

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICARDO GRANDE, ACCUSED-APPELLANT.

*G.R. No. 170476. December 23, 2009*

Ponente: LEONARDO-DE CASTRO, J.

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### LEONARDO-DE CASTRO, J.:

Under review is the Decision[1] dated August 18, 2005 of the Court of Appeals (CA) in CA-G.R. CR.-HC No. 00587 finding accused-appellant Ricardo Grande alias "Ricardo Sayno" guilty beyond reasonable doubt of the crime of Rape and sentencing him to suffer the penalty of reclusion perpetua and to pay the victim the amounts of P50,000.00 as civil indemnity and another P50,000.00 as moral damages. The said CA decision affirmed the January 8, 2001 decision of the Regional Trial Court (RTC), Branch 38, Daet, Camarines Norte, with modification since the RTC only awarded P50,000.00 as damages to the victim.

The Information[2] dated November 6, 1997, filed with the RTC, charges the accused-appellant with the crime of Rape. The accusatory portion of the Information reads:

That on or about 11:00 in the evening of August 21, 1997, at Purok 1-A, Brgy. San Roque, Mercedes, Camarines Norte, and within the jurisdiction of this Honorable Court, the above-named accused motivated by bestial lust, and by means of force and intimidation, did then and there wilfully, unlawfully and feloniously, had carnal knowledge on one [AAA], a minor, 15 years of age, against her will, to her damage and prejudice.

That the crime was committed with the aggravating circumstance of nocturnity and that it was committed in the dwelling of the offended party, the latter not having given provocation thereon.

When arraigned, accused-appellant pleaded not guilty to the charge. During the trial, the prosecution presented the testimonies of the victim herself, AAA; a neighbor, Anthony Valencia; and Dr. Marcelito B. Abas, the medico-legal officer. The testimony of AAA's mother was dispensed with considering that the defense admitted the purpose for which said testimony was being offered.[3] For the same reason, the testimony of radio reporter Ric Palacio as to the latter's interview with AAA was likewise dispensed with.[4] The defense, on the other hand, presented only the accused-appellant. The gist of the divergent positions of the parties on the antecedents of this case is quoted from the CA decision, as follows:[5]

In August 1997, fifteen year old student [AAA] was renting a room in a boarding house at Purok 1-A, Barangay San Roque, Mercedes, Camarines Norte. In the night of 21 August 1997, [AAA] was roused from her sleep by accused-appellant who was on top of her and in the act of removing her shirt. Accused-appellant who was already naked from the waist down, pressed on [AAA] keeping the latter's hands crossed on her chest and lowered her loose garter shorts and panty down to her knees. He then inserted his penis inside [AAA]'s private part and made pumping motions causing unbearable pain to the poor teenager. All this time, [AAA] pushed her attacker away but her efforts proved futile for accused-appellant was quite heavy for the fifteen year old. Accused-appellant's push and pull motion lasted for about five minutes. After satisfying his lust and before leaving, accused-appellant talking slowly threatened [AAA] not to report what happened or he would kill her and the latter's parents. After that and while still hurting from the pain in her private part, [AAA] fixed

her disheveled self and retreated to one side of her room crying. That night she couldn't bring herself to sleep. Still shaken, [AAA] stayed in her room the next morning. At 10:00 o'clock the following morning, [AAA]'s mother arrived. She wasted no time and reported the incident to her mother. Accompanied by their neighbor Tiang Azon, [AAA] went to Bombo Radio the next day to request for assistance. On 24 August 1997, [AAA] and her mother went to the police. Assisted by her mother, [AAA] executed a sworn statement narrating the incident. The following day, they went to the Camarines Norte Provincial Hospital for medical examination. The Medico-Legal Officer, Dr. Marcelito Abas, conducted the medical examination and made the following findings:

"GENITAL EXAMINATION:

= Healed hymenal laceration at 3-7-9-12 o'clock;

=Vagina admits one (1) finger easily"

For his defense, 25-year old accused-appellant claimed that he and [AAA] were lovers. According to him, [AAA] was introduced to him by a cousin of the former sometime in June 1996. Thereafter, accused-appellant courted her for two days before winning her heart. Then, he left for Sariaya, Quezon for a year. When he returned to Camarines Norte, he courted [AAA] again. Again, [AAA] "answered" him. Thereafter, accused-appellant would frequent the boarding house of [AAA] every afternoon. Sometimes, he would go there at night. Still according to accused-appellant, they had gone out on dates and had sexual intercourse with [AAA] before the complained incident. On that fateful night of 21 August 1997, accused-appellant admitted that he was at the boarding house of [AAA] with two of the latter's classmates. Shortly thereafter, the classmates asked permission to leave and accused-appellant was left in the boarding house with [AAA]. Accused-appellant claimed that they subsequently had sex.

In a decision[6] dated January 8, 2001, the RTC found the accused-appellant guilty beyond reasonable doubt of the crime of rape as it brushed aside as unworthy of credence the latter's allegation regarding the existence of an amorous relationship between him and the victim. Dispositively, the decision states:

WHEREFORE, premises considered, having found the accused Ricardo Grande alias "Ricardo Sayno" guilty beyond reasonable doubt for the crime of Rape, he is hereby sentenced to suffer the penalty of Reclusion Perpetua and to pay the offended party the amount of P50,000.00, as damages.

SO ORDERED.

The case was directly elevated to this Court for automatic review. However, in a Resolution[7] dated December 6, 2004, and pursuant to our ruling in *People v. Mateo*,[8] the case was transferred to the CA.

In its Decision dated August 18, 2005, the CA affirmed the decision dated January 8, 2001 of the RTC but granted an additional monetary award in the amount of P50,000.00 to the victim. In full, the dispositive portion of the decision reads:

WHEREFORE, the decision of the Regional Trial Court, Branch 38, Daet, Camarines Norte, Criminal Case No. 9165 is hereby AFFIRMED. Accused-appellant Ricardo Grande alias "Ricardo Sayno" is found guilty beyond reasonable doubt of the crime of simple rape and is sentenced to reclusion perpetua. Accused-appellant is ordered to pay the victim, [AAA], P50,000.00 as civil indemnity and P50,000.00 as moral damages.

SO ORDERED.

The case was elevated to this Court by the CA for further review.

In a Resolution[9] dated February 20, 2006, the Court required the parties to file their respective supplemental briefs. In their respective Manifestations,[10] the parties waived the filing of supplemental briefs and instead

adopted their respective briefs filed before the CA.

Accused-appellant contends that the trial court committed errors: 1) in completely ignoring the sweetheart theory interposed by the accused-appellant; and 2) in finding him guilty beyond reasonable doubt of the crime of rape which the plaintiff-appellee refuted.

We sustain the conviction of accused-appellant.

A rape charge is a serious matter with pernicious consequences both for the appellant and the complainant; hence, utmost care must be taken in the review of a decision involving conviction of rape.[11]

This Court enumerated in *People v. San Antonio, Jr.*[12] the guiding principles in the review of rape cases, to wit:

x x x First, the prosecution has to show the guilt of the accused by proof beyond reasonable doubt or that degree of proof that, to an unprejudiced mind, produces conviction. Second, the evidence for the prosecution must stand or fall on its own merits and cannot draw strength from the weakness of the evidence of the defense. Third, unless there are special reasons, the findings of trial courts, especially regarding the credibility of witnesses, are entitled to great respect and will not be disturbed on appeal. Fourth, an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; and Fifth, in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution.

With the aforementioned principles in mind, we shall now resolve the case before us.

Article 335 of the Revised Penal Code, the governing law at the time of the commission of the crime,[13] provides when and how rape is committed, viz.:

Art. 335. When and how rape is committed. --- Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

- By using force or intimidation;
- When the woman is deprived of reason or otherwise unconscious; and
- When the woman is under twelve years of age or is demented.

Thus, for conviction in the crime of rape as alleged in the Information, the following elements must be proved beyond reasonable doubt: (1) that the accused had carnal knowledge of the victim; and (2) that said act was accomplished through the use of force or intimidation.[14]

Accused-appellant does not deny the sexual intercourse between him and AAA that took place on August 21, 1997, the precise date mentioned in the Information. However, as to the second element of the crime, accused-appellant asserts an exculpatory claim that it was consensual sex because he and AAA were sweethearts.

Accused-appellant's invocation of the sweetheart theory fails to inspire belief for dire lack of convincing proof.

In *People v. San Antonio, Jr.*,[15] the Court held:

The "sweetheart defense" is a much-abused defense that rashly derides the intelligence of the Court and sorely tests its patience. Being an affirmative defense, it must be established with convincing evidence - by some documentary and/or other evidence like mementos, love letters, notes, pictures and the like. Likewise, the "sweetheart theory" appellant proffers is effectively an admission of carnal knowledge of the victim and consequently places on him the burden of proving the supposed relationship by substantial evidence. To be worthy of judicial acceptance, such a defense should be supported by documentary, testimonial or other evidence. x x x

Other than his self-serving assertions, no other evidence was proffered by accused-appellant to establish the existence of a romantic relationship between him and the victim. Thus, the RTC correctly disregarded the defense raised by the accused-appellant that an amorous relationship exists between him and AAA when it held as follows:[16]

x x x [T]he accused's allegation of an amorous relationship with the private complainant is unworthy of credence. It must be noted that [AAA] was a girl of fifteen and a barrio lass, while accused [was] in his twenties at the time of the incident. Other than [accused's] self-serving testimony, no other evidence, like love letters, mementos or pictures were presented to prove his alleged relationship with [AAA]. x x x Neither was there any corroborative testimony supporting this alleged voluntary amorous liaison. In fact, [AAA] never mentioned that they were even friends. x x x This is not even a case of consenting adults for the victim was only fifteen years old at the time she was raped by the accused. Moreover, there was no evidence whatsoever of any romantic relationship between them.

The total absence of corroborative evidence to support the defense of accused-appellant is highlighted by his failure to present as his witnesses any of AAA's classmates whom he claimed knew of their relationship. Hence, the CA, like the RTC, correctly found accused-appellant's sweetheart theory self-serving which deserved neither probative weight nor value.[17]

The bare claim of accused-appellant fails in the face of AAA's emphatic and unwavering testimony denying any romantic relationship with the accused-appellant, to wit:

[Direct Examination]

FISCAL FERRER:

Q - Prior to August 21, 1997, was there an occasion that you were able to see this Ricardo Grande alias Ricardo Sayno in the vicinity of your boarding house in Mercedes?

WITNESS:

A - Yes, Sir.

FISCAL FERRER:

Q - And how often do you see him?

A - Every time he pass (sic) by the house, Sir

Q - At the time that you always see him, do you know that his name is Ricardo Grande before the incident?

A - No, Sir.

Q - Is Ricardo Grande, the accused here, a suitor of yours?

A - No, Sir.

FISCAL FERRER:

Q - Do you have any relationship with the accused Ricardo Grande?

WITNESS:

A - None, Sir.[18]

[Cross-Examination]

Q - Could you now tell this Honorable Court if you had a relation with the accused?

A - We have no relation, sir.

Q - How long have you known the accused?

A - When I transferred to the boarding house.

ATTY. BUQUE:

Q - But you know this accused has an alias Ricardo Sayno, am I correct?

A - No Sir, only from Information.

Q - Did he court you?

A - No, Sir.

Q - Did you court him?

A - No, sir.[19]

In any event, this Court has held often enough that love is not a license for because a man does not have the unbridled license to subject his beloved to his carnal desires.[20] People v. Napudo[21] ruled that:

x x x the sweetheart defense is considered an uncommonly weak defense because its presence does not automatically negate the commission of rape. The gravamen of the crime is sexual congress of a man with a woman without her consent. Hence, notwithstanding the existence of a romantic relationship, a woman cannot be forced to engage in sexual intercourse against her will. (Emphasis supplied)

AAA clearly and positively identified the accused-appellant as her attacker and, in a straightforward manner, consistently described how the latter succeeded by the use of force and intimidation in having sexual intercourse with her against her will, viz.:

[Direct testimony]:

Q -

What time did you sleep in your boarding house on August 21, 1997?

A -

8:00 o'clock in the evening.

Q -

What time did you wake up?

A -

11:00 o'clock in the evening.

Q -

Why did you wake up at 11:00 o'clock in the evening?

WITNESS:

A -

I was awakened because I noticed that somebody was on top of me and removing my T-shirt.

FISCAL FERRER:

Q -

Did you recognize this person who was on top of you when you woke up?

A -

I recognized him because it was bright that night and I recognized his face.

Q -

And you were able to see his face and you were able to recognize him?

A -

Yes, sir.

Q -

And if that person whom you saw on top of you when you woke up on August 21, 1997 in the evening is here in Court, will you be able to recognize him?

A -

Yes, sir.

Q -

Please point him out if he is inside the courtroom

A -

That man. (Witness touched the shoulder of the accused who gave his name as Ricardo Grande).

FISCAL FERRER:

Q -

And you are very sure that this is the person who was on top of you on August 21, 1997 at 11:00 o'clock in the evening whom you identified as Ricardo Grande alias Ricardo Sayno?

WITNESS:

A -

Yes, sir.

FISCAL FERRER:

Q -

You said that you were awakened because somebody was on top of you, will you describe before this Honorable Court the position of that somebody who was on top of you?

A -

While I was lying on that evening of August 21, 1997, I noticed somebody was on top of me and was trying to remove my T-shirt. I was pushing him and he pressed on my breast that I could hardly breath.

FISCAL FERRER:

Q -

What else did the accused do while he was on top of you?

WITNESS:

A -

He was forcibly trying to remove my T-shirt and he tried to insert his penis into my vagina.

x x x

FISCAL FERRER:

Q -

By the way Miss Witness, when you noticed that the accused was already on top of you half-naked waist down, what did you do if any?

WITNESS:

A -

I was struggling and pushing him.

FISCAL FERRER:

Q -

Were you able to push him away from you?

A -

No, Sir, because he was heavy.

Q -

Were you able to shout for help?

A -

No, Sir, because I was afraid.

Q -

And you said that he was trying to insert his penis into your vagina, is that correct?

A -

Yes, Sir.

Q -

Did (sic) the accused able to insert his penis into your vagina?

A -

Yes, sir.

Q -

How did the accused able to (sic) insert his penis into your vagina?

A -

I noticed that he was making a push and pull movement of his buttocks.

Q -

When you said that he was making a push and pull movement, where was his penis already?

A -

Inside my vagina.

Q -

And what did you feel when the penis of the accused was inside your vagina or what did you feel when the penis of the accused entered your vagina?

A -

It was painful.

Q -

How painful was it?

A -

It was very painful and I could hardly bear it.

Q -

What did you feel when the accused was pumping his penis into your vagina on (sic) push and pull movement?

A -

I became weak and afraid.

Q -

Why were you afraid?

A -

Because he might kill me, Sir while he was doing that.

x x x

Q -

Did you desist his (sic) abuses made by the accused?

A -

Yes, Sir.

Q -

In what way or in what manner?

A -

I was just pushing him, Sir.

Q -

Were you able to push him away?

A -

No, sir, because he was heavy. [22]

[Cross-Examination]

ATTY. BUQUE:

Q -

In your sworn statement during the preliminary investigation and during your investigation at the Mercedes Police Station you are consistent that the accused was not armed on that night of August 21?

WITNESS:

A -

He was not armed.

x x x

ATTY. BUQUE:

Q -

Ms. Witness, the fact that the accused Ricardo Grande was not armed (sic) you did not put up a struggle?

x x x

WITNESS:

A -

I put up a fight, sir.

ATTY. BUQUE:

Q -

What kind of fight was that?

A -

I was pushing him.

Q -

And you did not push him because as per your testimony he was too heavy?

FISCAL FERRER:

We will object to that. She pushed him but she was not able to completely free herself from the accused because the accused while on top of her was too heavy.

x x x

ATTY. BUQUE:

Q -

But you were successful in freeing yourself from him?

WITNESS:

A -

Yes, Sir.

Q -

Did you try to punch him or scratch his face?

A -

No, Sir, because my hands were crossed on top of my breast and he was lying on my arm.[23]

Significantly, the testimony of AAA was corroborated by the medical findings of the medico-legal officer, Dr. Marcelito Abas, to wit:[24]

"GENITAL EXAMINATION:

= Healed hymenal laceration at 3-7-9-12 o'clock;

=Vagina admits one (1) finger easily"

AAA's testimony bears all the hallmarks of truth which cannot be defeated by accused-appellant's bare denial. Thus, this Court cannot but concur with the RTC's conclusion as to the credibility of AAA's testimony, which the CA also upheld.

Time and again, we have held that when the decision hinges on the credibility of witnesses and their respective testimonies, the trial court's observations and conclusions deserve great respect and are often accorded finality, unless there appears in the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated and which, if properly considered, would alter the result of the case.[25] This is as it should be for the following reasons, which we quote:

x x x The trial judge enjoys the advantage of observing the witness' deportment and manner of testifying, her "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath" - all of which are useful aids for an accurate determination of a witness' honesty and sincerity. The trial judge, therefore, can better determine if such witnesses were telling the truth, being in the ideal position to weigh conflicting testimonies. Unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case, its assessment must be respected for it had the opportunity to observe the conduct and demeanor of the witnesses while testifying and detect if they are lying. The rule finds an even more stringent application where the said findings are sustained by the Court of Appeals.[26]

Moreover, the testimony of a young victim in a rape case is accorded great weight, as explained in *People v. San Antonio, Jr.*:[27]

x x x it is settled that no woman, least of all a child, would concoct a story of defloration, allow an examination of her private parts and subject herself to public trial or ridicule if she has not, in truth, been a victim of rape and impelled to seek justice for the wrong done to her. Testimonies of child-victims are given full faith and credit, since when a girl says she has been raped, she says in effect all that is necessary to show that rape was indeed committed. Youth and immaturity are generally badges of truth and sincerity. It is also an accepted

doctrine that in the absence of evidence of improper motive on the part of the victim to falsely testify against the accused, her testimony deserves credence.

With the foregoing, we find that the evidence adduced by the prosecution constituted proof beyond reasonable doubt to convict the accused-appellant of the crime of simple rape which, under Article 335 of the Revised Penal Code, is punishable by the single indivisible penalty of reclusion perpetua. Under Article 63 of the same law, it is provided that in all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

In simple rape, the Court awards P50,000.00 as civil indemnity and P50,000.00 as moral damages to the rape victim.[28] As the award of moral damages is separate and distinct from the civil indemnity awarded to rape victims, moral damages cannot take the place of civil indemnity, which is actually in the nature of actual or compensatory damages, and is mandatory upon the finding of the fact of rape.[29] Hence, the CA correctly awarded P50,000.00 as civil indemnity and P50,000.00 as moral damages to the victim.

The CA, however, failed to award exemplary damages in this case. Under Article 2230 of the New Civil Code, in criminal offenses, exemplary damages as part of civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Here, the aggravating circumstances of dwelling and nighttime were alleged in the Information as having attended the commission of the crime of rape. However, while the circumstance of dwelling was proven as it was shown that the rape was committed inside the boarding house where the victim was staying, the circumstance of nighttime was not since there was no sufficient showing that the accused-appellant purposely waited until late in the night before consummating his carnal desire for the victim. In view thereof, the amount of P25,000.00 must additionally be awarded to the victim by way of exemplary damages.[30]

WHEREFORE, the Decision dated August 18, 2005 of the Court of Appeals in CA-G.R. CR.-HC No. 00587 is AFFIRMED with MODIFICATION. Appellant Ricardo Grande is guilty beyond reasonable doubt of simple rape and hereby sentenced to suffer the penalty of reclusion perpetua. He is likewise sentenced to pay the victim the amount of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages.

No costs.

**SO ORDERED.**

Puno, C.J., (Chairperson), Carpio Morales, Bersamin, and Villarama, Jr., JJ., concur.

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[1] Penned by Associate Justice Rosmari D. Carandang with Associate Justices Remedios A. Salazar-Fernando and Monina Arevalo-Zenarosa, concurring; rollo, pp. 3-11.

[2] CA rollo, p. 6.

[3] TSN, October 12, 1998, p. 3.

[4] TSN, January 20, 1999, pp. 2-3.

[5] Rollo, pp. 4-6.

[6] CA rollo, pp. 16-20.

[7] Id. at 96.

[8] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

- [9] Rollo, p. 12.
- [10] Id. at 13-14 and 15-16.
- [11] *People v. San Antonio, Jr.*, G.R. No. 176633, September 5, 2007, 532 SCRA 411, 424.
- [12] Id. at 424-425.
- [13] Republic Act No. 8353 or the Anti-Rape Law of 1997 took effect on October 22, 1997.
- [14] *People v. Baldo*, G.R. No. 175238, February 24, 2009.
- [15] Supra note 11.
- [16] CA rollo, p. 19.
- [17] Rollo, p. 9.
- [18] TSN, August 5, 1998, pp. 28-29.
- [19] TSN, August 21, 1998, pp. 12-13.
- [20] Supra note 14.
- [21] G.R. No. 168448, October 8, 2008, 568 SCRA 213, 224-225.
- [22] TSN, August 5, 1998, pp. 8-11 and 12-15.
- [23] TSN, August 21, 1998, pp. 6-9.
- [24] Records, p. 4; TSN, January 21, 1998, p. 4.
- [25] Supra note 11 at 430.
- [26] Id. at 430-431.
- [27] Id. at 431.
- [28] Id. at 433.
- [29] Id.
- [30] See *People v. Mangompit, Jr.*, G.R. Nos. 139962-66, March 7, 2001, 353 SCRA 833, 853.

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