

FIRST DIVISION

[G.R. No. 117666, February 23, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VIRGILIO M. VILLALUNA, ACCUSED-APPELLANT.**

D E C I S I O N

PARDO, J.:

The case before the Court is an appeal from a decision^[1] of the Regional Trial Court, Branch 73, Antipolo, Rizal, convicting accused Virgilio M. Villaluna of rape and sentencing him to the penalty of *reclusion perpetua*, and to indemnify the complainant Beverly Villaluna in the amount of P50,000.00, as damages, and costs.

On September 13, 1991, Beverly A. Villaluna, fifteen years old, assisted by her mother, and the Assistant City Prosecutor, Pasig, on detail with Antipolo, Rizal, filed a complaint with the Regional Trial Court, Branch 73, Antipolo, Rizal, charging Virgilio M. Villaluna with rape, committed as follows:

"That in or about and sometime in the month of May, 1990 in the Municipality of Antipolo, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with lewd designs and by means of force and intimidation, did, then and there willfully, unlawfully and feloniously have sexual intercourse with a fourteen (14) year old girl, Beverly A. Villaluna without her consent and against her will.

CONTRARY TO LAW."^[2]

At the arraignment on November 5, 1991^[3], the accused pleaded not guilty to the crime charged. After due trial, on August 24, 1994, the trial court rendered decision the dispositive portion of which reads as follows:

"WHEREFORE, premises considered, the Court finds the accused Virgilio Villaluna guilty of the crime of rape beyond reasonable doubt, committed against his own daughter Beverly Villaluna and therefore, sentences him to suffer the penalty of RECLUSION PERPETUA, to indemnify Beverly Villaluna the amount of P50,000.00 as damages and to pay the costs of the suit.

SO ORDERED."^[4]

Hence, this appeal.

The facts, as shown by the prosecution's evidence, are as follows:

Accused Virgilio M. Villaluna married Perlita Arambulo Villaluna on February 5, 1971,

and they subsequently had five children, namely, Elmer, Oliver, Marvin, Beverly, and Louie. His only daughter, Beverly, was born on October 24, 1975. Accused worked as an electrician in Saudi Arabia and took month-long vacations in the Philippines every year.

In 1986, accused had an affair with another woman, prompting Perlita Villaluna to leave him. The children rented another house and depended on the monthly support that accused sent from abroad. Perlita lived elsewhere and never visited her children.

On March 26, 1990, accused arrived from Saudi Arabia for a vacation. He stayed in the two-bedroom house rented by his children at 39 A. Bonifacio St., Antipolo, Rizal, and occupied the room shared by Beverly and Louie. The other children slept in the other room.

On the evening of his arrival, accused went inside his bedroom, turned on the radio and started whipping Beverly with a piece of stick about a meter long, on the mouth, arms, thighs, back, nape and other parts of her body while at the same time pulling her hair. Accused also whipped Louie, the eleven-year-old brother of Beverly, and sent him out of the room. Thereafter, accused undressed Beverly and made her lie down. He then inserted his penis into her vagina. After consummating his carnal lust, he left the room and told Beverly not to go out.^[5]

Elmer, Oliver and Marvin arrived later that night, but did not see Beverly because the door to her room was closed. For four days, Beverly was not allowed to leave the room. Louie would just bring food inside for her. Consequently, Beverly missed her classes in school. Due to her absence, Beverly's classmates visited her but she talked to them for a few minutes and only from a distance. Beverly could not remember their names, except for one.^[6] Nobody noticed her injuries.

After the March 26, 1990 incident, accused raped Beverly almost everyday.

The last rape occurred during the first week of May 1990, when the accused was preparing to depart for Saudi Arabia. Early in the morning, when the other children were still sleeping, accused called Beverly to come upstairs to their room. When Beverly entered the room, accused ordered her to undress. Beverly refused. Accused tore Beverly's dress from her body. Thereafter, accused took off Beverly's underwear and then proceeded to beat her up by slapping and pulling her hair.^[7] Accused then repeatedly hit Beverly with a piece of wood. When Beverly was exhausted from the severe beating, accused forced her to lie on the bed. He inserted his penis into her vagina and kissed her face until he ejaculated. Then, accused stood up, put on his clothes and went out of the room. Beverly stayed inside the room and just cried. Later in the morning, after the other children had left the house, accused returned to the room and raped Beverly again. In the afternoon, accused packed his clothes and departed for abroad.^[8]

Two weeks later, her brother Elmer, then nineteen years old, raped Beverly. He raped her almost everyday until September 1990, when Beverly started to miss classes in school.

In December 1990, Beverly told her aunt, Teresita Santos, that she was pregnant

but did not reveal the identity of the father of her child.^[9]

As a result of her pregnant condition, Beverly, accompanied by her mother, talked to the teachers in Sumulong Memorial High School, where she studied. During a conversation with her teacher and her Third Year Level Chairman inside the guidance center, Beverly cried and revealed that her father was using her ("ginagamit siya") every time he would come home for a vacation.^[10]

Beverly dropped out from school in January 1991, due to health problems, and went to Ibayo Wawa, Nasugbu, Batangas, to live with her aunt. There, she gave birth to a baby girl on May 10, 1991. The birth certificate indicated Elmer as the father of her baby.

Accused returned to the Philippines in August 1991. On August 30, 1991, he went to Batangas and transferred Beverly to the house of his aunt, also in Batangas. After a week, Perlita Villaluna fetched her daughter from Batangas and took her to the Department of Social Welfare and Development (DSWD) in Legarda, Manila.

On September 9, 1991, Beverly executed a sworn statement before National Bureau of Investigation Agent Raul Ancheta,^[11] relating the rape incidents committed against her by her father and her brother. On the basis of said sworn statement, Beverly, assisted by her mother and an Assistant City Prosecutor, Antipolo, filed a complaint^[12] against Virgilio M. Villaluna for rape with the Regional Trial Court, Branch 73, Antipolo, Rizal. Beverly also filed a complaint of rape against her brother Elmer Villaluna, but later withdrew said complaint against her will upon orders of her mother.^[13]

On the other hand, evidence for the defense reveals that accused was an overseas contract worker, employed as an electrician. He also selected the personnel for the different positions in the company in Saudi Arabia. Accused took month-long vacations in the Philippines every other year.

In 1986, accused discovered that his wife, Perlita Arambulo Villaluna, was having an affair with another man. Consequently, accused filed a case for adultery against Perlita Villaluna and her paramour, Michael Papas, with the Regional Trial Court, Branch 71, Antipolo, Rizal, docketed as Criminal Case No. 2631. The case has not been tried, although a warrant of arrest has been issued.

Perlita Villaluna decided to live with Michael Papas, but depended on the monthly support for the children sent by the accused from abroad. Sometimes, she would visit the children and get their money.^[14]

On March 26, 1990, accused returned to the Philippines for a vacation. At that time, his children were renting a two-bedroom house in Bonifacio St., Antipolo, Rizal. When he arrived, Beverly was staying at the residence of Mario Valderama, a family friend. It was only a month later that Beverly returned to the house in Antipolo.

In the early part of April 1990, fire razed the house of Antonio Villaluna, brother of accused.^[15] Hence, together with his family, Antonio moved to the Antipolo house of accused. Antonio and his family occupied one room while the accused and his

family stayed in another room. During the times when accused would sleep in the same room with his children, he and Louie would be on the bed while Beverly and Marvin would sleep on the floor. At other times, accused would sleep on the first floor with his other sons.^[16]

Accused denied that he raped or had sexual intercourse with his daughter during this period until the time he left for Saudi Arabia on May 13, 1991.^[17]

Upon learning that his daughter was pregnant, accused took an emergency leave on August 23, 1991 and returned to the Philippines. When he arrived, he discovered that Beverly had already given birth. He saw her in the house of his sister-in-law, Celia Dames, in Batangas.

Accused asked Beverly who was responsible for her pregnancy and who was the father of her child. Beverly merely told him that her boyfriend cheated her, but did not identify him. She kept crying, so accused told her to just start a new life.^[18] They agreed that she would enter a convent. Beverly told her father that her mother, Perlita Villaluna, wanted him to withdraw the adultery case he filed in 1986. She also demanded for custody over her children with a \$500 monthly support and an additional P50,000. These conditions were all to be met or a case would be filed against him.^[19]

On September 2, 1990, accused transferred Beverly to the house of his aunt in Batangas until he could make the proper arrangements for her to enter the convent. He left some money for her expenses while he went to take care of his other children.^[20]

A week later, Perlita Villaluna fetched Beverly from Batangas and brought her to the Department of Social Welfare and Development (DSWD) in Legarda, Manila. On September 10, 1991, complainant had a physical examination by a medico-legal expert. The findings indicated no evident signs of extra-genital physical injury on the body of the complainant. Her hymen was reduced to hymenal tags, brought about by childbirth. No injuries were found on the body from head to foot excluding the genitalia.^[21]

In this appeal, accused-appellant questions the sufficiency of the prosecution's evidence and the credibility of witnesses. Accused-appellant argues that complainant's mother and uncle merely fabricated the rape charge because of their hostile feelings towards him.

After a thorough examination of the records of the case, the Court finds the appeal to be without merit.

We have time and again ruled that the sole testimony of the victim in a rape case is sufficient to sustain a conviction if such testimony is credible.^[22] By the very nature of rape cases, conviction or acquittal depends almost entirely on the credibility of the complainant's testimony because of the fact that usually only the participants can testify as to its occurrence.^[23]

In this case, the evidence for the prosecution basically consisted of the testimony of

the complainant. No medical or physical findings could conclusively determine the fact that rape was committed.

The Court finds the testimony of the complainant to be credible, even though uncorroborated. Beverly testified in a categorical, straightforward, spontaneous and frank manner. She never faltered. The alleged inconsistencies pointed out by accused-appellant pertain only to minor matters which strengthen rather than weaken the credibility of complainant.

Accused-appellant argues that the trial court should have given credence to the testimonies of the defense witnesses as against the complainant.

For instance, Louie, the brother of complainant, denied that accused-appellant had whipped him, contrary to what Beverly stated in her testimony.^[24] Louie also testified that his mother would stay in the house in Antipolo for long periods of time, contrary to the allegation by the prosecution that Perlita Villaluna never visited her children. Sometimes, his mother and her paramour Michael Papas would sleep in one room with Beverly. Although the children had complained to their mother about the presence of Michael Papas, the complaints fell on deaf ears. Louie also said that he tried to inform his father about Michael Papas, but was not sure whether his father got the message.^[25]

Defense witness Teresita Santos, a sister of Perlita Villaluna, testified that Beverly explicitly stated that she had not been raped and that she had a boyfriend.^[26]

The school registrar of Sumulong Memorial High School testified that Beverly had complete attendance during the month of March, 1990, when Beverly allegedly missed four days of classes in school.^[27]

However, the case under review involved the rape committed sometime in May 1990, not the one in March 1990. The defense witnesses failed to adequately establish that the rape during the first week of May, 1990, could not have occurred.

Moreover, the findings of fact of the trial court command great weight and respect as to the trustworthiness of witnesses for it is in a better position to appreciate the same, having seen and heard the witnesses themselves and observed their behavior and manner of testifying during the trial.^[28] Such court had the direct opportunity to observe the witnesses on the stand and determine if they were telling the truth or not.^[29]

Accused-appellant denied his daughter's accusations and asserted that his estranged wife Perlita Villaluna merely wanted to use the rape case as bargaining leverage for the dropping of the adultery case against her. Elmer, Louie, and even Beverly herself corroborated this fact.

Louie testified that his mother brought him to live with his aunt in Sta. Mesa purposely to hide him from his father. During his stay there, his mother used to visit him, and, according to Louie, "tinuturuan ako ng nanay ko na idiin ang tatay ko."^[30] He said that he did not heed his mother's instructions because the latter merely wanted to get his father's money. Elmer also said that his mother instructed him to