

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMAR TEODORO Y VALLEJO, ACCUSED-APPELLANT.

G.R. No. 172372. December 04, 2009

Ponente: BRION, J.

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BRION, J.:

We review in this appeal the January 19, 2006 decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00752,[1] affirming in toto the February 19, 2001 decision of the Regional Trial Court (RTC), Branch 3, Batangas City.[2] The RTC decision found appellant Romar Teodoro (appellant) guilty beyond reasonable doubt of two (2) counts of statutory rape, and sentenced him to suffer the penalty of reclusion perpetua for each count.

ANTECEDENT FACTS

The prosecution charged the appellant before the RTC of the crime of rape under three separate Informations that read:

Criminal Case No. 8538

That on or about the 18[th] day of June, 1995, in the morning thereof, at Barangay Pook ni Banal, Municipality of San Pascual, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie with and have carnal knowledge with the said [AAA] who is below twelve (12) years old, against her will and consent.

Contrary to law.[3]

Criminal Case No. 8539

That sometime in the first week of July 1995, in the morning thereof, at Barangay Pook ni Banal, Municipality of San Pascual, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie with and have carnal knowledge with the said [AAA], who is below twelve (12) years old, against her will and consent.

Contrary to law.[4]

Criminal Case No. 8540

That on or about the 30[th] day of March, 1996, at about 10:00 o'clock in the evening, at Barangay Pook ni Banal, Municipality of San Pascual, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously lie with and have carnal knowledge with the said [AAA], who is a twelve (12) year old minor, against her will and consent.

Contrary to law.[5]

The appellant pleaded not guilty to the charges laid.[6] The prosecution presented the following witnesses in the trial on the merits that followed: Dr. Rosalina Caraan-Mendoza (Dr. Mendoza); Donna Catapang (Donna); and AAA. The appellant took the witness stand for the defense.

Dr. Mendoza, the Municipal Health Officer of San Pascual, Batangas, testified that she conducted a medical examination of AAA on March 31, 1996,[7] and made the following findings:

MEDICO-LEGAL CERTIFICATE

x x x x

- External genitalia - normal looking with 2 points of skin abrasions noted over the lower third of the (L) labia majora.

- Labia majora gaping

- (+) defloration of the hymen, with edges rounded noncoaptible hymenal border and edges retracted compatible with healed lacerations

x x x

- Positive for presence of sperm cells[8]

Dr. Mendoza stated that she conducted a physical examination of AAA at the request of the police,[9] and that the healed laceration on AAA's private part was the result of previous sexual intercourse.[10]

Donna, a medical technologist at the Bauan Pathology Center, testified that Dr. Mendoza requested her to conduct a laboratory examination on the vaginal smear taken from AAA.[11] She found the vaginal smear positive for the presence of sperm cells.[12]

AAA declared on the witness stand that she was born on July 21, 1983. She knew the appellant since 1993 because the latter was an employee of her parents.[13] AAA recalled that on June 18, 1995, while her parents were at the sugarcane plantation, the appellant went to the bathroom and kissed her on the face and neck. The appellant then removed her clothes, pants and panty.[14] Thereafter, the appellant took off his pants and inserted his penis into her vagina. AAA struggled and pushed the appellant; the latter threatened to kill AAA if she told her parents about the incident. Afterwards, the appellant left.[15]

AAA likewise recalled that during the first week of July 1995, the appellant again "raped" her in the bathroom. According to AAA, the appellant first removed her shirt and pants, but she cried and pushed him. The appellant inserted his penis into her vagina after removing her panty.[16] The appellant threatened to kill her if she reported the incident to her parents. Thereafter, the appellant went to the field.[17]

AAA further testified that at around 10:00 p.m. of March 30, 1996, while her parents were asleep, the appellant dragged her to the bathroom.[18] She repeatedly struck the appellant with her hand, but the appellant succeeded in bringing her to the bathroom. The appellant removed AAA's shorts and panty, and, while they were in a standing position, inserted his penis into her vagina.[19] AAA's brother saw the incident and reported it to their mother.[20]

On cross examination, AAA stated that she knew the appellant prior to March 30, 1996 because the latter had been staying in their house for three years.[21] AAA explained that their house had three bedrooms; and that the appellant slept with her (AAA's) brothers.[22] She maintained that one of her brothers saw the March 30, 1996 rape and reported this incident to their mother. AAA was confronted by her mother the next day.[23]

The appellant presented a different version of the events and claimed that AAA had been his sweetheart since June 22, 1996.[24] He denied using force on AAA and claimed that the sexual intercourse between them on March 30, 1996 was consensual. He recalled that on March 30, 1996, while he was lying beside AAA's brother at the sala, AAA gave him a signal to follow her to the bathroom. The appellant followed AAA to the bathroom, where they had sex.[25] After 20 minutes, he went out of the bathroom and went back to his bed.[26] He likewise denied having raped AAA on June 18, 1995 and on the first week of July 1995.[27]

The RTC convicted the appellant of two (2) counts of statutory rape in its decision of February 19, 2001. The dispositive portion of this decision provides:

WHEREFORE, in view of the foregoing, the court finds the accused Romar Teodoro y Vallejo in Criminal Case No. 8538 and Criminal Case No. 8539 guilty beyond reasonable doubt of the crime of rape and he is hereby sentenced to suffer the penalty, in each case, of reclusion perpetua, to indemnify the complainant [AAA] in the amount of P50,000.00 or a total of P100,000.00, and to pay the cost.

The accused, however, is acquitted in Criminal Case No. 8540, as this Court finds him innocent of the crime charged.

SO ORDERED.[28]

The records of this case were originally transmitted to this Court on appeal. Pursuant to our ruling in *People v. Mateo*,[29] we endorsed the case and the records to the CA for appropriate action and disposition.

The CA, in its decision dated January 19, 2006, affirmed the RTC decision in toto. The CA dismissed the appellant's argument that the Information in Criminal Case No. 8539 was vague and insufficient because the exact date of the crime was not stated. The CA reasoned out that Section 6, Rule 110 of the Rules on Criminal Procedure merely requires that the Information contain the approximate time, and not the exact time, of the commission of the offense.

The CA likewise believed AAA's testimony which it found credible. It held that the court may convict the accused based solely on the victim's testimony provided it is credible, natural and convincing.

In his brief,[30] the appellant argued that the lower courts erred in convicting him of two (2) counts of statutory rape despite the prosecution's failure to prove his guilt beyond reasonable doubt. He claimed that the victim's testimony was full of inconsistencies. He likewise contended that the Information in Criminal Case No. 8539 was defective for failure to state the exact date of the commission of the crime.

THE COURT'S RULING

We resolve to deny the appeal for lack of merit, but we modify the amount of the awarded indemnities.

Sufficiency of Prosecution Evidence

Rape is defined and penalized under Article 335[31] of the Revised Penal Code, as amended,[32] which provides:

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

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

x x x x

Rape under paragraph 3 of this article is termed statutory rape as it departs from the usual modes of committing rape. What the law punishes in statutory rape is carnal knowledge of a woman below twelve (12) years old. Thus, force, intimidation and physical evidence of injury are not relevant considerations; the only subject of inquiry is the age of the woman and whether carnal knowledge took place.[33] The law presumes that the victim does not and cannot have a will of her own on account of her tender years; the child's consent is immaterial because of her presumed incapacity to discern good from evil.[34]

AAA, while recounting her unfortunate ordeal, positively identified the appellant as the perpetrator of the June 18, 1995 rape; she never wavered in this identification. To directly quote from the records:

ATTY. EUGENIO MENDOZA:

Q:

Do you know the accused in this case in the person of Romar Teodoro y Vallejo alias Boyet?

[AAA]:

A:

Yes, sir.

Q:

If he is present in court, will you be able to point to him?

A:

Yes, sir.

Q:

Please do so.

(Witness pointing to a man and when asked of his name identified himself as Romar Teodoro).

x x x

Q:

On the 18th of June 1995 in the morning thereof, do you remember anything unusual?

A:

Yes, sir.

Q:

What was that?

A:

I was abused, sir.

Q:

By "pinagsamantalahan," what do you mean?

A:

I was raped, sir, by him.

Q:

When you refer to the pronoun him, to whom are you referring?

A:

Romar Teodoro, sir.

Q:

Where in particular were you raped and/or abused by Romar Teodoro on the 18[th] day of June 1995 in the morning thereof?

A:

In our bathroom, sir.

x x x x

Q:

According to you, you were abused and/or raped in your bathroom by Romar Teodoro, tell us how were you raped by Romar Teodoro?

A:

He kissed me and took off my clothes.

x x x

Q:

Where did he kiss you?

A:

On my face, sir.

Q:

Where else?

A:

On my neck, sir.

x x x

Q:

According to you he removed your dress, was he able to remove your T-shirt?

A:

No, sir.

Q:

How about your pants?

A:

Yes, sir.

Q:

After the pants you were wearing then was removed, were you still wearing anything?

A:

Yes, sir.

Q:

What is it?

A:

My panty, sir.

Q:

How about that panty, was that likewise removed?

A:

Yes, sir.

Q:

After the pants and the panty were removed by Romar Teodoro, what did he do to you, if any?

A:

He also took off his pants, sir.

Q:

And after he took off his pants, what did he do, if any?

A:

He inserted his penis in my vagina, sir.

Q:

What were you doing when he was then to insert his penis into your vagina?

A:

I was pushing him, sir.

Q:

Did you tell him anything at that time?

A:

None, sir.

Q:

How about Romar Teodoro, did he tell you anything at that time?

A:

Yes, sir.

Q:

What did he tell you?

A:

He told me not to tell it to my parents because he will kill me sir.

Q:

Other than pushing him away, what else did you do, if you did any?

A:

I was struggling, sir.

x x x

Q:

By the way, according to you he was able to insert his penis [in] your vagina, will you please tell us what did you feel, if any, at that time?

A:

"Masakit po." It was painful, sir.

x x x[35] [Emphasis supplied]

AAA likewise positively identified the appellant as the one who raped her during the first week of July 1995. Her testimony dated November 6, 1997 was clear and straightforward; she was consistent in her recollection of her defloration. To directly quote from the records:

ATTY. EUGENIO MENDOZA:

Q:

x x x My question to you is, if as testified to by you, you were raped on June 18, 1995, will you please tell us again as to when was the second time that you were raped by herein accused Romar Teodoro?

[AAA]:

A:

First week of July, sir.

Q:

What year?

A:

1995, sir.

Q:

Whereat?

A:

Inside our house, sir.

Q:

Which particular portion of your house?

A:

Inside the bathroom, sir.

Q:

What time was it on the first week of July, 1995 when you were raped by Romar Teodoro?

A:

Ten o'clock in the morning, sir.

Q:

And what was done to you by Romar Teodoro on that date and time?

A:

He raped me, sir.

Q:

Will you please narrate before the Honorable Court how you were raped by Romar Teodoro on the first week of July, 1995 at around 10:00 o'clock in the morning in your bathroom?

A:

He removed my clothes, sir.

Q:

What clothes were you then wearing at that time?

A:

T-shirt, sir.

Q:

What else?

A:

Short pants, sir.

x x x

Q:

While Romar Teodoro was then in the act of removing your short pants, what were you doing then?

A:

I was pushing him, sir.

Q:

Will you please tell us if other than pushing you did anything else?

A:

I was crying, sir.

Q:

Why were you crying at the time?

A:

Because he was raping me, sir.

Q:

Was he able to remove your short pants?

A:

Yes, sir.

Q:

After the short pants, was there anything else that you were wearing then at the time?

A:

Yes, sir, my panties, sir.

Q:

How about the panties, what happened to the same?

A:

He also removed my panties, sir.

x x x

Q:

After the removal of the same wearing apparel, what happened next?

A:

His penis was inserted to [sic] my vagina, sir.

x x x[36] [Emphasis ours]

We view this testimony to be clear, convincing and credible considering especially the corroboration it received from the medico-legal report and testimony of Dr. Mendoza. We additionally do not see from the records any indication that AAA's testimony should be seen in a suspicious light. We emphasize that the appellant had been staying in the victim's house for more or less 3 years; he dined with AAA's family and slept with her brothers.

There is no plausible reason why AAA would falsely testify against the appellant, imputing on him a crime as grave as rape if the sexual incident did not happen. We have held time and again that the testimonies of rape victims who are young and immature, as in this case, deserve full credence considering that no woman, especially one of tender age, would concoct a story of defloration, allow the examination of her private parts, and subject herself to a public trial if she had not been motivated by the desire to obtain justice for the wrong committed against her.[37]

The prosecution positively established the elements of rape required under Article 335. First, the appellant succeeded in having carnal knowledge with the victim on June 18, 1995 and during the first week of July 1995. AAA was steadfast in her assertion that the appellant raped her on both occasions; and that the appellant succeeded in inserting his penis into her private part, as a result of which she felt pain. As earlier stated, AAA's testimony was corroborated by the medical findings of Dr. Mendoza.

Second, the prosecution established AAA's minority during the trial through the presentation of her birth certificate showing that she was born on July 21, 1983. AAA herself, in fact, testified regarding her age. Hence, when the appellant raped AAA on June 18, 1995 and on the first week of July 1995, she was not yet 12 years old. As we stated above, when the victim is below 12 years of age, violence or intimidation is not an element to be considered; the only subject of inquiry is whether carnal knowledge took place. The law conclusively presumes the absence of consent when the victim is below the age of 12. Thus, we held in *People v. Valenzuela*:[38]

What the law punishes in statutory rape is carnal knowledge of a woman below twelve (12) years old. Thus, force, intimidation, and physical evidence of injury are immaterial; the only subject of inquiry is the age of the woman and whether carnal knowledge took place. The law presumes that the victim does not and cannot have a will of her own on account of her tender years; the child's consent is immaterial because of her presumed incapacity to discern evil from good.

The Appellant's Defenses

In his defense, the appellant invoked denial. He denied raping the victim on June 18, 1995 and on the first week of July 1995, but admitted having a consensual sexual intercourse with AAA on March 30, 1996. We shall only discuss the incidents of June 18, 1995 and of the first week of July 1995 (subject of Criminal Case Nos. 8538 and 8539), as the appellant had already been acquitted in Criminal Case No. 8540.

It is settled that denial is an inherently weak defense. It cannot prevail over positive identification, unless supported by strong evidence of lack of guilt. In the context of this case, the appellant's mere denial, unsupported by any other evidence, cannot overcome the child-victim's positive declaration on the identity and involvement of the appellant in the crime attributed to him.[39]

The appellant further argues that the Information in Criminal Case No. 8539 is defective because it failed to state the exact date of the commission of the crime.

The contention lacks merit.

An information, under Section 6, Rule 110 of the 2000 Revised Rules on Criminal Procedure, is deemed sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed. Section 11 of the same Rule also provides that it is not necessary to state in the complaint or information the precise date the offense was committed, except when the date of commission is a material element of the offense. The offense may thus be alleged to have been committed on a date as near as possible to the actual date of its commission. At the

minimum, an indictment must contain all the essential elements of the offense charged to enable the accused to properly meet the charge and duly prepare for his defense.[40]

In the present case, the Information in Criminal Case No. 8539 states that the offense was committed "in the first week of July 1995"; it likewise alleged that the victim was "below 12 years old" at the time of the incident. These allegations sufficiently informed the appellant that he was being charged of rape of a child who was below 12 years of age. Afforded adequate opportunity to prepare his defense, he cannot now complain that he was deprived of his right to be informed of the nature of the accusation against him.

We have repeatedly held that the date of the commission of rape is not an essential element of the crime.[41] It is not necessary to state the precise time when the offense was committed except when time is a material ingredient of the offense. In statutory rape, time is not an essential element except to prove that the victim was a minor below twelve years of age at the time of the commission of the offense. Given the victim's established date of birth, she was definitely short of 12 years under the allegations of the Information and on the basis of the evidence adduced.

Moreover, objections relating to the form of the complaint or information cannot be made for the first time on appeal. If the appellant had found the Information insufficient, he should have moved before arraignment either for a bill of particulars, for him to be properly informed of the exact date of the alleged rape, or for the quashal of the Information, on the ground that it did not conform with the prescribed form. Failing to pursue either remedy, he is deemed to have waived objection to any formal defect in the Information.[42]

The Proper Penalty

The applicable provisions of the Revised Penal Code, as amended, covering the crime of rape is Article 335 which provides:

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

x x x x

3. When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by reclusion perpetua.

x x x x

The lower courts, therefore, are correct in imposing the penalty of reclusion perpetua on the appellant.

Proper Indemnity

The award of civil indemnity to the rape victim is mandatory when rape is found to have been committed. Thus, this Court affirms the award of P50,000.00 as civil indemnity based on prevailing jurisprudence.[43]

The award of moral damages also finds full justification in this case. Moral damages are awarded to rape victims without need of proof other than the fact of rape on the assumption that the victim suffered moral injuries from the experience she underwent.[44] Pursuant to current rules, we award P50,000.00 as moral damages to AAA.[45]

In addition, we award exemplary damages in the amount of P30,000.00.[46] The award of exemplary damages is justified under Article 2229 of the Civil Code to set a public example and serve as deterrent against elders who abuse and corrupt the youth.[47]

WHEREFORE, premises considered, we AFFIRM the January 19, 2006 decision of the Court of Appeals in

CA-G.R. CR-H.C. No. 00752 with the modification that the appellant is further ORDERED to PAY the victim the amounts of P50,000.00 and P30,000.00 as moral damages and exemplary damages, respectively, for each count of statutory rape.

SO ORDERED.

Carpio, (Chairperson), Leonardo-De Castro, Del Castillo and Abad, JJ., concur.

[1] Penned by Associate Justice Vicente Q. Roxas (separated from the service), and concurred in by Associate Justice Godardo A. Jacinto (retired) and Associate Justice Juan Q. Enriquez, Jr.; rollo, pp. 3-12.

[2] Penned by Judge Romeo F. Barza; CA rollo, pp. 24-30.

[3] Id. at 7.

[4] Id. at 11.

[5] Id. at 13.

[6] Records, pp. 38-39.

[7] TSN, December 12, 1996, p. 9.

[8] Records, p. 3.

[9] TSN, December 12, 1996, p. 11.

[10] Id. at 12-13.

[11] TSN, May 27, 1997, p. 7.

[12] Id. at 9, 15-16.

[13] TSN, September 23, 1997, p. 4.

[14] Id. at 7-8.

[15] Id. at 8-11.

[16] TSN, November 6, 1997, pp. 2-5.

[17] Id. at 6-8.

[18] Id. at 9-10.

[19] Id. at 11-12.

[20] Id. at 13.

[21] TSN, July 30, 1998, pp. 5-6.

[22] Id. at 9-11.

[23] Id. at 13-14.

[24] TSN, December 6, 1999, p. 4.

[25] Id. at 4-7.

[26] Id. at 9

[27] Id. at 10.

[28] CA rollo, p. 71.

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

[30] CA rollo, pp. 44-64.

[31] The crimes subject of Criminal Case No. 8538 and Criminal Case No. 8539 were committed in 1995, or before Article 335 of the Revised Penal Code, as amended, was repealed by Republic Act No. 835 (the Anti-Rape Law of 1997).

[32] Amended by Republic Act No. 7659, entitled An Act to Impose the Death Penalty on Heinous Crimes Amending for that Purpose the Revised Penal Code, as Amended, Other Special Laws, and for Other Purposes, which took effect on December 31, 1993.

[33] *People v. Pancho*, 462 Phil. 193 (2003).

[34] *People v. Natan*, G.R. No. 181086, July 23, 2008, 559 SCRA 686.

[35] TSN, September 23, 1997, pp. 6-10.

[36] TSN, November 6, 1997, pp. 2-5.

[37] *People v. Malones*, 469 Phil. 301 (2004).

[38] G.R. No. 182057, February 6, 2009, 578 SCRA 157.

[39] *Supra* note 38.

[40] *People v. Canares*, G.R. No. 174065, February 18, 2009, 579 SCRA 588.

[41] *People v. Ching*, G.R. No. 177150, November 22, 2007, 538 SCRA 117; *People v. Jalbuena*, G.R. No. 171163, July 4, 2007, 526 SCRA 500; *People v. Invencion*, 446 Phil. 775 (2003).

[42] See *People v. Cachapero*, G.R. No. 153008, May 20, 2004, 428 SCRA 744.

[43] See *People v. Begino*, G.R. No. 181246, March 20, 2009, 582 SCRA 189.

[44] *People v. Nieto*, G.R. No. 177756, March 3, 2008, 547 SCRA 511.

[45] *Supra* note 38.

[46] See *People v. Sia*, G.R. No. 174059, February 27, 2009, 580 SCRA 364; *People v. Layco, Sr.*, G.R. No. 182191, May 8, 2009.

[47] See *People v. Tormis*, G.R. No. 183456, December 18, 2008, 574 SCRA 903.

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