

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RODOLFO LOPEZ, APPELLANT.

G.R. No. 179714. October 02, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

Rape is particularly odious, one which figuratively scrapes the bottom of the barrel of moral depravity, when committed against a minor.[1] This present case is no less reviling and vilifying, for yet another life of an innocent child is forever shattered.

This is an appeal from the Decision[2] dated January 26, 2007 of the Court of Appeals (CA) in CA-G.R. C.R.-H.C. No. 00650, affirming the Decision[3] dated October 13, 2004 of the Regional Trial Court (RTC) of Labo, Camarines Norte, Branch 64, in Criminal Case No. 98-0296, finding appellant Rodolfo Lopez guilty beyond reasonable doubt of the crime of Statutory Rape, as defined in and penalized by Article 335 of the Revised Penal Code, as amended by Republic Act (RA) 8353.

The facts, as culled from the records, are the following:

On June 11, 1998, around 5 o'clock in the afternoon, AAA[4] left her house to collect credit, leaving behind her daughter BBB, who was then four years old[5] and appellant Rodolfo Lopez, an employee of her husband.[6] The following day, or on June 12, 1998, AAA brought her daughter BBB to a manghihilot because the latter had a fever and complained of stomachache.[7] Thereafter, BBB requested her mother to wash her vagina. While AAA was washing her daughter's vagina, she noticed that the latter's private organ was swollen and had a small quantity of blood, to which she assumed that her daughter might have accidentally bumped into an object.[8] The next morning, or on June 13, 1998, although still down with a fever, BBB persistently asked her mother to give her a bath. BBB let her daughter sit on a basin and noticed that the latter's vagina was still reddish or swollen, which prompted her to ask the daughter what happened. BBB pointed at appellant Lopez, who was there at that time, and said, "It was Kuya Aswang," referring to the same appellant.[9] AAA then asked her daughter if appellant Lopez inserted his penis in her vagina. BBB replied in the affirmative. Later on, BBB narrated that appellant Lopez removed her underwear and placed himself on top of her and proceeded to insert his penis in her vagina.[10] When AAA's husband arrived home, she narrated what happened and afterwards, they proceeded to the police station where they were advised to have their daughter medically examined.[11]

BBB, on June 15, 1998, was brought to the provincial hospital where a genital examination was conducted on her by Dr. Marcelito B. Abas, findings of which are the following: superficial hymenal laceration at nine o'clock position, which could have been caused by an erected penis and with no signs of physical injuries.[12]

Subsequently, an Information dated July 17, 1998 was filed against appellant Lopez for the crime of Statutory Rape as defined in and penalized by Article 335 of the Revised Penal Code, as amended by RA 8353. The Information reads as follows:

That on or about 5:00 o'clock in the afternoon of June 11, 1998 at Barangay XXX, XXX, Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and motivated by bestial lust and by means of force and intimidation, did then and there, wilfully, unlawfully and feloniously had carnal knowledge of one BBB, a four (4)-year-old girl, against her will to her damage and prejudice.

CONTRARY TO LAW.

Upon arraignment on August 31, 1998, appellant Lopez, assisted by counsel de oficio, pleaded Not Guilty. After the pre-trial, which was held on October 14, 1998, trial on the merits ensued.

The prosecution presented the testimonies of AAA, BBB and Dr. Marcelito B. Abas, who testified as to the facts earlier narrated. The testimonies of Carlos Ibasco, the principal of Rizal High School, Camarines Norte, who assisted during the police investigation, and Rosemarie Loremia, the assigned stenographer during the preliminary investigation, were also presented.

On the other hand, the defense presented the sole testimony of appellant Lopez, who denied raping BBB and further stated that on the day that the alleged incident happened, he saw the six-year-old brother of BBB inside the room where the latter slept. He claimed that the said brother inserted his finger in the vagina of his sister.[13] He added that after the parents of BBB arrived home at around 5 o'clock in the afternoon of the same date, he left the place and went to XXX, XXX, Camarines Norte to construct a well.[14]

Thereafter, the trial court found appellant guilty beyond reasonable doubt of the crime charged, the dispositive portion of which reads:

WHEREFORE, premises considered, accused RODOLFO LOPEZ is hereby sentenced to suffer the supreme penalty of DEATH. He is also ordered to pay the victim, BBB, civil indemnity in the amount of Seventy- Five Thousand Pesos (P75,000.00), moral damages in the amount of Fifty Thousand Pesos (P50,000.00) and exemplary damages in the amount of Fifty Thousand Pesos (P50,000.00).

SO ORDERED.

The case was appealed to this Court due to the imposition of the death penalty. However, on September 21, 2004, in conformity with the decision promulgated on July 7, 2004 in G.R. Nos. 147678-87, entitled *The People of the Philippines v. Efren Mateo y Garcia*, modifying the pertinent provisions of the Revised Rules of Criminal Procedure, more particularly Sections 3 and 10 of Rule 125 and any other rule insofar as they provide for direct appeals from the RTCs to this Court in cases where the penalty imposed is death, reclusion perpetua or life imprisonment, as well as the resolution of this Court en banc dated September 19, 1995, in "Internal Rules of the Supreme Court" in cases similarly involving the death penalty, pursuant to the Court's power to promulgate rules of procedure in all courts under Section 5, Article VII of the Constitution, and allowing an intermediate review by the CA before such cases are elevated to this Court, this Court transferred the case to the CA for appropriate action and disposition.

On January 26, 2007, the CA affirmed with modification, the decision of the trial court, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the appealed decision dated 13 October 2004 of the Regional Trial Court, Branch 64, Labo, Camarines Norte, finding accused-appellant RODOLFO LOPEZ, GUILTY beyond reasonable doubt of the crime of STATUTORY RAPE, is hereby AFFIRMED. However, pursuant to RA 9346, (An Act Prohibiting the Imposition of Death Penalty in the Philippines), the penalty of DEATH imposed by the lower court is reduced to reclusion perpetua.

Costs de oficio.

SO ORDERED.

Hence, this appeal.

Appellant Lopez filed a Manifestation[15] dated January 30, 2008 stating that he will no longer file a Supplemental Brief and will be adopting the arguments contained in his Appellant's Brief.[16] Likewise, appellee also filed a Manifestation and Motion[17] stating that it will adopt its Brief[18] previously filed on September 15, 2005.

According to appellant Lopez, the sole error committed by the trial court was:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT NOT ON THE BASIS OF THE STRENGTH OF THE PROSECUTION'S EVIDENCE, BUT RATHER ON THE WEAKNESS OF THE DEFENSE'S EVIDENCE.

To support the above argument, appellant claims that, instead of scrutinizing with utmost care and diligence the testimonies of the prosecution witnesses, the trial court assailed the testimony of the appellant and looked at the same with disfavor. He further stated that a great portion of the appealed decision dwelt on the rationalization of the trial court in discrediting the evidence of the defense and not much was said why it gave credence to the testimonies of the prosecution witnesses.

The appellee countered the above argument of appellant by asserting that the prosecution was able to establish the guilt of the same appellant beyond reasonable doubt. It also added that the trial court did not rely on the weakness of the defense evidence, but rather on the strength of the prosecution in coming up with a verdict of conviction.

The appeal is unmeritorious.

Statutory rape is defined in and penalized by Article 335 of the Revised Penal Code, as amended by RA 8353, which was in effect at the time of the commission of the crime in this particular case:

Article 266-A. Rape: When And How Committed. - Rape is committed:

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

x x x x

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.

Appellant focuses his argument on the manner in which the decision of the RTC was written. According to him, a fastidious reading of the appealed decision by an impartial and prudent mind will easily have the impression that his conviction was based not on the strength of the prosecution's evidence but rather on the weakness of the defense. A careful reading of the assailed decision, however, shows the contrary.

Although the assailed decision discussed thoroughly the weakness of the evidence of the defense, it was also clear in its appreciation of the evidence presented by the prosecution and in finding that the appellant was guilty beyond reasonable doubt of the crime charged. Thus, as ruled by the RTC:

The testimony of the victim herself was direct and straightforward after she was warned that if she tells a lie, God will punish her. When asked if Rodolfo Lopez was inside the courtroom, her reply was "Yes, ma'am" and since there was no other man in the courtroom, his lawyer admitted that while the victim pointed to Rodolfo Lopez and when the Prosecutor asked her:

Pros. Velarde: What did your "kuya" do to you?

A: He raped me, ma'am.

Q: When you say you were raped, the penis of "Kuya" was placed in your vagina?

A: Yes, ma'am.

Q: Where is your pipi (vagina)?

Interpreter: The victim pointed to her sexual organ.[19]

Even during the cross-examination and clarificatory questions from the court, the victim was consistent in her testimony, thus:

Atty. Dizon

Q: Do you still recall when did Rodolfo Lopez place his penis in your vagina?

Witness

A: No, sir.

Q: Where did the accused place his -

Where in your house, in particular, did the accused place his penis inside your vagina?

A: In our house, sir.

Q: How did the accused place his penis inside your vagina?

A: He removed my panty, sir.

Q: After the accused removed your panty, it was his finger that was inserted in your vagina, is that correct?

A: No, sir.

Q: What was placed by the accused in your vagina after he removed your panty?

A: His penis, sir.

Q: When you say, the accused placed his penis in your vagina, you are telling us that the accused just placed his penis just on top of your vagina?

A: Yes, sir.

x x x x

Court

Q: Where is here your "Kuya"?

Interpreter: The witness pointed to the accused.

Court

Q: What was placed inside your vagina?

A: His penis, sir.

Q: Is it not that he just placed his penis on top of your vagina?

A: It was inserted in my vagina, sir.[20]

This Court has repeatedly held that the evaluation of the testimony of the witnesses by the trial court is accorded the highest respect on appeal, because the court below had the opportunity to observe the witnesses on the stand and detect if they were telling the truth. This assessment is binding upon the appellate court in the absence of a clear showing that it was reached arbitrarily, or that the trial court plainly overlooked certain facts of substance or value that, if considered, might affect the result of the case.[21]

Since the trial judge had the direct and singular opportunity to observe the facial expression, gesture and tone of voice of the complaining witness while testifying, it was fully competent and in the best position to assess whether the witness was telling the truth.[22] This Court has also ruled that testimonies of victims of tender age are credible, more so if they are without any motive to falsely testify against their offender. Their revelations that they were raped, coupled with their willingness to undergo public trial where they could be compelled to describe the details of the assault on their dignity by their own father, cannot be easily dismissed as concoctions. It would be the height of moral and psychological depravity if they were to fabricate sordid tales of sexual defloration – which could put him behind bars for the rest of his life – if they were not true.[23]

It must be remembered that under the law and prevailing jurisprudence, the gravamen of the offense of statutory rape as provided under Article 335 of the Revised Penal Code is the carnal knowledge of a woman below twelve years old.[24] The only elements of statutory rape are: (1) that the offender had carnal knowledge of a woman; and (2) that such woman is under twelve (12) years of age. It is not necessary to prove that the victim was intimidated or that force was used against her, because in statutory rape the law presumes that the victim, on account of her tender age, does not and cannot have a will of her own.[25]

The first element of the crime of statutory rape was duly proven by the prosecution with the testimony of the victim, coupled with the medical findings that the victim indeed showed signs of having been raped. When the consistent and forthright testimony of a rape victim is consistent with medical findings, there is sufficient basis to warrant a conclusion that the essential requisites of carnal knowledge have been established.[26] Anent the second element, with the presentation of the victim's Certificate of Live Birth[27] categorically showing that she was born on April 14, 1994, the prosecution was able to prove that the former has just been living for four years, one month and twenty-eight days when the unfortunate incident happened. It is settled that in cases of statutory rape, the age of the victim may be proved by the presentation of her birth certificate.[28]

For his defense, appellant Lopez merely denied committing the crime and even pointed an accusatory finger to the six-year-old brother of the victim, whom the former allegedly saw fingering the same victim. However, it is a time-honored principle that the positive and categorical assertions of a witness generally prevail over bare denials. Affirmative testimony from a credible witness is stronger and more trustworthy than a bare self-serving testimony.[29]

Hence, considering the above discussion, it is more than apparent that the trial court did not err in finding appellant Lopez guilty beyond reasonable doubt of the crime of Statutory Rape.

The unconscionable taker of a child's innocence must now suffer the well-deserved consequence of his ungodly deed.

The trial court imposed the penalty of Death, applying the provisions of Article 266-B of RA 8353, which provides that:

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

x x x x

2) When the victim is a child below seven years old.

The CA, however, correctly reduced the penalty to Reclusion Perpetua pursuant to RA 9346.[30] While RA 9346 prohibited the imposition of the death penalty and the penalty is reduced to reclusion perpetua, the appellant is, however, no longer eligible for parole.[31]

On pecuniary liability, this Court ruled in *People of the Philippines v. Sarcia*[32] that:

The principal consideration for the award of damages, under the ruling in *People v. Salome*[33] and *People v. Quiachon*[34] is the penalty provided by law or imposable for the offense because of its heinousness, not the public penalty actually imposed on the offender.

Regarding the civil indemnity and moral damages, *People v. Salome* explained the basis for increasing the amount of said civil damages as follows:

The Court, likewise, affirms the civil indemnity awarded by the Court of Appeals to Sally in accordance with the ruling in *People v. Sambrano* which states:

As to damages, we have held that if the rape is perpetrated with any of the attending qualifying circumstances that require the imposition of the death penalty, the civil indemnity for the victim shall be Php75,000.00 . . . Also, in rape cases, moral damages are awarded without the need of proof other than the fact of rape because it is assumed that the victim has suffered moral injuries entitling her to such an award. However, the trial court's award of Php50,000.00 as moral damages should also be increased to Php75,000.00 pursuant to current jurisprudence on qualified rape."

It should be noted that while the new law prohibits the imposition of the death penalty, the penalty provided for by law for a heinous offense is still death and the offense is still heinous. Consequently, the civil indemnity for the victim is still Php75,000.00.

People v. Quiachon also ratiocinates as follows:

With respect to the award of damages, the appellate court, following prevailing jurisprudence, correctly awarded the following amounts; Php75,000.00 as civil indemnity which is awarded if the crime is qualified by circumstances warranting the imposition of the death penalty; Php75,000.00 as moral damages because the victim is assumed to have suffered moral injuries, hence, entitling her to an award of moral damages even without proof thereof, x x x.

Even if the penalty of death is not to be imposed on the appellant because of the prohibition in R. A. No. 9346, the civil indemnity of Php75,000.00 is still proper because, following the ratiocination in *People v. Victor*, the said award is not dependent on the actual imposition of the death penalty but on the fact that qualifying circumstances warranting the imposition of the death penalty attended the commission of the offense. The Court declared that the award of P75,000.00 shows "not only a reaction to the apathetic societal perception of the penal law and the financial fluctuations over time but also the expression of the displeasure of the court of the incidence of heinous crimes against chastity."

The litmus test therefore, in the determination of the civil indemnity is the heinous character of the crime committed, which would have warranted the imposition of the death penalty, regardless of whether the penalty actually is reduced to reclusion perpetua.

In view of the above-quoted decision, this Court modifies the amount of damages awarded by the trial court. The civil indemnity of P75,000.00 awarded by the trial court shall remain the same, while the moral damages shall be increased to P75,000.00 corresponding to the penalty of death without need of proof. The award of exemplary damages in the amount of P50,000.00 is decreased to P30,000.00 pursuant to prevailing jurisprudence.[35]

WHEREFORE, the appealed Decision dated January 26, 2007 of the Court of Appeals in CA-G.R. C.R.-H.C. No. 00650, affirming with modification the Decision dated October 13, 2004 of the Regional Trial Court of Labo, Camarines Norte, Branch 64, in Criminal Case No. 98-0296, finding appellant Rodolfo Lopez, guilty beyond reasonable doubt of the crime of Statutory Rape, as defined in and penalized by Article 335 of the Revised Penal Code, as amended by RA 8353, imposing the penalty of reclusion perpetua, is hereby **AFFIRMED** with the

MODIFICATION that appellant is not eligible for parole and that he is ordered to pay P75,000.00 as moral damages and P30,000.00 as exemplary damages, in addition to the amount of P75,000.00 awarded by the trial court as civil indemnity.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Velasco, Jr., and Bersamin,[*] JJ., concur.

[*] Additional member in lieu of Associate Justice Arturo D. Brion (designated as an additional member in lieu of Associate Justice Antonio Eduardo B. Nachura, per Raffle dated May 27, 2009), per Special Order No. 712 dated September 28, 2009.

[1] *People v. Jalosjos*, 421 Phil. 43, 54 (2001), citing *People v. Sangil*, 276 SCRA 532 (1997).

[2] Penned by Associate Justice Regalado E. Maambong, with Associate Justices Roberto A. Barrios and Celia C. Librea-Lealogo, concurring; CA rollo, pp. 105-122.

[3] Penned by Presiding/Executive Judge Franco T. Falcon; records, pp. 208-219.

[4] This is pursuant to the ruling of this Court in *People of the Philippines v. Cabalquinto* (G.R. No. 167693, 19 September 2006, 502 SCRA 419), wherein this Court resolved to withhold the real names of the victims-survivors and to use fictitious initials instead to represent them in its decisions. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed. The names of such victims, and of their immediate family members other than the accused, shall appear as "AAA," "BBB," "CCC," and so on. Addresses shall appear as "XXX" as in "No. XXX Street, XXX District, City of XXX."

The Supreme Court took note of the legal mandate on the utmost confidentiality of proceedings involving violence against women and children set forth in Sec. 29 of Republic Act No. 7610, otherwise known as Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act; Sec. 44 of Republic Act No. 9262, otherwise known as Anti-Violence Against Women and Their Children Act of 2004; and Sec. 40 of A.M. No. 04-10-11-SC, known as Rule on Violence Against Women and Their Children effective November 15, 2004.

[5] Per her Birth Certificate, (Exhibit "B").

[6] TSN, December 14, 1998, pp. 4-5.

[7] *Id.* at 6-7.

[8] *Id.* at 8.

[9] *Id.* at 10-12.

[10] TSN, February 9, 2000, pp. 3-5.

[11] TSN, December 14, 1998, pp. 13-14.

[12] TSN, February 3, 1999.

[13] TSN, April 17, 2001, pp. 5-10.

[14] *Id.* at 10-11.

[15] Rollo, pp. 23-24.

- [16] CA rollo, pp. 40-48.
- [17] Rollo, pp. 26-27.
- [18] CA rollo, pp. 70-96.
- [19] CA rollo, p. 58.
- [20] TSN, February 9, 2000, pp. 4-5.
- [21] *People v. Ruales*, 457 Phil. 160, 169 (2003), citing *People v. Moralde*, 443 Phil. 369 (2003).
- [22] *People v. Somodio*, 427 Phil. 363, 377 (2002), citing *People v. Padilla*, 301 SCRA 265, 270-71 (1999).
- [23] *People v. Abellera*, G.R. No. 166617, July 3, 2007, 526 SCRA 329, citing *People v. Buada*, 439 Phil. 857 (2002); *People v. Caliso*, 439 Phil. 492 (2002); *People v. Fucio*, G.R. Nos. 151186-95, February 13, 2004, 422 SCRA 677; and *People v. Olivar*, 458 Phil. 375 (2003).
- [24] *People v. Alegado*, G.R. Nos. 93030-31, August 21, 1991, 201 SCRA 37, 47.
- [25] *Id.* at 48.
- [26] *People of the Philippines v. Elister Basmayor y Grascilla*, G. R. No. 182791, February 10, 2009, citing *People v. Limio*, 429 SCRA 611 (2004).
- [27] Exhibit B; records, p. 5.
- [28] *People v. Jalosjos*, *supra* note 1, at 84.
- [29] *People v. Ruales*, *supra* note 20, at 173, citing *People v. Besmonte*, 557 Phil. 555 (2003).
- [30] An Act Prohibiting the Imposition of Death Penalty in the Philippines.
- [31] *People of the Philippines v. Lilio U. Achas*, G.R. No. 185712, August 4, 2009.
- [32] G.R. No. 169641, September 10, 2009.
- [33] G.R. No. 169077, August 31, 2006, 500 SCRA 659.
- [34] G.R. No. 170236, August 31, 2006, 500 SCRA 704.
- [35] *People of the Philippines v. Lilio U. Achas*, *supra* note 30, citing *People of the Philippines v. Danilo Sia y Binghay*, G.R. No. 174059, February 27, 2009.

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