

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VICTORINO REYES, ACCUSED-APPELLANT.*G.R. No. 173307. July 17, 2013*

Ponente: BERSAMIN, J.

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Slightest penetration of the labia of the female victim's genitalia consummates the crime of rape.

The Case

Victorino Reyes appeals his conviction for the rape of his 13-year-old neighbor AAA,[1] for which the Regional Trial Court (RTC), Branch 53, in Rosales, Pangasinan had imposed the penalty of reclusion perpetua under its decision of April 23, 2001,[2] and which conviction the Court of Appeals (CA) affirmed on appeal by its assailed decision promulgated on April 20, 2006.[3]

Antecedents

As the RTC and the CA both found, Reyes raped AAA at around 9:00 p.m. on December 26, 1996 in Barangay San Aurelio, Balungao, Pangasinan. Earlier, at around 7:00 p.m., AAA and her 9-year-old sister, BBB, had watched television at his house just across the street from their house. Only Reyes and his two sons, aged seven and five, were the other persons in the house, for his wife had gone to another barangay to sell refreshments. By 9:00 p.m., AAA and BBB rose to go home, but as they were leaving, Reyes suddenly pulled AAA into the store attached to the sala of his house. He told her in the dialect: Umaykan ta agiyyot ta. (Come here and let us have sex).[4] Alarmed by what his words denoted, AAA struggled to free herself from him. BBB went to her succor by pulling her away from him, but his superior strength prevailed. BBB could only cry as he dragged AAA into the store. BBB was left outside the store crying.

Inside the store, Reyes kissed AAA and mashed her breasts. He threatened her: If you will shout, I will kill you.[5] He pulled down her long pants and panties below her knees, took out his penis, grabbed her by the waist, and used his body to anchor her back to a nearby table. She fought back by boxing and pushing him away, but her efforts were futile. He twice tried to pry open her legs, but she strained hard to close them. On the second attempt, however, her effort was not enough to prevent him from pulling her legs apart, and he then thrust his penis into her vagina and made push and pull movements.[6] Although his penis achieved only a slight penetration of her vagina,[7] he succeeded in satisfying his lust, as confirmed later on when CCC, the mother of the victim, found semen on AAA's panties.[8]

After he had satisfied his lust, Reyes threatened to kill both AAA and BBB should they tell anyone else about what had happened. Then they hurriedly left for home.[9] Upon their arrival in their house, CCC called out to her daughters to go to bed. Only BBB immediately complied because AAA tarried outside, only to have her mother again call her inside. AAA entered the house this time, but went to where the aparador was and took out fresh panties. CCC saw her doing so and became suspicious. She also saw fear in the face of her daughter. When she inspected the soiled underwear of AAA, CCC discovered that her panties were wet with semen.[10] Upon being

interrogated, AAA admitted that Reyes had raped her.[11]

At around 6:00 a.m. of the next day, December 27, 1996, CCC reported the rape of her daughter by Reyes to the Barangay Chairman of San Aurelio, who accompanied AAA and her father to the Balungao Police Station to bring the criminal complaint for rape. At the request of the Balungao Police, Dr. Ingrid Irena B. Gancinia, the Municipal Health Officer of Rosales, Pangasinan, conducted a medical examination on AAA at around 3:30 p.m. of that day.

The findings reflected in Dr. Gancinia's medico-legal report showed the following:

IE: Contusion, labia majora, [Right] and [Left];

No hymenal lacerations noted with one examining finger difficult to penetrate the vaginal canal.[12]

Subsequently, the Office of the Provincial Prosecutor of Pangasinan filed the information dated February 3, 1997 charging Reyes with rape committed as follows:

That on or about the 26[th] day of December, 1996, in the evening, in Brgy. San Aurelio 1st, Municipality of Balungao, Province of Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, did then and there, willfully, unlawfully, and feloniously have carnal knowledge with AAA, a minor of about thirteen (13) year[s] old, against her will and to her damage and prejudice.

Contrary to Article 335, Revised Penal Code.[13]

Upon his arraignment on February 23, 1998,[14] Reyes pleaded not guilty to the information.

Although admitting that AAA and BBB had watched television in his house at the time of the rape, Reyes insisted that he had been sleeping on the sofa in front of the television set in the sala of his house from 7:30 p.m. of December 26, 1996 until 2:30 a.m. of the next day. He denied the accusation, and called attention to the medical findings showing that AAA's hymen was intact; hence, she was still a virgin.

On April 23, 2001, after the trial on the merits, the RTC convicted Reyes as charged. It regarded AAA's narration of the circumstances of her rape as clear, convincing and consistent on all material points. It concluded that the contusion (pamamaga) on AAA's labia majora found by Dra. Gancinia proved that penile penetration had been achieved; that AAA's fragile personality manifested during the trial explained why she had cried and refused to answer in the face of the often browbeating questions during her cross-examination; that Reyes had also made intimidating glares towards her while she testified; and that she had remained consistent in her claim of rape and insistent that she was telling the truth.

The RTC disposed as follows:

WHEREFORE, the Court finds the accused Victorino Reyes guilty beyond reasonable doubt of the crime of rape as charged and hereby sentences him to suffer imprisonment of RECLUSION PERPETUA and to indemnify the private complainant AAA in the amount of Seventy Five Thousand (P75,000.00) Pesos. No pronouncement as to costs.

SO ORDERED.[15]

On intermediate review, Reyes argued[16] that AAA and her mother had concocted the charge as their way of escaping their debts at his store.[17] He denied having carnal knowledge of AAA, and stated that he had merely kissed her, citing the lack of medical findings of any hymenal lacerations in the medico-legal report.[18] He posited that even assuming that there had been carnal knowledge, the act could only be consensual considering that AAA's hand had landed on his shoulders during the supposed sexual encounter.

Nonetheless, the CA affirmed Reyes' conviction.[19]

Hence, this appeal, wherein Reyes reiterates his submissions.

Ruling

The appeal has no merit.

To start with, both the CA and the RTC unanimously found that the testimonies of AAA and BBB were credible and reliable. It consequently behooved Reyes to come forward with a good reason or cause to have us depart from the age-old rule of according conclusiveness to the findings of the RTC that the CA affirmed. The Court is not a trier of facts, and has to depend on the findings of fact of the trial court by virtue of its direct access to the witnesses as they testified in court. Only when the appellant convincingly demonstrates that such findings of fact were either erroneous, or biased, or unfounded, or incomplete, or unreliable, or conflicted with the findings of fact of the CA would the Court assume the rare role of a trier of facts. But that convincing demonstration was not done here by Reyes.

Secondly, the decisive question is whether the evidence adduced by the State competently proved that the crime reached the consummated stage. Reyes insists that the fact that AAA's hymen had remained intact, per the medico-legal report, revealed that no rape had been committed.

His insistence is not persuasive.

Article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act No. 7659,[20] the law applicable at the time of the rape of AAA, defined and punished rape thusly:

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.

The crime of rape shall be punished by reclusion perpetua.[21]

As the text of the law itself shows, the breaking of the hymen of the victim is not among the means of consummating rape. All that the law required is that the accused had carnal knowledge of a woman under the circumstances described in the law. By definition, carnal knowledge was "the act of a man having sexual bodily connections with a woman." [22] This understanding of rape explains why the slightest penetration of the female genitalia consummates the crime.

During her examination of AAA, Dra. Gancinia found pamamaga (swelling) on the victim's labia majora. Dra. Gancinia opined that such swelling was possibly caused by the insertion of a hard object, like a hard penis, or by friction with hard objects even without removing the panties or pants of AAA.[23] Although such medical finding, left alone, was susceptible of different probable interpretations, AAA's testimonial narration about how Reyes had sexually assaulted her, including how his penis had only slightly penetrated her vagina, confirmed that he had carnal knowledge of her.

More specifically, the presence of the swelling in AAA's labia majora was an indication of the penetration by the erect penis of the labia majora of the accused. As such, there was sufficient factual foundation for finding him guilty beyond reasonable doubt of rape,[24] for, as the Court explains in *People v. Teodoro*: [25]

In objective terms, carnal knowledge, the other essential element in consummated statutory rape, does not require full penile penetration of the female. The Court has clarified in *People v. Campuhan* [26] that the mere

touching of the external genitalia by a penis capable of consummating the sexual act is sufficient to constitute carnal knowledge. All that is necessary to reach the consummated stage of rape is for the penis of the accused capable of consummating the sexual act to come into contact with the lips of the pudendum of the victim. This means that the rape is consummated once the penis of the accused capable of consummating the sexual act touches either labia of the pudendum. As the Court has explained in *People v. Bali-balita*,^[27] the touching that constitutes rape does not mean mere epidermal contact, or stroking or grazing of organs, or a slight brush or a scrape of the penis on the external layer of the victim's vagina, or the mons pubis, but rather the erect penis touching the labias or sliding into the female genitalia. Accordingly, the conclusion that touching the labia majora or the labia minora of the pudendum constitutes consummated rape proceeds from the physical fact that the labias are physically situated beneath the mons pubis or the vaginal surface, such that for the penis to touch either of them is to attain some degree of penetration beneath the surface of the female genitalia. It is required, however, that this manner of touching of the labias must be sufficiently and convincingly established. (Emphasis supplied)

Finally, although the RTC and the CA correctly imposed reclusion perpetua because the crime was simple rape, we need to revise the civil liability fixed and allowed by the RTC in order to have it accord with pertinent jurisprudence to the effect that civil indemnity of P50,000.00 and moral damages of P50,000.00 should be awarded to the victim of simple rape without need of proof other than the fact of rape.^[28] This is because the victim unquestionably suffered actual loss and moral injuries from her experience. In addition, the attendance of AAA's minority as an aggravating circumstance, which, although not a proper basis to raise the penal sanction on account of the failure to allege it in the information, should still justify the grant of exemplary damages in order to set a public example and to establish a deterrent against elders who abuse and corrupt the youth.^[29] According to *People v. Catubig*,^[30] exemplary damages are justified regardless of whether or not the generic or qualifying aggravating circumstances are alleged in the information, considering that the grant of such damages pursuant to Article 2230 of the Civil Code is intended for the sole benefit of the victim and does not affect the criminal liability, the exclusive concern of the State. The grant in this regard should be in the sum of P30,000.00.^[31]

WHEREFORE, we AFFIRM the decision promulgated on April 20, 2006 by the Court of Appeals, with the MODIFICATION that Victorino Reyes shall pay to AAA P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages, plus interest of 6% per annum from the finality of this decision.

Costs of suit to be paid by the appellant.

SO ORDERED.

Sereno, C.J., Leonardo-De Castro, Villarama, Jr., and Reyes, JJ., concur.

[1] The real names of the victim and of her immediate family are withheld pursuant to Republic Act No. 7610 and Republic Act No. 9262. See *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[2] Records, pp. 183-199.

[3] CA rollo, pp. 157-167; penned by Associate Justice Josefina Guevara-Salonga (retired), with Associate Justice Fernanda Lampas-Peralta and Associate Justice Sesinando E. Villon concurring.

[4] TSN, August 19, 1998, p. 4.

[5] Id. at 5.

[6] Id. at 18.

- [7] TSN, April 28, 1998, p. 12.
- [8] TSN, September 16, 1998, p. 9.
- [9] TSN, May 10, 1999, p. 12.
- [10] TSN, September 16, 1998, p. 9.
- [11] Id. at 10-11.
- [12] Records, p. 4.
- [13] Id. at 1.
- [14] Id. at 24.
- [15] Id. at 198-199.
- [16] CA rollo, pp. 63-79.
- [17] Id. at 74.
- [18] Id. at 76-77.
- [19] Id. at 157-166.
- [20] An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, as Amended, Other Special Penal Laws and for other Purposes. (Effective on December 31, 1993).
- [21] The current law on rape is found in Article 266-A and Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353 (effective on October 22, 1997).
- [22] Black's Law Dictionary 193 (5th ed., 1979).
- [23] TSN, September 11, 2000, pp. 6-9.
- [24] People v. Bation, G.R. No. 123160, March 25, 1999, 305 SCRA 253, 269.
- [25] G.R. No. 175876, February 20, 2013, 691 SCRA 324, 340.
- [26] G.R. No. 129433, March 30, 2000, 329 SCRA 270, 280.
- [27] G.R. No. 134266, September 15, 2000, 340 SCRA 450, 465.
- [28] People v. Pinic, G.R. No. 186395, June 8, 2011, 651 SCRA 623, 640-641; People v. Macapanas, G.R. No. 187049, May 4, 2010, 620 SCRA 54, 76; People v. Begino, G.R. No. 181246, March 20, 2009, 582 SCRA 189, 198-199; People v. Pabol, G.R. No. 187084, October 12, 2009, 603 SCRA 522, 532-533.
- [29] People v. Tormis, G.R. No. 183456, December 18, 2008, 574 SCRA 903, 919-920.
- [30] G.R. No. 137842, August 23, 2001, 363 SCRA 621, 635.
- [31] People v. Matunhay, G.R. No. 178274, March 5, 2010, 614 SCRA 307, 321.

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