

## FIRST DIVISION

[ G.R. No. 123916, June 19, 2001 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
LYNTON ASUNCION Y UANANG, ACCUSED-APPELLANT.**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

This is an appeal from the decision<sup>[1]</sup> of the Regional Trial Court of Tuguegarao, Cagayan, Branch IV, in Criminal Case No. 0578, convicting accused-appellant of the crime of rape, and sentencing him to suffer the penalty of reclusion perpetua and to pay damages in the amount of P30,000.00.

On May 15, 1986, an information was filed against accused-appellant charging him of the crime of rape under paragraph 1, of Article 335 of the Revised Penal Code. Pertinent portion thereof reads -

That on or about April 3, 1985, in the municipality of Baggao, province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused, Lynton Asuncion y Uanang, armed with a gun, with lewd design and by the use of force, violence and intimidation, did, then and there wilfully, unlawfully and feloniously have sexual intercourse with the offended party, Lelia G. Cipriano against her will.

Contrary to law.<sup>[2]</sup>

On July 7, 1986, accused-appellant was arraigned, and with the assistance of counsel de oficio, entered a plea of not guilty.<sup>[3]</sup>

The facts as testified to by private complainant, Lelia Cipriano (now Leila Cipriano-Maralli), are as follows:

At about 6:00 in the evening of April 3, 1985, private complainant was on her way home after getting the result of her National College Entrance Examination. She was walking with Robert Domingo along the provincial road of Tamblique, Baggao, Cagayan. Suddenly, a visibly inebriated accused-appellant appeared holding a gun. Without any warning, he pistol-whipped Robert Domingo, causing the latter to scamper away to avoid further harm. Accused-appellant forthwith dragged Leila toward the shoulder of the road, with his gun pointed at her head. He threatened to shoot Leila if she would shout. Thereafter, accused-appellant pushed Leila to the ground. He knelt and pulled down her pants. Her resistance proved futile as she was overpowered by accused-appellant who managed to pull her pants and underwear down to her ankle. After he undressed, accused-appellant placed himself on top of

her and forcibly inserted his penis into her vagina. She felt pain in the process and wiggled her body to prevent penetration. After sometime, however, he succeeded in penetrating her vagina, and ultimately satisfied his lust.<sup>[4]</sup>

Left alone, Leila put on her clothes and proceeded home. On the way, she met her aunts and their barangay captain who were already looking for her. Leila wept and disclosed to them her harrowing experience. The following morning, Leila submitted herself to a medical examination at the Cagayan Provincial Hospital.<sup>[5]</sup>

Accused-appellant, on the other hand, declared that at about 6:00 p.m. of April 3, 1985, while he was in Barangay Tamblique, Baggao, Cagayan, and on his way toward the "centro", he saw, at a distance of 20 to 30 meters, Leila walking with Robert Domingo. Upon meeting Robert Domingo, accused-appellant punched the latter, leading to a fist fight which lasted for about five minutes, until they were pacified by Edwin Ayson who was then building a fence on his yard, ten (10) meters away from them. As Edwin Ayson came closer, however, Robert Domingo ran away.<sup>[6]</sup>

Vehemently denying the charge against him, accused-appellant said that he does not know whether Leila likewise ran away in the course of their fight.<sup>[7]</sup> He theorized that the rape case was but a retaliatory move on the part of Leila who hated him because he hit her boyfriend, Robert Domingo.<sup>[8]</sup>

The testimony of accused-appellant was corroborated by defense witness Edwin Ayson, who testified on direct examination that on April 3, 1985, at about 5:30 p.m., while he was building a fence on his yard, he saw Leila and Robert Domingo coming from the north, opposite that of accused-appellant who was walking towards their direction from the south. When they met in front of his house, Robert Domingo and accused-appellant immediately exchanged blows. As he tried to pacify them, Leila ran away, followed by Robert Domingo.<sup>[9]</sup> On cross-examination, however, Edwin Ayson claimed that Leila was not the first one who ran away.<sup>[10]</sup> Edwin Ayson further said that he brought accused-appellant home after the incident.<sup>[11]</sup>

On January 23, 1995, the trial court rendered its decision in favor of the prosecution. The dispositive portion thereof reads:

WHEREFORE, the Court finds the accused GUILTY BEYOND REASONABLE DOUBT of the crime of rape committed upon the complaining witness Leila Cipriano (now Leila Cipriano-Maralli) and hereby sentences him to suffer the penalty of RECLUSION PERPETUA and to indemnify the complaining witness Leila Cipriano-Maralli in the amount of THIRTY THOUSAND (P30,000.00) PESOS as damages.

The accused is also sentenced to all accessory penalties imposed by law.

SO ORDERED.<sup>[12]</sup>

In his appeal to this Court, accused-appellant, through counsel, contends that:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING HEREIN ACCUSED-APPELLANT GUILTY OF THE CRIME OF RAPE DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BY PROOF BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT FAILED TO SCRUTINIZE WITH CARE AND CAUTION THE DETAILS OF TESTIMONY OF THE PRIVATE COMPLAINANT WHICH IS REplete WITH SERIOUS INCONSISTENCIES AND STATEMENTS NOT IN ACCORD WITH THE ORDINARY AND NATURAL EXPERIENCE OF MANKIND.

III

THE JUDGE WHO RENDERED THE DECISION FAILED TO EXERCISE UTMOST SCRUTINY IN REVIEWING THE TESTIMONIAL AND DOCUMENTARY EVIDENCE OF RECORD, ESPECIALLY SO THAT HE ONLY PRESIDED IN THE LATTER PART OF THE TRIAL OF THIS CASE.

IV

THE TRIAL COURT COMMITTED A VERY SERIOUS ERROR IN CONVICTING THE ACCUSED OF A CRIME OF RAPE.

V

THE TRIAL COURT ERRED IN NOT CONSIDERING THE MOTION FOR NEW TRIAL/RECONSIDERATION FILED BY THE ACCUSED.<sup>[13]</sup>

In his third assigned error, accused-appellant puts in issue the circumstance that the judge who penned the decision presided only at the later part of the trial, during the presentation of defense evidence, and was not able to hear the evidence for the prosecution. Citing the August 15, 1994 letter of Judge Orlando G. Beltran to the Court Administrator of the Supreme Court, informing the latter of his inability to render a decision in the instant case because the testimonies of three prosecution witnesses, namely: Dr. Ramon Shamon Abraham, Victoria Cipriano, and Bonifacia Cipriano, have not yet been transcribed, accused-appellant contends that despite incomplete records, the court rendered the decision on the basis solely of the uncorroborated testimony of private complainant.<sup>[14]</sup>

The accused-appellant's contention is without merit. The fact that the judge who wrote the decision had not heard the evidence in chief of both the prosecution and the defense will not taint his judgment.<sup>[15]</sup> After all, contrary to the allegation of accused-appellant, the trial court in fact undertook the retaking of the testimony of prosecution witness Bonifacia Cipriano as well as approved the stipulation of the parties as to the testimony of Dr. Abraham,<sup>[16]</sup> before it rendered the judgment of conviction on January 23, 1995. At any rate, even assuming that Leila's testimony

was the sole basis of accused-appellant's conviction, still, the trial court's decision cannot be said to be irregular. In rape cases, the testimony of the rape victim alone, if credible, is sufficient to produce conviction. This is so because of the fact that usually only the participants can testify to its occurrence.<sup>[17]</sup>

The general rule that the trial court's findings as to the credibility of witnesses deserves respect from the appellate courts, cannot, however, be unqualifiedly applied in the present case. Not having heard all the testimonies himself, the judge is in no better position than the appellate courts to make such determination.<sup>[18]</sup> Hence, this Court conscientiously pored over and examined the records, especially the transcripts of stenographic notes. After a thorough review, we find no reason to disturb the factual findings of the trial court.

Indeed, Leila's categorical, straightforward, and spontaneous testimony, standing on its own, is more than sufficient to convict accused-appellant, thus:

- Q Where did he pull you?  
A Beside the road.  
Q How did he pull you, with what hand?  
A His left hand.  
Q When he pulled you towards the shoulder of the road what else did Lynton Asuncion do?  
A He pointed the gun to my head.  
Q What next did he do?  
A He threatened me, if I shout he would kill me.  
Q At that time did you believe him?  
A Yes, sir, I was afraid.  
Q Did you shout?  
A No, because I was afraid.  
Q After that what did Lynton Asuncion do to you?  
A He pushed me.  
Q What happened to you?  
A I fell down.  
Q Where did you fall?  
A On the ground.  
Q Where were you facing when you fell on the ground?  
A I fell flat on the ground. Facing upward.  
Q How did he push you?  
He was holding a gun when he pushed you?  
A Yes sir.  
Q What happened next?  
A He forced me to remove my panties.  
Q Why, what were you wearing at that time?  
A Pants.  
Q How about your upper garment?  
A T-shirt.  
Q Did he succeed in removing your pants?  
A Yes, sir.  
Q When he removed your pants what did he do next?  
A He removed my panties.  
Q With what hand did he remove your panties?  
A With both hands, but he was holding the gun.  
Q Did you resist when he removed your panties?