

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MARIO S. MARTIN, APPELLANT.

G.R. No. 172069. January 30, 2008

Ponente: CORONA, J.

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CORONA, J.:

Before us for review is the January 27, 2006 decision[1] of the Court of Appeals (CA) in C.A.-G.R. CR-H.C. No. 00105 which affirmed in turn the August 13, 2003 decision[2] of the Regional Trial Court (RTC) of Pasig City, Branch 156 in Criminal Case No. 115477-H. The RTC found appellant Mario Sanggoyo Martin guilty of rape under Article 335 in relation to Article 266-A and B of the Revised Penal Code (RPC), as amended by Republic Act (RA) 8353,[3] committed against his then ten-year- old mentally retarded daughter AAA.[4] It imposed on him the penalty of death.

The information against appellant read:

On or about or prior to January 5, 1999, in San Juan, Metro Manila, and within the jurisdiction of this Honorable Court, the accused, with lewd designs and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have [sexual intercourse] five (5) times with his daughter, [AAA], a minor (10 years old), who is suffering from a mental disability, against her will and consent.

Contrary to law.[5]

On arraignment, appellant, with the assistance of counsel, pleaded not guilty to the charge.

The prosecution presented the victim AAA and Dr. James M. Belgira, the medico-legal officer who examined AAA,[6] as witnesses.

As established during the trial, AAA was born on March 19, 1988. She is the legitimate daughter of appellant and ABC. The couple separated in 1997 and AAA remained in the custody of her mother. In the morning of January 5, 1999, AAA (then ten years old)[7] was brought to appellant's house. When ABC found out in the afternoon that AAA was with her father, she had her fetched. Three times that night, she noticed AAA scratching her private parts. She took a look at it and immediately became suspicious. She asked AAA if appellant had something to do with the redness of her vagina. AAA narrated to her that he had indeed inserted his penis in her vagina and that he was touching her vagina as he inserted his penis in her mouth. She also told her that he taped her mouth so she would not make any sound and instructed her not to tell anyone what happened otherwise he would beat her. He also washed her vagina.[8]

At the trial, AAA testified thus:

Q:

[AAA], would you tell the Judge what your Papa [did] to you?

A:

Hawak dede.

Q:

What else aside from holding your breast?

COURT:

[AAA], where is your "dede"?

INTERPRETER:

Witness pointing to her breast.

A:

Tanggal panty.

Q:

After removing your panty, what else did your Papa do?

COURT:

[AAA], after your Papa removed your panty, what else did he do?

A:

Hinulog ang damit.

ATTY. AMBROSIO:

Whose dress was dropped?

A:

[AAA].

Q:

After that, what did he do to you?

A:

Hinawak dede ni Papa.

xxx xxx xxx

Q:

Did he touch your vagina?

A:

Opo.

Q:

Aside from touching your vagina, did he also insert something in your vagina?

A:

Yes, [ma'am].

Q:

What did he put inside your vagina?

A:

Tete.

Q:

Could you tell the Court, how many times he did this to you?

A:

Five times.

Q:

Can you show to the Honorable Court the no. 5?

Interpreter:

Witness raised her left hand and showed her five fingers.

Q:

Where were you when your father did this to you?

A:

In my father's house.

Q:

Do you know what time of the day when this happened to you?

A:

Gabi po.

Q:

[AAA], you know that it is good to tell the truth?

A:

Opo.

Q:

Can you tell the Honorable Judge what you felt when your father did this to you?

COURT:

You specify whether touching of the breast or inserting of the penis. Where you hurt when your father inserted his penis [in] you?

A:

Opo.

On cross examination:

Q:

Do you love your Papa?

A:

Hindi [na po].

Q:

Why?

A:

Galit na Papa.

Q:

Why were you angry with your Papa?

A:

Hawak dede ko.

Q:

Can you tell the first time when your Papa touched your breast?

A:

Five.

INTERPRETER:

Witness raising her left hand and showing her five fingers.

xxx xxx xxx

COURT:

[AAA], can you show the Court what part of your body when your Papa inserted his penis [in] you?

INTERPRETER:

Witness pointing to her vagina.

xxx xxx xxx

Q:

Can you please point to the Court who inserted his penis in your vagina?

INTERPRETER:

Witness pointing to the accused.

xxx xxx xxx

Q:

Did you see any blood in your panty?

A:

Opo.

COURT:

Where did you see the blood?

INTERPRETER:

Witness pointing at her vagina.

COURT:

What did you feel at that time?

A:

Masakit dibdib ko.

xxx xxx xxx

Q:

Your Papa did not touch your private parts?

A:

Hawak po.

Q:

How many hands?

A:

Five hands.[9]

Dr. James Belgira assessed the mental condition of AAA and concluded that she was mentally deficient. Thereafter, he conducted a physical examination and found a deep, healed laceration at the 6 o'clock position of her hymen. This, he explained, could have been caused by a hard blunt object. His report stated that she was in a non-virgin state physically.[10]

On the direction of the RTC,[11] a psychological examination of AAA was conducted by Felicitas M. Aguilar, the in-house psychiatrist of the Department of Social Welfare and Development (DSWD).[12] AAA was diagnosed as being afflicted with Down Syndrome.[13] She had moderate mental retardation, with an intelligence quotient (IQ) of 41.8, mental age of 4.6 years and social age of 7 years.

For the defense, the appellant and his son Martin, Jr. took the witness stand.

Appellant denied the allegations against him and asserted that he could not have committed the rape because he slept in the downstairs "sala" in full view of everyone passing by. He said that 18 people lived in their house. He admitted that AAA is his legitimate daughter. He stated that the complaint was instigated by his wife because of anger and extreme jealousy. In response to the question why his daughter would concoct a rape charge against

him, he said that that AAA was mentally deficient and incapable of telling a (coherent) story.[14]

Martin, Jr. corroborated his father's testimony and stated that the latter could not have raped AAA because they did not have their own room, just a bed where they both slept.[15]

In a decision dated August 13, 2003, the RTC found respondent guilty of qualified rape under Article 335 in relation to Article 266-A and B of the RPC as amended by RA 8353:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused MARIO MARTIN y SANGGOYO "GUILTY" beyond reasonable doubt of the crime of Rape as defined and penalized under Article 335 of the [RPC] in relation to Article 266-A and Article 266-B under [RA] 8353 and hereby imposes upon him the penalty of DEATH.

Accused Martin is further ordered to pay the offended party [AAA], the sum of P75,000 as civil indemnity and P50,000.00 as moral damages.

SO ORDERED.[16]

Although the information charged him with five counts of rape, the RTC found him guilty of only one count since the prosecution failed to prove the other four counts.[17]

The case was forwarded to this Court on automatic review but we referred it to the CA in accordance with *People v. Mateo*. [18] The CA affirmed the RTC decision:

WHEREFORE, the appeal is hereby DISMISSED for lack of sufficient merit. The decision rendered by the [RTC], Branch 156, Pasig in Criminal Case No. 115477-H on 13 August 2003 is AFFIRMED.

SO ORDERED.[19]

In this appeal, appellant argues that his guilt was not proven beyond reasonable doubt.

We disagree.

RELEVANT DOCUMENTS WERE
CORRECTLY ADMITTED AS
EVIDENCE

In resolving rape cases, we have been guided by the following principles:

xxx (a) an accusation for rape can be made with facility; it is difficult to prove but even more difficult for the accused, though innocent, to disprove; (b) in view of the intrinsic nature of the crime where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; (c) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense; and (d) the evaluation of the trial court judges regarding the credibility of witnesses deserves utmost respect on the ground that they are in the best position to observe the demeanor, act, conduct, and attitude of the witnesses in court while testifying.[20]

Appellant asserts that the sworn statements of AAA and ABC, AAA's birth certificate, marriage contract submitted by ABC and the psychological evaluation report of the DSWD psychiatrist should not have been considered by the RTC. He claimed these were all hearsay evidence since they were never identified or testified to by witnesses.[21]

Again, we disagree.

While it is true that these documents could have been considered hearsay if the affiants had not been called to the

witness stand to testify on the truth of the contents thereof,[22] this rule is not applicable here for the following reasons.

First, AAA took the witness stand and narrated the abuse she experienced. Hence, her sworn statement was merely additional evidence.

Second, ABC and the local civil registrar of San Juan testified on the authenticity and due execution of the marriage contract.[23]

Third, during the trial, the defense admitted the existence of these documents.[24] Appellant merely contested the sworn statements for being self-serving but did not raise any objection on the ground of hearsay. Therefore, he was deemed to have waived this ground and cannot raise them for the first time on appeal:

The Rules of Court requires that grounds for objection must be specified, whether orally or in writing. The result of violating this rule has been spelled out by this Court in a number of cases. In *Krohn v. Court of Appeals*, the counsel for the petitioner objected to the testimony of private respondent on the ground that it was privileged but did not question the testimony as hearsay. We held that "in failing to object to the testimony on the ground that it was hearsay, counsel waived his right to make such objection and, consequently, the evidence offered may be admitted." In *Tan Machan v. De la Trinidad*, the defendant assailed as error the admission of plaintiff's book of account. We rejected the contention and ruled that an appellate court will not consider any other ground of objection not made at the time the books were admitted in evidence. In the case at bar, the respondent did not assail in the trial court the hearsay character of the documents in question. It is too late in the day to raise the question on appeal.[25]

AAA'S TESTIMONY WAS CREDIBLE AND SUFFICIENTLY ESTABLISHED APPELLANT'S GUILT

Appellant questions the credibility of AAA's testimony, contending that it was ambiguous and insufficient to sustain his conviction.

Well-settled is the rule that the lone testimony of the victim in the crime of rape, if credible, is enough to sustain a conviction. This is because, by the very nature of the offense, the only evidence that can often be relied upon is the victim's own declaration.[26]

It is undisputed that AAA is a mental retardate. This was shown in the psychological evaluation report wherein she was found to have an IQ of 41.8.[27] Even appellant admitted his daughter's "handicap" in his testimony.[28] However, despite her age and retardation, she was still able to communicate her experience in a sufficiently coherent and detailed manner. She clearly stated that appellant touched her breasts, removed her clothes and underwear, touched her vagina and inserted his penis in her vagina. Her narration was as natural and straightforward as could be, considering her mental deficiency.[29] If there were instances when her answers were inaccurate or unresponsive, these did not make her testimony any less credible. Even children of normal intelligence cannot be expected to give a precise account of events considering their naiveté and still undeveloped vocabulary and command of language.[30] Yet, despite her limitations, AAA never wavered in her testimony.

Both the RTC and CA correctly gave credence to her testimony. They found it enough to support the conviction of appellant.

Time and again, we have held that the trial court's assessment as to the credibility of witnesses is to be accorded great weight. This is so because it had the better opportunity to observe the witnesses firsthand and note their demeanor, conduct and attitude under grueling examination.[31]

Furthermore, the testimony of an innocent child like AAA should be given full weight and credit. Being young and guileless, she had no ill-motive to falsely testify and impute such a serious crime against her own father.

Appellant's assertion that ABC induced their daughter to file this rape charge against him without, however, substantiating his claim, is self-serving and deserves scant consideration.

Finally, appellant avers that Dr. Belgira did not indicate in his testimony that AAA's hymenal laceration was due to penile penetration since he merely stated that it was caused by the insertion of a "hard blunt object." Again, appellant is grasping at straws. Obviously, an erect penis is one such "hard blunt object." This medical finding supported AAA's testimony that appellant inserted his penis in her vagina.

APPELLANT IS GUILTY OF QUALIFIED RAPE

The pertinent provisions of the RPC, as amended by RA 8353, state:

Art. 266-A. Rape; When and How Committed. â€- Rape is committed â€-

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

xxx xxx xxx

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present;

xxx xxx xxx

Art. 266-B. Penalties. â€-

xxx xxx xxx

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

xxx xxx xxx

The qualifying circumstances of relationship (father and daughter) and minority (the victim was 10 years old when the rape was committed) were duly alleged in the information, proved during the trial and even admitted by appellant.[32]

While this Court affirms the finding of guilt of respondent, it can no longer impose the penalty of death in view of RA 9346.[33] Section 2 of RA 9346 mandates that, in lieu of the death penalty, reclusion perpetua without eligibility for parole should instead be imposed.

With regard to the award of damages, the victim was correctly awarded P75,000 as civil indemnity ex delicto. However, the amount of moral damages should be increased from P50,000 to P75,000 in line with prevailing jurisprudence.[34] Exemplary damages in the amount of P25,000 should also be granted due to the presence of the qualifying circumstances of minority and relationship.[35]

WHEREFORE, the decision of the Court of Appeals in C.A.-G.R. CR-H.C. No. 00105 is hereby AFFIRMED WITH MODIFICATIONS. Mario S. Martin is sentenced to reclusion perpetua with no possibility of parole for

one count of qualified rape committed against AAA. He is ORDERED to indemnify AAA in the amount of P75,000 as civil indemnity, P75,000 as moral damages and P25,000 as exemplary damages.

Costs against appellant.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio-Morales, Azcuna, Tinga, Reyes, and Leonardo-De Castro, JJ., concur.

Chico-Nazario, and Velasco, Jr., JJ., on official leave.

Nachura, J., No part. Signed pleading as SolGen.

[1] Penned by Associate Justice Santiago Javier Ranada (retired) and concurred in by Associate Justices Roberto A. Barrios (deceased) and Mario L. Guariña III of the Fifth Division of the Court of Appeals; CA rollo, pp. 97-105.

[2] Penned by Judge Alex L. Quiroz, id., pp. 17-24.

[3] Entitled "An Act Expanding the Definition of the Crime of Rape, Reclassifying the Same as Crime Against Persons, Amending for the Purpose Act No. 3815, Otherwise Known as the Revised Penal Code, and for Other Purposes." Also known as "The Anti-Rape Law of 1997."

[4] In line with our decision in *People v. Cabalquinto* (G.R. No. 167693, 19 September 2006, 502 SCRA 419, 425-426), the real name of the rape victim in this case is withheld. Instead, fictitious initials are used to represent her. Also, the personal circumstances of the victim or any other information tending to establish or compromise her identity, as well as those of her immediate family or household members, is not disclosed in this decision.

[5] CA rollo, p. 9.

[6] Philippine National Police Crime Laboratory, Camp Crame; id., p. 18.

[7] The parties stipulated that this was the age of AAA; CA rollo, p. 100.

[8] Id., p. 18.

[9] Id., pp. 21-23; citations omitted.

[10] Id.

[11] In an order dated May 5, 1999; id., p. 19.

[12] Marillac Hills, Muntinlupa; id., p. 99.

[13] Commonly referred to as mongoloid; id., p. 23.

[14] Id., pp. 19-20.

[15] Id., p. 20.

[16] Citation omitted; id., p. 24.

[17] Id., p. 104.

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

[19] CA rollo, p. 105.

[20] *People v. Marcelo*, 421 Phil. 566, 577 (2001), citing *People v. Maglente*, G.R. Nos. 124559-66, 306 SCRA 546, 558 (1999).

[21] CA rollo, p. 50.

[22] *People v. Mosquera*, 414 Phil. 740, 749 (2001).

[23] CA rollo, p. 19.

[24] *Id.*, pp. 101-102.

[25] *Cabugao v. People*, G.R. No. 158033, 30 July 2004, 435 SCRA 624, 633-634, citations omitted; see also *People v. Chua*, 384 Phil. 70, 92-93 (2000).

[26] *People v. Bulaybulay*, G.R. No. 104275, 28 September 1995, 248 SCRA 601, 607, citing *People v. Antonio*, *infra*.

[27] In *People v. Antonio* (G.R. No. 107950, 17 June 1994, 233 SCRA 283), we stated:

Intelligence has been classified as follows:

CLASSIFICATION I.Q. Range

Very Superior 128 and over

Superior 120 — 127

Bright Normal 111 — 119

Average 91 — 110

Dull Normal 80 — 90

Borderline 66 — 79

Defective 65 and below.

[*Id.*, p. 296, citing Weschler's Classification of Intelligence, found in WALTER J. COVILLE, ET AL., *ABNORMAL PSYCHOLOGY* 210 (1960 Ed.)]

[28] CA rollo, p. 20.

[29] *Supra* note 26.

[30] See *People v. Sambrano*, 446 Phil. 145, 156 (2003).

[31] *People v. Omar*, G.R. No. 120656, 3 March 2000, 327 SCRA 221, 228, citing *People v. Suba*, G.R. Nos. 119350-51, 29 November 1999, 319 SCRA 374.

[32] CA rollo, p. 100.

[33] Entitled "An Act Prohibiting the Imposition of the Death Penalty in the Philippines."

[34] *People v. Buban*, G.R. No. 166895, 24 January 2007, 512 SCRA 500, 523-524.

[35] *Id.*; *People v. Guillermo*, G.R. No. 173787, 23 April 2007.

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