

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANILO SANTOS Y SUICO, ACCUSED-APPELLANT.

Ponente: DICDICAN, J.

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DICDICAN, J.:

This is an appeal from the Decision[1] rendered by Judge Rolando L. Bulan of Branch 77 of the Regional Trial Court of the Third (3rd) Judicial Region in Malolos City, Bulacan (“trial court”) on October 8, 2012 in Criminal Case No. 717-M-2006 convicting herein accused-appellant Danilo Santos y Suico (“accused-appellant”) of the offense of acts of lasciviousness under Article 336 of the Revised Penal Code in an Information[2] which reads:

“That on or about the 12th day of February, 2005, in the municipality of Obando, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously, with lewd designs, commit acts of lasciviousness upon AAA, a minor 5 years of age, by then and there rubbing his penis into the vagina of the said AAA against her will and consent, thereby endangering the health and safety and badly affecting the psychological and emotional well being of said AAA.

“Contrary to law.”

Upon being arraigned of the charge against him, the accused-appellant entered a plea of not guilty.[3] Subsequently, a Pre-trial[4] was conducted by Judge Bulan on September 12, 2007 where the parties stipulated on the identity of the accused-appellant and the jurisdiction of the trial court. A trial on the merits of said case ensued thereafter.

During the trial, the prosecution adduced in evidence the testimonies of the private offended party, AAA, a minor, and her mother, BBB. For his part, the accused-appellant adduced in evidence his own testimony, as well as the testimony of Jessel Villaflores, a niece of the accused-appellant.

The prosecution’s recital of facts is summarized as follows:

The first witness for the prosecution was BBB who was the mother of the minor private offended party AAA. BBB stated that the accused-appellant was their neighbor at Panghulo, Obando, Bulacan. She recalled that, on February 12, 2005, AAA told her that the accused-appellant removed the shorts of AAA and, thereafter, the accused-appellant rubbed his penis on her genitalia. BBB then immediately checked the private part of her daughter if it had blood on it but BBB saw nothing. Afterwards, BBB sought the help of a barangay tanod who, in turn, asked for the assistance of the police officers of Obando, Bulacan. The accused-appellant was then arrested and he was brought to the police station where an investigation was conducted regarding the incident.

The next witness for the prosecution, private offended party AAA, identified the accused-appellant in open court when she testified. AAA averred that she knew the accused-appellant because he was the brother of one “Kuya Buboy” who was their neighbor. AAA then went on to narrate that she met the accused-appellant on February 12, 2005 at the place of Kuya Buboy which is located beside their house. According to AAA, the accused-appellant put himself on top of her and he rubbed his whole body on top of the body of AAA, particularly the lower part of

the body of the latter. After the incident, AAA stated that she went straight to Che-che who was the niece of the accused-appellant and the same person who invited her to the house of Kuya Buboy.

For his part, the accused-appellant vehemently denied the accusations hurled against him by the prosecution. He claimed that, on February 12, 2005, at around 4:00 o'clock in the afternoon, he was at the house of his brother, Salvador de Jesus @ Buboy, watching the television at the second floor of the house while AAA, who was then five (5) or six (6) years of age, was downstairs playing with his niece. Thereafter, the accused-appellant averred that AAA went upstairs and requested him to remove her maong shorts so that she could urinate. AAA then went down still wearing her underwear and, after a while, AAA went upstairs again and requested the accused-appellant to assist her in putting back on her maong shorts. However, because of so much strength that was exerted in lifting up AAA, both the latter and the accused-appellant swayed and lost their balance that the latter accidentally fell on top of AAA. Afterwards, the accused-appellant was surprised by the reaction of AAA when she said "huwag po, huwag po". Finally, when both of them were able to get up, the accused-appellant again pulled up and fixed the shorts of AAA before the latter went downstairs.

The second witness for the defense, Jessel Villaflor (Che-che), testified that, at around 4:00 o'clock in the afternoon of February 12, 2005, she was defecating on the bridge which was located outside the house of her Tito Buboy at Panghulo, Obando, Bulacan. According to Che-che, she was playing at the said house along with AAA and another playmate named Diane while the accused-appellant was watching television in the living room. While they were playing, AAA told Che-che that she would urinate and the latter told AAA that she would go with her. At that time, AAA was wearing skimpy shorts with garterized waistline that AAA had to ask for help from the accused-appellant in order to remove the said shorts. Thereafter, AAA and Che-che went to the bridge outside the house of Buboy where both of them urinated.

Later, Che-che narrated that she defecated in the bridge while AAA went back inside the house of Buboy where AAA again sought the help of the accused-appellant to put back on the shorts of AAA. Afterwards, they played again and went outside the house of Buboy. After playing, however, Che-che claimed that AAA suddenly cried and went home.

On October 8, 2012, the court a quo rendered a Decision, the dispositive portion of which reads:

"WHEREFORE, finding accused Danilo Santos y Suico guilty beyond reasonable doubt of the offense of Acts of Lasciviousness defined and penalized under Article 336 of the Revised Penal Code and Article III, sec. 5(b) of R.A. 7610, he is sentenced to suffer an indeterminate penalty TWELVE (12) YEARS and ONE (1) DAY to FOURTEEN (14) YEARS and EIGHT (8) MONTHS of RECLUSION TEMPORAL in its minimum period, the victim being only five (5) years old when the offense was committed.

"In the service of his sentence, accused Danilo Santos y Suico shall be credited in full with the period of his preventive imprisonment.

"SO ORDERED."

Aggrieved by the foregoing determination of the trial court, herein accused-appellant interposed the instant appeal raising the following errors that were purportedly committed by the trial court, to wit:

I.

THE TRIAL COURT GRAVELY ERRED IN RULING THAT ALL THE ELEMENTS OF THE CRIME CHARGED ATTENDED THE ACT COMPLAINED OF.

II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT NOTWITHSTANDING THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

In sum, the primordial issue brought before this Court for resolution is whether the evidence adduced by the prosecution failed to prove the accused-appellant's guilt beyond reasonable doubt. After a careful and thorough review of the facts, law and issues of this case, we sustain the accused-appellant's conviction.

The elements of the crime of acts of lasciviousness are:

"Elements: a) Offender commits any act of lasciviousness or lewdness; b) Under any of the following circumstances: 1) Using force or intimidation; 2) Offended party is deprived of reason or otherwise unconscious; or 3) Offended party is under 12 years of age." [5]

An examination of the record of the case shows that the elements of the said crime were present when accused-appellant molested the private offended party AAA. Because of the accused-appellant's lustful and lewd designs, he put himself on top of AAA and rubbed his whole body, particularly his genitalia, on the body of AAA. The accused-appellant took advantage of the situation while AAA, a minor who was then only five (5) years of age, was playing at the house of his brother, Buboy, and while he and AAA were alone in the living room of the said house. These acts clearly constitute the crime of acts of lasciviousness. As held by the Supreme Court in *People vs. Masa*, [6] in order to sustain a conviction for acts of lasciviousness, it is essential that the acts complained of be prompted by lustful or lewd designs and that the victim did not consent or encourage such acts. In order to exculpate himself, the accused-appellant claimed that he accidentally fell on top of AAA while he was helping the former wear her shorts and underwear. However, as correctly ruled and ratiocinated by the trial court:

"To support his defense, accused presented a corroborative witness but the testimony of the said witness miserably failed to confirm the story of the accused as she was not in the room at the exact time when the lascivious conduct occurred.

"Again, it is well-settled rule in a long line of jurisprudence that DENIAL is a weak defense, and it cannot prevail against positive identification xxx."

Verily, as a defense, denials are insipid and weak, being easy to fabricate and difficult to disprove; mere denial of involvement in a crime cannot take precedence over positive testimony. [7] For his part, the accused-appellant simply denied the charges against him, claiming that it was an accident that he fell on top of AAA. However, his denials could not prevail over the testimony of the private offended party AAA which was full of affirmative assertions. Hence, his denials, particularly when not properly corroborated or substantiated by clear and convincing evidence, could not prevail over the testimony of AAA who testified on affirmative matters. Thus, as the trial court found:

"The straightforward and spontaneous answer of the child witness which remained consistent on cross sufficiently meets the measure of credibility and conformity to the knowledge and common experience of mankind. A child six years of age could not have fabricated a charge so humiliating to herself and her family.

"The forthright recollection of how her offender put himself on top of her, particularly his genitalia, although not naked, which was rubbed on her body, particularly the lower part of her body, is worthy of faith and sympathy because of her tender age."

In addition thereto, no serious motive was shown on the part of the private offended party AAA or her family why she or they would make such a serious accusation against the accused-appellant. Where there is no evidence to show a dubious reason or improper motive why the private offended party would falsely implicate accused-appellant in a crime, her testimony is worthy of full faith and credit. [8] This is especially true in that no

woman would want to go through the process, the trouble and the humiliation of trial for such a debasing offense unless she actually has been a victim of abuse and her motive is but a response to the compelling need to seek and obtain justice.[9]

At any rate, settled is the rule that the factual findings of the trial court deserve a high degree of respect and will not be disturbed on appeal in the absence of any clear showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which could alter the conviction of the accused.[10] The findings and conclusions of the trial court on the credibility of a witness deserve respect because it is in a better position to determine whether the witness was telling the truth or not, having observed the demeanor of the witness while testifying on the witness stand.[11] In the case at bench, there appears no cogent reason why we should not adhere to this rule.

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DENYING the instant appeal for lack of merit. The Decision rendered by Branch 77 of the Regional Trial Court of the Third (3rd) Judicial Region in Malolos City, Bulacan on October 8, 2012 in Criminal Case No. 717-M-2006 is hereby AFFIRMED in toto.

SO ORDERED.

Paredes[*] and Galapate-Laguilles[**], JJ., concur.

[*]Acting Senior Member vice J. Elbinias per Office Order No. 258-14-ABR dated June 2, 2014.

[**]Acting Junior Member vice J. Paredes per Office Order No. 258-14-ABR dated June 2, 2014.

[1] Record, Criminal Case No. 717-M-2006, pages 165-171.

[2] Ibid, page 1.

[3] Ibid, page 21.

[4] Ibid, pages 45-46.

[5] Gregorio, Fundamentals of Criminal Law Review, 1997 Edition, p. 907

[6] 5 CAR 457.

[7] People vs. Mamarion, 412 SCRA 238.

[8] People vs. Amasin, 303 SCRA 399.

[9] People vs. Lopez, 302 SCRA 669.

[10] People vs. Quinao, 269 SCRA 495.

[11] People vs. Manalo, 229 SCRA 479.

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