same when complainant complained of pain. He threatened complainant against reporting the incident to anybody, otherwise, he would kill her and her brothers. After accused-appellant left, complainant cried and examined her vagina. Fluid was oozing from it. She left her cousin's house the following morning, never to return. She stayed in the house of a neighbor until she and her brothers moved on July 9, 1998 to their newly-constructed house^[4] located about a hundred meters away from that of accused-appellant. Gripped by fear, complainant did not inform her brothers of the incident.^[5]

Anent the second rape incident, complainant testified that at around 11:30 in the morning of July 12, 1998, accused-appellant arrived at their newly-constructed house and asked her and her sister Margielyn if they had eaten lunch. They answered "no." Margielyn then went outside to play. Thereupon, accused-appellant, armed with a knife, ordered complainant into a room, instructed her not to shout, otherwise, he would kill her. Complainant complied out of fear. Accused-appellant ordered her to remove her underwear and likewise removed his own. He then laid complainant, who was already crying, on the bed, kissed her on the face and neck, inserted his penis fully into her vagina, and did push and pull movements for about seven minutes while holding complainant by her hands. After satisfying his lust, accused-appellant got up and put on his short pants. At this point, Margielyn entered the room and asked what "Kuyang Andres" was doing in the room. The latter did not answer. Instead, he told them not to report the matter to anybody, and left in a huff. Hilda confided to Margielyn the incident. When Rodelio arrived at noon, Margielyn in turn narrated to him the event. Rodelio cried and punched the wall of their house in anger.^[6] He wanted to confront accused-appellant but was restrained by Rodolfo.^[7] After their parents were informed that Hilda had been raped, they arrived from Columbo and immediately brought their daughter to the police station where she executed her sworn written complaint. She was also brought to the Provincial Hospital where she was medically examined on July 29, 1998.

Accused-appellant denied the charges. Backed up by the testimony of his wife and mother-in-law, accused-appellant claimed that Hilda and her brothers were no longer staying in his house at the time of the alleged rape on July 4, 1998, having

left the same by the time his wife gave birth on December 27, 1997. Hence, he said, he could not have raped her there. Besides, he was not home in the evening of July 4, 1998 having left the same early in the morning with his two sons, Balong and Dagol, for their farm located about two kilometers away where they spent the whole day and passed the night. They returned home the following morning.^[8]

As to the alleged rape at noon on July 12, 1998, accused-appellant claimed that he was in the house of his neighbor Jun Movilla from nine in the morning to two o'clock in the afternoon having a drinking spree with the latter and his brother Edwin, as well as with his cousins Rodelio and Rodolfo, private complainant's brothers.^[9] His wife saw him the whole time since Jun's house was just across the road from their house.

The defense likewise imputed motive on the part of complainant's family in filing the rape charges. Rosita Calla, accused-appellant's mother, testified that complainant's parents, Rogelio and Marta, her brother and sister-in-law, respectively, got angry with her when she helped a granddaughter find a lawyer in 1993 after she was allegedly raped by Roger Paas, one of complainant's brothers. Since then, Rosita's relationship with her brother and sister-in-law turned sour.^[10] Rodrigo Islabra, accused-appellant's brother, likewise testified that complainant's father told him when he went to speak to private complainant after Andres was arrested for the rape charges, that they will incur the same expenses that complainant's family incurred when it was Roger who was accused of rape in 1993.^[11]

On November 27, 2001, the trial court rendered a decision convicting the accused and sentencing him to suffer *reclusion perpetua* in Crim. Case No. 2522, and death in Crim. Case No. 2523. He was likewise ordered to pay private complainant P75,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages for each count of rape, and to pay the costs.

Hence, this automatic review.

Accused-appellant contends that the trial court erred in finding him guilty of the alleged rape committed in his house on July 4, 1998 considering that Rodelio Paas testified that he and his siblings left the same in January 1998. Moreover, private complainant's unbelievably composed behavior after the rape of turning on the light, coolly examining her vagina and observing the fluid oozing therefrom are inconsistent with that of a real rape victim. As to the second rape incident, accused-appellant contends that the inconsistencies in the testimonies of Hilda and Mary Jane Paas and the contradictory results of the medical examination justify an acquittal. Even if he was indeed guilty of the second rape, the death penalty should not have been imposed considering that use of a knife in the commission thereof was not alleged in the Information.

The Office of the Solicitor General (OSG), while maintaining that accused-appellant's guilt has been proven beyond reasonable doubt in both cases, agreed that the death penalty should not have been imposed in Crim. Case No. 2523.

We affirm the trial court's decision with modification.

The rule is well-settled that an accused in rape cases may be convicted solely on the

basis of the uncorroborated testimony of the rape victim where such testimony is clear, positive, convincing and consistent with human nature and the normal course of things.^[12] Her credibility is the single most important issue, and when her testimony meets the test of credibility, conviction inevitably ensues.^[13]

In the instant cases, the court *a quo* found private complainant's account of how she was raped by the accused in the evening of July 4, 1998 and at noon of July 12, 1998 to be clear, positive and straightforward, *viz*:

“Q:-At about 8:30 o'clock that evening of July 4, 1998 while your brother Rodelio and Rodolfo were watching tv on (*sic*) the neighbor's house and you were already sleeping in the house of your Kuyang Andres, do you remember what happened?

A:- He went to the place where we were sleeping and he awakened me, sir.

Q:- You said he, who was that he who went to your room where you are (*sic*) sleeping?

A:- Andres Islabra, sir.

Q:- Who was your companion or who were your companions in that room where you sleep (*sic*) where (*sic*) you were awakened by accused Andres Islabra?

A:- The eldest and his second child, sir.

Q:- Where (*sic*) they girls?

A:- No, sir.

Q:- How old is the eldest son who was sleeping in that room?

A:- Still young, sir. He is a grade 3 pupil.

Q:- How about the second to the eldest who were (*sic*) sleeping with you in that room, how old?

A:- Maybe about eight years old.

x x x

x x x

x x x

Q:- When the accused went up and entered the room where you are (*sic*) sleeping and awakened you, what follows (*sic*)?

A:- He told me not to make noise.

x x x

x x x

x x x

Q:- And after telling you don't be noisy, what happened next?

A:- He kiss (*sic*) me, sir.

Q:- Where did he kiss you?

A:- On my face, sir.

Q:- And what did you do when the accused kiss (*sic*) you on your face?

A:- I asked "why are you kissing me Kuyang."

Q:- And what did he tell you when you asked him?

A:- He just told me not to be noisy.

Q:- What happened after that?

A:- After that he removed my panty.

Q:- What were you wearing that evening?

A:- A skirt.

Q:- Your upper wear what were you wearing?

A:- T-shirt, sir.

x x x

x x x

x x x

Q:- After he removed your panty or underwear, what else did he do?

A:- He laid me down after that he mounted on (*sic*) me.

Q:- What did he do with his shortpants (*sic*), you said he is wearing shortpants (*sic*)?

A:- He did not remove his shortpants (*sic*) he just have his penis out.

Q:- Has (*sic*) his short pants a (*sic*) zipper?

A:- It has no zipper it has only a cord.

Q:- How did he have (*sic*) his penis out when there was no zipper on (*sic*) his short pants but only a cord?

A:- He had his penis out through his thigh or he just raise (*sic*) his short pants and had his penis out thru the hemline of his short pants.

Q:- Now, what happened after his penis out (*sic*) of his short pants?

A:- After that, sir, he mounted on (*sic*) me and inserted his penis on (*sic*) my vagina.

Q:- Was his penis erecting (*sic*) at that time?

A:- Yes, sir.

Q:- And were you not complaining why he was doing that to you?

A:- I was complaining, sir.

Q:- How were you complaining?

A:- I asked him, "Kuyang why are you doing this to me." He just told me not to make any noise because he will kill me.

Q:- Was he able to insert his penis into your vagina?

A:- Only a portion that (*sic*) was inserted, sir.

Q:- Why?