

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. OLIGARIO BALONZO, ACCUSED-APPELLANT.

G.R. No. 176153. September 21, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For review is the Decision[1] of the Court of Appeals promulgated on 6 October 2006 in CA-G.R. CR-H.C. No. 01295, entitled “People of the Philippines v. Oligario Balonzo,” affirming, with modification, the Judgment[2] of the Regional Trial Court of Gumaca, Quezon, Branch 61, in Criminal Case No. 7730-G, finding appellant Oligario Balonzo guilty beyond reasonable doubt of the crime of qualified rape committed against his own daughter, AAA.[3]

Appellant was charged with rape as defined and punished under Articles 266-A and 266-B of the Revised Penal Code, as amended by Republic Act No. 8353, in relation to Republic Act No. 7610, allegedly committed as follows:

That on or about 8:00 o’clock in the evening of the 14[th] day of July, 2002, at XXX, XXX, XXX, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, with force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one AAA, a minor, then 15 years of age, against her will.

That the accused Oligario Balonzo is the biological father of the victim who had moral ascendancy over the latter and that the crime was committed inside their dwelling.[4]

Appellant with the assistance of counsel, entered a plea of not guilty to the charge.[5] Thereafter, trial on the merits ensued.

AAA testified that she is a daughter of appellant. When she was eleven years old, her mother died. From the time of her mother’s death, she lived in the house of her older sister. In 2001, when she was about to graduate from grade school, she moved into appellant’s house. She stayed there together with appellant, her older brother BBB, her younger sister CCC, and her younger brother DDD. Appellant and BBB helped each other in sending AAA to school but she only finished second year high school. At nighttime, AAA and CCC slept in the only bedroom of their house, while appellant and her two brothers slept on a mat in their living room.

Apparently, AAA’s relationship with appellant was punctuated with bouts of fear. AAA testified that on two separate instances, when appellant was intoxicated, he chased her with a bolo for no reason whatsoever except for the fact that he was inebriated. Unfortunately for AAA, she would later find out that appellant was capable of inflicting upon her a different form of harm which first manifested itself on the night of 14 June 2002. According to AAA, appellant entered the room she shared with CCC and purportedly warned her not to inform anyone about what he was going to do or else he would kill her siblings. Appellant then held her buttocks and removed her lower apparel. He thereafter went on top of her and inserted his penis into her sexual organ. Neither CCC, who was sleeping beside her, nor DDD, who was sleeping in their living room, was awakened by what was then taking

place between AAA and appellant. After this incident, AAA opted to keep her harrowing ordeal to herself.

The revolting misdeed was again performed by appellant on the evening of 14 July 2002. AAA claimed that she was roused from sleep and found appellant removing her shorts. He then caressed her buttocks and inserted his penis into her vagina for which she felt pain. During the whole time that AAA was experiencing such malevolence, she was wearing her upper clothes while appellant was fully naked. She did not offer any resistance against appellant's bestial attack for she was afraid of him. Eventually, however, she was able to summon the courage to reveal her plight to BBB who, in turn, helped her initiate the criminal complaint against appellant.

During AAA's cross-examination, counsel for appellant was able to draw out from her the fact that darkness enveloped their house during the times when she was allegedly raped by appellant. Their house did not have electricity and they were using only a gas lamp which was not lit during those nights. Despite this, she insisted that appellant was the one who raped her for she was familiar with his physical features such as the texture of the hair on his head, his smell, and the coarse hair on his upper lip. In the course of her cross-examination, AAA could no longer restrain herself and started crying.[6]

The prosecution presented, as its second witness BBB, who stated that on 24 September 2002, AAA disclosed to him that she was molested by their father, appellant herein. He then accompanied AAA to the authorities to report the matter.

The defense presented only one witness who was none other than appellant himself. He admitted before the court that AAA was indeed his daughter but denied that he had raped her. According to him, prior to 14 July 2002, he maintained a harmonious relationship with AAA and the only reason that the latter may hold a grudge against him was for the time when he disallowed her to go out with her friends. He also described AAA and BBB as liars for having accused him of rape.

On 23 May 2005, the trial court promulgated its decision finding appellant guilty beyond reasonable doubt of the crime of qualified rape. The dispositive portion of the decision reads:

WHEREFORE AND IN VIEW OF ALL THE FOREGOING, the court finds accused OLIGARIO BALONZO guilty of the crime of Qualified Rape defined and punished under Articles 266-A and 266-B of the Revised Penal Code as amended by R.A. 8353 and he is hereby sentenced to suffer the penalty of DEATH. He is further ordered to pay the amount of Php75,000.00 as civil indemnity, Php50,000.00 as moral damages and Php25,000.00 as exemplary damages.[7]

The trial court brushed aside appellant's defense which was based mainly on denial. It described as "steadfast" AAA's testimony relating to the rape perpetrated upon her by appellant[8] whom she identified in open court.

The records of the case were then forwarded to the Court of Appeals pursuant to this Court's holding in *People v. Mateo*,[9] which allows for the intermediate review by the Court of Appeals of cases where the penalty imposed is death, reclusion perpetua or life imprisonment.[10]

On 6 October 2006, the appellate court rendered the now assailed decision which affirmed, with modification, the judgment of the trial court, thus:

WHEREFORE, in view of the foregoing, the assailed decision of the Regional Trial Court is hereby AFFIRMED with MODIFICATION in that herein accused-appellant is sentenced to suffer the penalty of reclusion perpetua, in lieu of the supreme penalty of death.[11]

In modifying the decision of the trial court, the Court of Appeals took cognizance of the effectivity of Republic Act No. 9346, otherwise known as "An Act Prohibiting the Imposition of Death Penalty in the Philippines."

Appellant assigns the following sole error:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF QUALIFIED RAPE AND IN IMPOSING UPON HIM THE SUPREME PENALTY OF DEATH.[12]

Appellant insists that the prosecution failed to present sufficient evidence to convict him. He also claims that the trial court erred in putting premium on AAA's testimony since her testimony was so inconsistent with common experience. For one, appellant points out that per AAA's admission, she did not offer any resistance to his alleged sexual advances despite the fact that he was supposedly unarmed at that time. He argues that AAA could have easily shouted for help considering that her siblings were sleeping nearby.[13]

Appellant also draws our attention to the lack of medical finding to support AAA's accusation. He asserts that while it was alleged that AAA underwent physical examination, the medical certificate that would support said claim was not presented before the court. Similarly, the doctor who supposedly conducted the said examination was not presented by the prosecution.[14]

As regards the age of AAA, appellant claims that the prosecution failed to show proof that she was really a minor at the time of the alleged rape for she presented a mere photocopy of her birth certificate and not the original thereof.[15]

We are not persuaded.

In determining the innocence or guilt of the accused in rape cases, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.[16]

Resultantly, the primordial consideration concerning the crime of rape is the credibility of witnesses.[17] The familiar rule is that, in passing upon the credibility of witnesses, the highest degree of respect must be afforded to the findings of the trial court unless there is proof of its misappreciation of evidence.[18] Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial court stood in a much better position to decide the question of credibility.[19]

In this case, we have thoroughly reviewed the testimony of AAA and, we cannot but join the trial court and the Court of Appeals in their conclusions that she was indeed raped by appellant. In a clear and unequivocal manner, she recalled her ordeal as follows:

Q

What were your brother and sister doing at that time 8:00 P.M. of July 14, 2002?

A

They were soundly sleeping.

Q

And you said that you were raped by your father on July 14, 2002 at about 8:00 P.M. while your brother and sister were sleeping soundly, what did your father do to you?

A

He removed [m]y shorts, he held by buttocks and inserted his penis into my vagina.

Q

When he inserted his penis in your vagina, were you wearing panty?

A

None, Madam.

Q

How about your father, was he wearing brief or shorts at that time when he inserted his penis?

A

None, Madam.

Q

How about your upper clothes, were you wearing your upper clothes?

A

Yes, Madam.

Q

At the time that he inserted his penis into your vagina, were you wearing your upper clothes?

A

Yes, Madam.

Q

How about your father?

A

None, Madam.

Q

Your father was naked at that time?

A

Yes, Madam.

Q

You said that your father inserted his penis into your vagina, what did you feel when he inserted his penis?

A

I felt pain.

Q

And what did you tell your father when you felt pain?

A

None, Madam.

Q

Why did you not stop your father?

A

Because I was afraid of him.

Q

Why were you afraid of him?

A

Because he will hurt me.

Q

Were there previous incidents that you were hurt by your father?

A

Yes, Madam.

Q

How did he hurt you?

A

I was about to bump the window one time when he chased me every time he was drunk.

Q

How many times did your father chase you with a bolo whenever he is drunk?

A

About two times.[20]

Even under the rigorous cross-examination conducted on her by appellant's counsel, AAA remained consistent with her narration bolstering her charge against appellant. To borrow the words of the Court of Appeals –

x x x Jurisprudence holds that when a victim's testimony is straightforward, candid and unflawed by inconsistencies or contradictions in its material points, the same must be given full faith and credit. It is also a matter of judicial cognizance that the spontaneous crying of the victim during her testimony is evidence that speaks well of her credibility. A perusal of the transcript of stenographic notes forming part of the case records evinces the consistency and clarity of (AAA's) testimony.[21]

To reiterate, courts usually give greater weight to the testimony of a girl who fell victim to sexual assault, especially a minor, particularly in cases of incestuous rape, because no woman would be willing to undergo a public trial and bear the concomitant shame, humiliation, and dishonor of exposing her own degradation were it not for the purpose of condemning injustice and ensuring that the offender is punished.[22]

Appellant seeks to escape the consequences of his misdeed by pointing out portions of AAA's testimony which he claims to be contrary to common experience, particularly AAA's failure to shout for help while she was being sexually molested and the absence of any resistance on her part.

We are not convinced.

As correctly argued by the Solicitor General, AAA cannot be faulted if she chose to suffer in silence or failed to offer any resistance against appellant's unabated sexual perversion, for it is settled that the law does not impose a burden on the rape victim to prove resistance.[23] Indeed, the records of this case do not bear any indication that AAA put up a fight against the unwelcome intrusion into her maidenhood. This, however, does not negate the occurrence of appellant's wrongdoing. In cases of rape committed by a father or a person recognized by the victim as her father, the former's moral ascendancy and influence over the latter substitutes for violence and intimidation. There is no further proof that needs to be shown to establish the lack of the victim's consent to her own defilement.[24]

Moreover, not all rape victims can be expected to conform to a set pattern of behavior. Each victim must necessarily deal with such aberrant episode in life in a way that is dictated by his or her own coping mechanism. It is settled that different people react differently to a given situation or type of situation, and there is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience.[25]

In this case, AAA's silence while appellant was giving vent to his sexual urge was not "inconsistent with common experience and observation of mankind," as appellant would try to impress upon this Court. More than sheer moral ascendancy, appellant had already forewarned AAA of what would befall her and her siblings should she tell anyone of his transgression. As AAA had already been witness to appellant's violent tendency in the past, it is understandable if she was practically immobilized into submission by appellant. Surely, the picture of appellant running after her while brandishing a bolo had left a lasting impression on AAA and convinced her that it was not a remote possibility for appellant to inflict physical harm on her and her siblings.

We are similarly unconvinced by appellant's insistence that AAA erred in pointing at him as her rapist as it was

dark when she was attacked. Her testimony on this matter contravenes appellant's contention –

QUESTIONS FROM THE COURT

Q:

I want to clarify something. You stated that it was dark, no light whatsoever, and you did not see your father, how were you able to identify that the one who raped you was really your father?

A:

I know him, Your Honor.

Q:

What were the identification marks that made you conclude that it was your father who raped you?

A:

His hair.

Q:

Do you know the smell of your father?

A:

Yes, Your Honor.

Q:

What else?

A:

His coarse hair on the upper lip.

ATTY. HASIM:

Q:

Is that the only identification marks that you have to conclude that the one who raped you was your father?

A:

Yes, sir.

Q:

Did you touch the upper lip of your father at the time when he raped you?

A:

Yes, sir.

Q:

And did you try to smell your father, the person who raped you?

A:

Yes, sir.

Q:

What part of his body did you smell?

A:

His mouth and his face.

Q:

Did you not observe the size or the feature of your father during that time?

A:

I have noticed that.

Q:

Did you not touch his hair?

A:

I touched his hair.[26]

In *People v. Corpuz*,[27] a case where the appellant also raised this same argument, this Court stated that:

It is highly inconceivable that complainant would not recognize her own father, with whom she had been living for a time. We have held that it is the most natural reaction for victims of criminal violence to strive to see the appearance of their assailant and observe the manner in which the crime was committed. Most often, the face and body movements of the assailants create a lasting impression which cannot be easily erased from their memory. The impression becomes more profound where the malefactor is the victim's own father.

In this case, AAA unhesitatingly pointed to appellant as her aggressor. There was not an iota of doubt in her mind that it was her own father who committed the atrocious crime against her person. It is quite difficult to believe that an unsophisticated girl such as AAA would brazenly impute a crime so serious as rape to any man, let alone her own father, if the charge were not true.[28] And even if we were to believe appellant's claim that he once reprimanded AAA over the company she kept, we find it hard to believe that in order to get even, she went as far as to invent a criminal charge that could very well lead her own father to his death and deprive not only herself but her siblings as well of the only parent left to them. As this Court had previously declared –

It would take the most senseless kind of depravity for a young daughter to fabricate a story which would send her father to death only because he disciplined her. Verily, no child in her right mind would concoct a story of defloration against her own father and expose her whole family to the stigma and disgrace associated with incestuous rape, if only to free herself from an overweening and strict parent who only happens to enforce parental guidance and discipline.[29]

Also unavailing is appellant's argument that the lack of medical certificate and of the testimony of the examining

physician as regards AAA's physical injuries should be taken against the prosecution. A medical certificate is not necessary to prove the commission of rape and a medical examination of the victim is not indispensable in a prosecution for rape.[30] Expert testimony is merely corroborative in character and not essential to conviction.[31] An accused can still be convicted of rape on the basis of the sole testimony of the private complainant.[32] It is in the nature of the crime of rape that an accused may be convicted on the basis of the lone uncorroborated testimony of the rape victim, provided that her testimony is clear, positive, and convincing.[33] In the present case, the prosecution, through the testimony of AAA, has shown that appellant had carnal knowledge of his own daughter against her will. Said testimony is worthy of credence and is enough to sustain his conviction.

Finally, appellant makes capital of the fact that only a photocopy of AAA's birth certificate was offered in evidence and asserts that her minority has not been proven. We have examined the records of this case and found out that what was actually presented by the prosecution and admitted in evidence was a "certified true xerox copy of the original" issued by the municipal civil registrar of Buenavista, Quezon.[34] This being the case, we perceive no error in the trial court's admission of, and reliance upon said copy of AAA's birth certificate, for jurisprudence dictates that in appreciating age, either as an element of the crime or as a qualifying circumstance, the best evidence is an original or certified true copy of the certificate of live birth of a party.[35] As indicated in her birth certificate, AAA was born on 1 December 1986. The Information therefore correctly alleged that she was only fifteen years old when she was raped on 14 July 2002.

As regards the award of damages, we find that an increase in the amount of moral damages is in order pursuant to prevailing jurisprudence. Hence, we increase the same from P50,000.00 to P75,000.00 without the need of pleading or proof of basis thereof.[36]

WHEREFORE, premises considered, the Decision dated 6 October 2006 of the Court of Appeals in CA-G.R. CR-H.C. No. 01295, affirming with modification the Judgment of the Regional Trial Court, Branch 61 of Gumaca, Quezon, is hereby **AFFIRMED** with the **MODIFICATION** that the amount of moral damages is increased to P75,000.00.

SO ORDERED.

Ynares-Santiago, (Chairperson), Sandoval-Gutierrez, Austria-Martinez, and Reyes, JJ., concur.

[1] Penned by Associate Justice Rodrigo V. Cosico with Associate Justices Edgardo F. Sundiam and Celia C. Librea-Leagogo, concurring; rollo, pp. 2-10.

[2] Records, pp. 117-132.

[3] Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules, the name of the victim, as well as those of her immediate family members, is withheld and fictitious initials instead are used to represent her, in order to protect her privacy.

[4] Records, p. 2.

[5] *Id.* at 13.

[6] TSN, 8 January 2004, p.15.

[7] *Id.* at 132.

[8] *Id.* at 124.

- [9] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640.
- [10] Id. at 656.
- [11] Rollo, p. 9.
- [12] CA rollo, p. 36.
- [13] Id. at 44-45.
- [14] Id. at 45.
- [15] Id. at 47.
- [16] People v. Arango, G.R. No. 168442, 30 August 2006, 500 SCRA 259, 269.
- [17] People v. Turco, Jr., 392 Phil. 498, 507 (2000).
- [18] People v. Puedan, G.R. No. 92586, 26 April 1991, 196 SCRA 388, 397.
- [19] People v. Mendoza, 432 Phil. 666, 675 (2002).
- [20] TSN, 8 January 2004, pp. 5-6.
- [21] Rollo, pp. 5-6, citing People v. Murillo, 404 Phil. 717, 736 (2001).
- [22] People v. Rosario, G.R. No. 144428, 6 August 2003, 408 SCRA 430, 437-438.
- [23] CA rollo, p. 89.
- [24] People v. Limio, G.R. Nos. 148804-06, 27 May 2004, 429 SCRA 597, 613.
- [25] People v. Gonzales, G.R. No. 141599, 29 June 2004, 433 SCRA 102, 115.
- [26] TSN, 8 January 2004, pp. 19-20.
- [27] G.R. No. 168101, 13 February 2006, 482 SCRA 435, 449.
- [28] People v. Melivo, 323 Phil. 412, 427-429 (1996).
- [29] People v. Rosario, supra note 22 at 439.
- [30] People v. Balbarona, G.R. No. 146854, 28 April 2004, 428 SCRA 127, 142.
- [31] People v. Sinoro, 449 Phil. 370, 391 (2003).
- [32] People v. Cabalse, G.R. No. 146274, 17 August 2004, 436 SCRA 629, 635-636.
- [33] People v. Alicante, 388 Phil. 233, 249 (2000).
- [34] Exhibits “B” to “B-3” of the prosecution. Folder of Exhibits, p. 2.
- [35] People v. Pruna, 439 Phil. 440, 465 (2002).
- [36] People v. Arsayo, G.R. No. 166546, 26 September 2006, 503 SCRA 275, 292-293.

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