PEOPLE OF THE PHILIPPINES, PLAINTIFF- APPELLEE, VS. JESUS OBERO, ACCUSED-APPELLANT.

G.R. No. 169878. July 07, 2009

Ponente: BRION, J.

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BRION, J.:

We review on appeal the decision[1] and resolution[2] of the Court of Appeals (CA)[3] which affirmed with modification the conviction of accused-appellant Jesus Obero (accused-appellant) for two counts of rape.[4] The dispositive portion of the assailed Decision reads:

> WHEREFORE, premises considered, the assailed Decision promulgated on 29 September 1998 of the Regional Trial Court of Morong, Rizal, Branch 79 convicting appellant Jesus Obero of two (2) counts of rape and sentencing him to suffer the penalty of RECLUSION PERPETUA in Crim. Case No. 2727-M, and the same penalty also in Crim. Case No. 2728 is hereby AFFIRMED with the MODIFICATION that the appellant is ordered to pay the victim AAA[5] the amount of Php 50,000.00 by way of moral damages for each count of rape, in addition to the award of Php 50,000.00 by way of civil indemnity for each count of rape.
>
> SO ORDERED.[6]

The accused-appellant's conviction arose from two (2) of the eight (8) Informations charging him with rape of a minor allegedly committed from September 1996 to November 1996. The accusatory portions of these Informations were similarly worded, as follows:

> x x x the above-named accused, with lewd designs and by means of force, violence and intimidation did, then and there willfully, unlawfully and feloniously have carnal knowledge of the complainant, said AAA, fifteen (15) year old girl, against the latter's will and consent x x x

The accused-appellant pleaded not guilty to all charges; the 8 cases were subsequently consolidated and jointly tried by agreement of the parties. Along with the documentary evidence,[7] the prosecution presented four (4) witnesses to establish its case; the defense presented 8 witnesses.[8]

The prosecution's evidence showed that on 8 separate occasions while AAA was outside her house, the accused-appellant grabbed her and pulled her into his house. The accused-appellant then succeeded in having sexual intercourse with AAA against her will.

The medical examination thereafter conducted on AAA showed physical evidence consistent with her claim of sexual abuse - the presence of old lacerations located at the 3:00 and 7:00 positions in her hymen.[9] The medical examination also revealed AAA to be in a non-virgin state and that she could not have had sexual intercourse more than ten (10) times.[10]

The accused-appellant denied having sexual relations with AAA and claimed that the alleged rapes were very unlikely; he worked as a tricycle driver at those times the rapes allegedly occurred and his youngest child was also at home during noontime.[11] He averred that AAA's complaints were instigated by her family.[12] The

accused-appellant further related that AAA was not in Balante, Morong, Rizal in September 1996; he did not know where she was at that time.[13]

To back the accused-appellant's claims, the defense presented Isaias Alex (Isaias),[14] Nelia C. Garrovillas (Nelia),[15] Julieta Beringuel,[16] Teodoro Trinidad, [17] Maria Adela T. Obero[18] and Mara Jessy T. Obero.[19] Isaias and Nelia, however, related that AAA was employed as a nanny in Lagundi, Morong, Rizal only during the last week of September 1996.[20]

SPO3 Danilo Pabularcon (SPO3 Pabularcon),[21] the police officer who investigated AAA, stated that he conducted the investigation in a normal manner using Tagalog, which AAA spoke and understood, and it did not take long for her to answer the questions.[22] He had also asked AAA to read her written statement before she signed it.[23] SPO3 Pabularcon testified that except for the facts stated in AAA's written statement which he prepared, he no longer had any recollection of how long it took AAA to supply the dates of the rapes.[24]

On September 29, 1998, the Regional Trial Court[25] (RTC), Branch 79, Morong, Rizal convicted the accused-appellant for the first and fourth rapes committed in September 1996, while he was acquitted with respect to the other rapes where the evidence was found to be inadequate and grossly inefficient.[26] The decretal portion of the RTC decision reads:

> WHEREFORE, accused Jesus Obero is hereby sentenced to suffer the penalty of RECLUSION PERPETUA in Criminal Case No. 2728 and the same penalty also in Criminal Case No. 2727; to indemnify AAA the amount of P50,000.00 in each case by way of civil indemnity.
>
> SO ORDERED.[27]

On appeal to the CA, accused-appellant assigned these errors committed by the RTC:

- THE TRIAL COURT LEGALLY ERRED IN NOT HOLDING THAT IT HAS NO JURISDICTION OVER CRIM. CASE NO. 2728-M AND CRIM. CASE NO. 2727-M FOR WANT OF A VALID COMPLAINT DULY SIGNED BY THE COMPLAINING WITNESS FOR THE SAID CHARGES;

- THE TRIAL COURT SERIOUSLY ERRED IN CONVICTING APPELLANT OF TWO RAPES WHICH NEVER EXISTED;

- THE TRIAL COURT SERIOUSLY ERRED IN GIVING CREDENCE TO THE TESTIMONY OF COMPLAINING WITNESS AAA DESPITE HER LACK OF APPRECIATION OF THE SOLEMNITY OF AN OATH;

- THE TRIAL COURT COMMITTED A SERIOUS ERROR IN HOLDING THAT WHATEVER LAPSES IN THE TESTIMONY OF THE COMPLAINING WITNESS WAS UNDERSTANDABLE SINCE SHE WAS UNSCHOOLED AND ILLITERATE;

- THE TRIAL COURT ERRED IN FAILING TO REJECT THE TESTIMONY OF AAA DUE TO ITS GROSS IMPROBABILITIES AND FOR BEING CONTRARY TO THE COMMON EXPERIENCE OF MANKIND;

- THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE TESTIMONY OF AAA DESPITE ITS BEING RIDDLED WITH NUMEROUS CONTRADICTIONS AND INCONSISTENCIES ON HIGHLY MATERIAL POINTS; and

- THE TRIAL COURT COMMITTED A SERIOUS ERROR IN NOT ACQUITTING ACCUSED-APPELLANT ON THE GROUND OF REASONABLE DOUBT.[28]

The CA turned down these arguments and affirmed his conviction for the two (2) counts of rape.

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The Issue

The core issue is whether there is sufficient and competent evidence to support the accused-appellant's guilt beyond reasonable doubt of the two counts of rape. The accused-appellant contends that he cannot be held liable on the basis of the procedural and substantive grounds listed above.[29] He focuses mainly on the alleged deprivation of his constitutional right to be informed of the charges against him arising from the defects in both the sworn complaint and the two Informations on the discrepancy of the dates when the two rapes were committed. On the one hand, he was being held accountable under the sworn complaint for rapes allegedly committed within the period of October 1996 to November 28, 1996; on the other hand, he was convicted for two rapes which occurred in the first and fourth week of September 1996 as alleged in the Informations.

He also asserts the untrustworthiness of AAA's testimony because it was riddled with contradictions, inconsistencies, improbabilities; AAA, too, admitted that she did understand the meaning of the oath she took.

Our Ruling

We dismiss this appeal considering the supervening events in this case which made the conviction of the accused-appellant final and executory. We do so after closely examining the records of the case and after finding that, as above narrated, the lower courts are correct in their conclusions and that no reason exists for us to disturb their rulings.

A look into the records reveals that in assailing the CA judgment of conviction before this Court, the accused-appellant, through his counsel, Atty. Remigio D. Saladero, Jr. (Atty. Saladero), availed of two modes of review. The first one was by filing a motion for extension of time to file a petition for review on certiorari (docketed as G.R. No. 169249) under Rule 45 of the Rules of Court within fifteen (15) days from receipt of the CA resolution. The second one was by appealing the CA decision and resolution (previously docketed as G.R. Nos. 138684-91) pursuant to Section 3 (c), Rule 122 of the 2000 Revised Rules of Criminal Procedure, within the same day the motion for extension of time to file a petition for review on certiorari was filed.

In G.R. No. 169249, we granted, through our Third Division, the accused-appellant and counsel's motion for extension of time to file a petition for review on certiorari. Subsequently, we declared the case closed and terminated in a Minute Resolution dated March 22, 2006 for the following reason:

> ... the Court RESOLVES to INFORM the Court of Appeals and the parties that no petition has been filed in this case and that the judgment sought to be reviewed has now become final and executory, and to DECLARE this case CLOSED and TERMINATED.

A copy of this Minute Resolution was received by Atty. Saladero on April 17, 2006. On May 3, 2006, an Entry of Judgment was made; Atty. Saladero received a copy of the Entry of Judgment on November 30, 2006.

Subsequently, Atty. Saladero filed a Manifestation and Motion (With Profuse Apologies) to set aside this Entry of Judgment on the ground of the lapses he had committed in handling his client's appeal.[30] On March 5, 2007, the Court denied Atty. Saladero's motion notwithstanding the points he raised.

As matters now stand, the CA judgment affirming the accused-appellant's conviction for two counts of rape is already final and executory. In light of this development, we can no longer disturb the assailed CA decision and resolution presently before us following the principle of immutability of judgments: once a judgment becomes final and executory, it becomes unalterable and can no longer be modified nor reversed even to correct what is perceived to be an erroneous conclusion of fact or law.[31] We are compelled therefore to dismiss the present appeal.[32] This conclusion is doubly strengthened by our finding that no compelling reason exists to disturb the assailed rulings.

WHEREFORE, in light of the foregoing, we hereby DISMISS the present appeal by accused-appellant Jesus Obero from the Decision dated February 21, 2005 and the Resolution dated August 9, 2005 of the Court of Appeals in CA-G.R. CR No. 00005.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, [*]Chico-Nazario, and[**]Leonardo-De Castro, JJ., concur.

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[*] Designated additional Member of the Second Division effective June 3, 2009 per Special Order No. 658 dated June 3, 2009.

[**] Designated additional Member of the Second Division effective May 11, 2009 per Special Order No. 635 dated May 7, 2009.

[1] Dated February 21, 2005; rollo, pp. 3-59.

[2] Dated August 9, 2005; id., pp. 60-61.

[3] Penned by Associate Justice Celia C. Librea-Leagogo, and concurred in by Associate Justice Andres B. Reyes, Jr. and Associate Justice Lucas P. Bersamin (now a Member of this Court).

[4] The appeal was docketed as CA-G.R. CR No. 00005.

[5] The real name of the victim as well as those of her immediate family members is withheld per Republic Act (R.A.) No. 7610 (An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes) and R.A. No. 9262 (An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties therefor, and for Other Purposes).

[6] Rollo, pp. 54-55.

[7] The prosecution presented the following exhibits: (1) Memorandum/Request dated December 9, 1996 of the PNP Crime Laboratory(Exhibit "A" with submarkings); (2) Brief History of the Case dated December 11, 1996 of the Crime Laboratory, Camp Crame, Quezon City (Exhibit "B"); (3) Medico-Legal Report No. M-3151-96 (Exhibit "C" with submarkings); (4) Letter dated December 9, 1996 (Exhibit "D" with submarkings); (5) Barangay Salaysay of AAA (Exhibit "E"); and (6) Affidavit of AAA (Exhibit "F").

On the part of the defense: (1)Brief History of the Case (Exhibit "1" with submarkings); (2) Sinumpaang Salaysay of AAA (Exhibit "2" with submarkings); (3) Affidavit of AAA (Exhibit "3" with submarkings); (4) Photographs of the door, lock of the door and cement wall (Exhibits "4" and "5" with submarkings); (5) Salaysay of Isaias Alex (Exhibit "6" with submarkings); (6) Handwritten statement of Isaias Alex (Exhibit "7" with submarkings); (7) Sinumpaang Kontra-Salaysay of Jesus Obero (Exhibit "8" with submarkings); (8) Minutes of Pre-investigation (Exhibit "9"); and (9) Police Blotter Entry No. 12-11-96-2230OH.

[8] The prosecution presented the following witnesses: (1) AAA; (2) Marilena Alex, (3) Dr. Anthony Joselito Llamas, and (4) Daniel Razo. In turn, the defense presented the following witnesses: (1) the accused-appellant; (2) SPO2 Danilo Pabularcon; (3) Nelia Garrovillas; (4) Ma. Adela T. Obero; (5) Julieta Beringuel; (6) Mara Jessie Obero; (7) Teodoro Trinidad, and (8) Isaias Alex.

[9] TSN, October 15, 1997, pp. 16-18.

[10] Id., pp. 18 and 20.

[11] TSN, May 19, 1998, p. 2, and TSN, May 20, 1998, pp. 7, 9 and 10.

[12] Id., TSN, May 19, 1998, pp. 2-4.

[13] Supra note 11, p. 11, TSN, May 20, 1998.

[14] TSN, April 21, 1998, pp. 21-22.

[15] TSN, February 11, 1998, pp. 22-23.

[16] Id., February 18, 1998, pp. 11-13.

[17] TSN, April 15, 1998, pp. 3- 6.

[18] TSN, February 11, 1998, pp. 32-34.

[19] TSN, March 17, 1998, pp. 2-3.

[20] TSN, April 21, 1998, pp. 21-22, and TSN, February 11, 1998, pp. 22-23.

[21] Id., TSN, February 11, 1998, p. 4.

[22] Id., p. 8.

[23] Ibid.

[24] Id., TSN, February 11, 1998, p. 16.

[25] Penned by Judge Alejandro A. Marquez; CA rollo, p. 129.

[26] CA Rollo, p. 62.

[27] Id., p. 63.

[28] CA Rollo, pp. 86-87.

[29] Supplemental Brief for the Accused; rollo, pp. 73-79.

[30] G.R. No. 169249, rollo, pp. 118-121.

[31] Information Technology of the Philippines v. Commission on Elections, G.R. No. 159139, June 15, 2005, 460 SCRA 291, 303.

[32] People v. Pajo, G.R. Nos. 135109-13, December 18, 2000, 348 SCRA 492, 525, and People v. Alay-ay, G.R. Nos. 137199-230, August 23, 2001, 363 SCRA 603, 620.

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