

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CLAUDIO ZULUETA, SR., ACCUSED-APPELLANT.

G.R. No. 177297. September 12, 2008

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

This is an appeal from the Decision dated October 27, 2006 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00079 entitled *People of the Philippines v. Claudio Zulueta, Sr.*, affirming with modification the December 28, 1998 Decision of the Regional Trial Court (RTC), Branch 25 in Koronadal, South Cotabato in Criminal Case Nos. 3647-25, 3648-25, and 3649-25 which found accused-appellant Claudio Zulueta, Sr. guilty of three (3) counts of rape.

The Facts

Except for the dates and time of commission of the offense, the three Informations filed against accused-appellant contained the same accusatory portion as the first Information in Criminal Case No. 3647-25:

That on or about the 1[st] day of June, 1995 at about 12:00 o'clock in the evening at Sitio Miasong, Barangay Pulabato, Municipality of Tampakan, Province of South Cotabato, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with [AAA],[1] his own daughter, against her will and consent.

Contrary to law with the aggravating circumstance that the crime was committed with abuse of confidence and evident premeditation.[2]

The second count of rape in Criminal Case No. 3648-25 was allegedly committed on June 2, 1995 at about 3:00 a.m., while the third count in Criminal Case No. 3649-25 was allegedly committed at about 9:00 p.m. on May 25, 1995.[3]

When arraigned, accused-appellant pleaded not guilty to all the charges against him.

The prosecution presented the following facts:

On May 25, 1995, accused-appellant, a resident of Pulabato, Tampakan, South Cotabato, asked his daughter, AAA, then 13 years old, to accompany him to clear their farm of weeds. The farm was situated in Sitio Miasong of the same town where they have another house. Arriving at the Miasong house after the day's work, AAA lied down on a mat to sleep. Shortly after, accused-appellant came near to touch her and told her not to make any noise. When AAA tried to resist, accused-appellant tied her hands behind her back, then proceeded to undress himself and AAA. Accused-appellant then placed himself on top of her. Despite AAA's efforts to free herself, accused-appellant was able to insert his penis into her vagina. Following the sexual assault, accused-appellant untied AAA and left her to sleep.

AAA stayed at the Miasong house for another five days, unable to leave as her father was watching her. At around midnight of June 1, 1995, AAA was awakened by her father undressing her. When she started to cry, accused-appellant hit her thrice and threatened to hit her again if she did not stop crying. Despite the desperate pleas of a daughter to a father, accused-appellant persisted and succeeded in having sex with AAA. After he was through with his bestial act, accused-appellant again threatened AAA, this time with death should she report the incident to her mother.

The next morning, a neighbor, Erlinda Labastro, asked AAA about the cries she heard the night before. When told about the sexual abuse, Erlinda advised her to run away, but AAA replied that she was scared to leave the place and had nowhere to go besides.

On the evening of June 2, 1995, accused-appellant again forced himself on the struggling AAA.

Somehow, word got around of the sexual abuse to which AAA was being subjected. When told about what happened to AAA, her eldest brother lost no time in fetching AAA and accompanying her to see a barangay official to file a complaint.

On June 3, 1995, a medical examination conducted on AAA showed hymenal lacerations and the recent loss of virginity.

As summarized by the RTC, accused-appellant gave the following version of the events that transpired:

x x x Corroborated by his brother Obrero x x x, accused Claudio Zulueta says that during the time complained of by his daughter [AAA], he was in their house at Pulabato proper, repairing their kitchen. Helped by his brother Obrero x x x, accused started his repair work in April, 1995. It lasted up to June 6, 1995 when he was arrested upon the complaint of [AAA]. [AAA] was on May 25, June 1 and 2, 1995 in [S]itio Miasong, working at their farm together with her siblings [BBB], [CCC], and [DDD]. At nighttime, the children would sleep with their uncle Victorio (Vic-vic) Zulueta, a younger brother of the accused who also had a house near the house of the accused at [S]itio Miasong.

The house of the accused at [S]itio Miasong is some five (5) kilometers away from his house at Barangay Pulabato proper.[4]

After trial, the RTC found accused-appellant guilty as charged. The dispositive portion of its Decision reads:

ACCORDINGLY, we find accused CLAUDIO ZULUETA, SR. guilty beyond reasonable doubt of the felony of rape defined and penalized under Article 335 of the Revised Penal Code, as amended, in each of the three (3) cases, to wit: Criminal Case No. 3647-25, 3648-25, and 3649-25. Said accused is hereby sentenced to suffer the supreme penalty of death in each case, to be executed in the manner provided by law; to indemnify the victim [AAA] moral damages in the sum of P50,000.00 and exemplary damages in the sum of P20,000.00, likewise in each of the three cases, or in the total sum of TWO HUNDRED TEN THOUSAND (P210,000.00) PESOS, and to pay the costs.

May the good LORD have mercy on his soul.

SO ORDERED.[5]

The CA affirmed the RTC decision with a modification on the penalty imposed and the damages awarded. The fallo of the CA's Decision reads:

FOR THE REASONS STATED, the assailed Joint Decision dated December 28, 1998 of the Regional Trial Court, Branch 25, Koronadal, South Cotabato so far as it held appellant guilty beyond reasonable doubt of three (3) counts of rape is AFFIRMED with the following MODIFICATIONS, namely: (1) The accused is sentenced to suffer the penalty of reclusion perpetua in each count; and (2) He shall pay the victim, [AAA],

P50,000.00 as civil indemnity, P50,000.00 as moral damages and P20,000.00 as exemplary damages, for each and every count of rape. Costs against appellant.

SO ORDERED.[6]

In its ruling, the CA, addressing the implication arising from AAA's failure to report the first incident of rape immediately after its occurrence, stated that AAA cannot be blamed if she failed to confide to anyone the first time her father raped her.[7] As reasoned out, such delay did not diminish AAA's credibility, having been earlier threatened with death should she reveal what happened between her and accused-appellant; and as a girl of tender age, AAA would naturally be easily intimidated into silence.

The CA also dismissed arguments tending to cast doubt on the credibility of Erlinda's testimony.

Vis-à-vis the penalty imposed, the CA held that the attendant circumstance of minority, in tandem with relationship, which would have otherwise qualified the offense, was not alleged in the informations and/or proven; hence, accused-appellant should only be convicted of simple rape and sentenced to reclusion perpetua for each count.

On November 29, 2006, accused-appellant filed his Notice of Appeal of the CA Decision.

On August 15, 2007, this Court required the parties to submit supplemental briefs if they so desired. They, however, manifested their willingness to submit the case on the basis of the records already submitted.

Accused-appellant seeks acquittal on the lone submission that:

THE LOWER COURT ERRED IN FINDING [HIM] GUILTY OF THE CRIME OF RAPE AS DEFINED IN
REPUBLIC ACT 7659

In fine, accused-appellant assails the credibility of AAA, wondering why she failed early on to ask help from Erlinda, a next door neighbor, and why she waited for another rape incident to occur before confiding in Erlinda. To accused-appellant, who denied threatening AAA with bodily harm, AAA's act of remaining with him for five days after she was supposedly ravished is not a normal reaction of a rape victim.

Accused-appellant also maintains that the trial court erred in giving much weight to Erlinda's rather incredible testimony. He suggests that what Erlinda had to say was carefully devised and offered to fit the scenario which AAA created against him.

Our Ruling

We sustain the appellate court's decision.

The Court has time and again held that the workings of the human mind are unpredictable; that people react differently and there is no standard pattern of behavior when one is confronted by a shocking incident.[8] The failure of a rape victim, such as AAA, to immediately report her ordeal or to flee from the clutches of a sex fiend does not, standing alone, affect the credibility of her testimony on the rape incident, nor is it indicative of false accusation. In the case at bench, the inaction of AAA is understandable and may even be expected, scared as she was of her father and that she had no place to go if she were to flee.

Likewise unavailing is the accused-appellant's gratuitous claim about Erlinda's testimony having been concocted to corroborate false charges against him. To be sure, the RTC, as seconded by the CA, found Erlinda's testimony to be worthy of full faith and credence. The trial court's assessment of Erlinda's credibility must be respected, absent proof that it plainly overlooked certain facts of substance or that she was actuated by improper motive. The inconsistency pointed out by accused-appellant, referring to the fact that Erlinda testified hearing AAA crying on

the night of June 1, 1995, when AAA stated that her cries at the time were not loud, is too trivial to affect Erlinda's credibility and does not detract from the ample evidence in support of the rape charges.

Accused-appellant's lament that the RTC should not have sentenced him to death is a non-issue since the CA already reduced the penalty to reclusion perpetua. But even if the death penalty were imposed by the CA, the same would still have to be reduced to reclusion perpetua by virtue of the enactment of Republic Act No. 9346 or An Act Prohibiting the Imposition of the Death Penalty, which bars the imposition of the death penalty.

Anent the matter of damages, we sustain the propriety of the grant by the CA of exemplary damages in favor of AAA, but increase the award from PhP 20,000 to PhP 25,000, in line with current jurisprudence.[9]

WHEREFORE, the appeal of accused-appellant is DISMISSED. The CA's Decision dated October 27, 2006 in CA-G.R. CR-H.C. No. 00079, finding him guilty of three (3) counts of rape and sentencing him to reclusion perpetua for each count, is AFFIRMED with the MODIFICATION that the award of exemplary damages is raised to PhP 25,000.

No costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Tinga, and Brion, JJ., concur.

[1] In accordance with Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004 and its implementing rules, the real name of the victim is withheld; instead, a fictitious initial is used to represent her to protect her privacy. See *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[2] Rollo, p. 7.

[3] Id.

[4] CA rollo, p. 43.

[5] Id. at 61-62. Penned by Judge Francisco S. Ampig, Jr.

[6] Rollo, p. 12. Penned by Associate Justice Edgardo A. Camello and concurred in by Associate Justices Sixto C. Marella, Jr. and Mario V. Lopez.

[7] Id. at 9.

[8] *People v. Ubiña*, G.R. No. 176349, July 10, 2007, 527 SCRA 307, 319; citing *People v. Ocampo*, G.R. No. 171731, August 11, 2006, 498 SCRA 581, 588.

[9] See *People v. Codilan*, G.R. No. 177144, July 23, 2008; *People v. Dela Cruz*, G.R. No. 177572, February 26, 2008.

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