

## SECOND DIVISION

[ G.R. No. 127315, September 21, 1999 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAFAEL "LITO" BALDEVIESO, FAUSTO "TOTOY" ESCALANTE AND ROBERTO IMPERIAL NERI ALIAS "BALBON," ACCUSED-APPELLANTS.**

### DECISION

**BELLOSILLO, J.:**

RAFAEL "*Lito*" BALDEVIESO, FAUSTO "*Totoy*" ESCALANTE and ROBERTO "*Balbon*" NERI were found guilty by the trial court as co-principals in the crime of Serious Illegal Detention and sentenced to *reclusion perpetua*.<sup>[1]</sup> They now appeal to us imputing error to the trial court in giving full weight to the conflicting and incredible testimony of the private complainant.<sup>[2]</sup> They insist on their exoneration not only on the ground that they are innocent but also because the evidence presented against them does not measure up to the required quantum of proof beyond reasonable doubt.

On 16 April 1994 at around 5:30 in the morning, 16-year old Liza Margarejo went out of their house to defecate in an open space nearby, as she usually did. When she stood up after she was through to put on her underwear and short pants, a man suddenly boxed her in the stomach and almost simultaneously another one forced a tablet into her mouth. Either because of the pain wrought by the sudden punch or because of the instantaneous effect of the tablet, Liza felt her consciousness slipping away. When she recovered she found herself in a hut with bamboo splits for a flooring. There she noticed the three (3) accused conversing in hushed tones. Then another tablet was forced on her causing her to faint for the second time. When she regained consciousness the three (3) were gone. She also left the hut. Trudging along a trail in the rice fields towards the direction of the *poblacion*, she met Dioning Almirol who was grazing his carabao. She finally reached the house of her grandmother at around 5:00 o'clock that afternoon. When the neighbors of her grandmother learned of her misfortune they immediately fetched her parents who were living close by.

On the same day, together with her father Enrique Margarejo, Liza went to the police station where she was instructed to undergo first a medical examination. She was examined at the Narra Municipal Hospital by Dr. Perceverando Tangug who found some redness or erythematosis of the muscular tissues on her vulva. He opined that a blunt object, such as an erect penis, was probably employed on the vulva causing the redness although apparently coitus was not consummated. He noted the absence of bleeding or any hymenal laceration. Upon examination of the vaginal opening Dr. Tangug observed that the hymen was still intact and could only admit the tip of his finger.<sup>[3]</sup> These findings were reflected in the Medico Legal Certificate issued to Liza.<sup>[4]</sup>

Liza and her father returned to the police station at around 7:00 o'clock in the evening and lodged a complaint with PO3 Ramie Rosales who together with SPO3 Cesar Dellerio and SPO1 Rodolfo Alili,<sup>[5]</sup> proceeded with dispatch to the house of the victim, about 2 kilometers away from the Narra municipal building, to see the reported scene of the crime. Then they went to the house of "Totoy" Escalante where they found him with "Balbon" Neri and Sally Bindow and invited them for questioning. While SPO3 Alili was investigating "Totoy" Escalante and his two (2) companions, two (2) other police officers went out to fetch the other suspect "Lito" Baldevieso to invite him for tactical interrogation. However, after three (3) hours, the suspects were released for lack of sufficient evidence to sustain a complaint against them.

Liza's parents subsequently sought the assistance of the National Bureau of Investigation. They went to the Sub-Office of the NBI in Puerto Princesa City (PUERSO) for further investigation so that appropriate charges could be filed against the perpetrators of the offense.

Senior Investigator Eduardo T. Villa, in the presence of the Officer-in-Charge of the NBI PUERSO, took the sworn statement of complainant Liza Margarejo. On the basis thereof and the medical report of Dr. Tangug, an information for forcible abduction, which was subsequently amended to forcible abduction with rape, was filed against "Lito" Baldevieso, "Totoy" Escalante and "Balbon" Neri.

All three (3) accused denied any culpability; they insisted on their innocence and sought refuge in their denial and alibi.

Fausto Escalante asserted that he was at home in the morning of 15 April 1994 at about 10:00 o'clock when Roberto, Lito and Sally Bindow arrived. Lito and Sally dropped by because they visited Roberto's farm lot, which was adjacent to that of Fausto. Roberto, on the other hand, had just arrived from Zambales after an absence of two (2) years. As was customary among barrio folk, Fausto bought three (3) bottles of liquor at a nearby store and they drank as they conversed.

In the evening of that same day, at half past seven, Sally Bindow told the group that she saw Liza Margarejo and Joel Nicolas kissing each other near the fence of Fausto Escalante. So the group quietly approached the two (2) lovers and surprised them. Startled, Liza and Joel scampered away but not before Joel could utter, "*p - - - ina ninyo.*" Then the group returned to the house of "Totoy" Escalante although they only stayed outside under the tree. Shortly after, they decided to leave for Roberto's house, which was about a kilometer away, to continue their drinking. But on their way, they passed by the store of a certain Mr. Cruz and there resumed their binge until they separated at midnight. Lito went home at the PC Compound while Roberto and Fausto dropped by the Public Market where Roberto met "Oyoc," the guard on duty and a long-time acquaintance. They spent the night at the market. The following morning they purchased some meat and *papa-itan*. Roberto and Fausto went back to the latter's house and there idly spent the whole day of 16 April 1994. At 9:00 o'clock that evening they were roused from their sleep by the police who brought them to the police station for questioning concerning Liza's complaint. On their way to the police station, Sally Bindow was also picked up. But the authorities subsequently released them for insufficiency of evidence.

Roberto Neri's testimony substantially corroborated that of Fausto Escalante and reiterated the defense of denial and alibi. Roberto narrated that at about 10:00 o'clock in the morning of 15 April 1994 he was at the Narra Terminal having just arrived from Zambales where he stayed the past two (2) years. From the terminal he went to the house of Fausto where he also met Lito and Sally. They were still drinking when Sally Bindow told them that she saw Liza and Joel kissing near the fence of Fausto at around half past seven in the evening. Curious and naughty, "Lito," "Totoy," "Balbon" and Sally inched their way towards Liza and Joel. Sensing the presence of the voyeurs, the two (2) hastily left but not before Joel cursed them, "*p - - - ina ninyo.*" Lito, Fausto and Roberto then went to the *poblacion* leaving Sally behind. When they reached the *poblacion*, the three (3) continued with their drinking spree until midnight when they called it a night. Lito went home while Fausto and Roberto dropped by the public market where they met Oyoc, a long time friend of Roberto. Their happy meeting lasted until 3:00 o'clock the following morning. They passed the time at the slaughterhouse of the market until they could buy meat before proceeding to Fausto's house.

Lito Baldevieso, on his part, affirmed his *Sagot Salaysay* which materially substantiated the testimonies of his co-accused.

Assessing the evidence on record, the trial court refused to believe the testimony of complaining witness Liza Margarejo in its entirety. It opined that forcible abduction<sup>[6]</sup> could not have been committed because the element of lewd designs was not proved nor even hinted at in her testimony. Nor could the accused be found guilty of rape in the absence of telltale signs more pronounced than the mere redness of the vulva evincing employment of physical violence and sexual abuse committed by several persons. It also noted that when Liza regained consciousness alone in the hut she was still clothed with the same apparel she was wearing when purportedly assaulted, lost consciousness, and then taken away. In fact, there was no showing whatsoever that any piece of Liza's clothes was ever removed or detached from her body. Liza herself was without any knowledge that she was sexually harassed and violated. Otherwise stated, carnal knowledge was not proved.

However, the trial court was convinced that the three (3) accused forcibly took and carried away Liza Margarejo to an undisclosed place and restrained her of her liberty thereat for almost 12 hours.<sup>[7]</sup> Consequently, it found all three (3) accused guilty of Serious Illegal Detention and sentenced them to *reclusion perpetua*.

We do not agree. While we are convinced, as was the lower court, that the crime of forcible abduction with rape was not established, we also find that the charge of Serious Illegal Detention against the same accused has not been established. In concluding that the accused were guilty of Serious Illegal Detention, the court below made no serious effort to consider impartially and dispassionately the totality of the evidence for the prosecution. The technique in deciphering testimony is not to focus on isolated parts of that testimony. Its correct import can often be ascertained only upon perusal of the entire testimony. Considered independently of any other, the effects may not suffice to overturn the lower court's judgment of conviction; but assessed and weighed conjointly, they exert a powerful compulsion towards the reversal of the judgment.<sup>[8]</sup> A close scrutiny of Liza's testimony will readily exhibit discernible and easily perceived inconsistencies and contradictions, which are in no wise trivial but go to the very core of her credibility.