

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FABIAN G. ROMERO, APPELLANT.

G.R. No. 181041. February 23, 2011

Ponente: BRION, J.

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BRION, J.:

“We resolve the appeal from the July 3, 2007 decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00970. The CA affirmed with modification the decision[2] of the Regional Trial Court (RTC), Branch 43, Dagupan City, finding Fabian G. Romero (appellant) guilty beyond reasonable doubt of the special complex crime of rape with homicide, and sentencing him to suffer the death penalty.

On the evening of September 5, 2004, Joanna Pasaoa, a Grade 2 student, saw her friend, AAA,[3] walking towards the appellant's house. Joanna followed AAA to the appellant's house, and saw her and the appellant watching television together. Thereafter, the appellant instructed Joanna to buy a bottle of Red Horse beer. Joanna handed the bottle of beer to the appellant when she returned, and then went home.

After a while, Joanna decided to go back to the appellant's house to pickup AAA. When she was about four (4) meters away from the appellant's house, she saw the appellant outside his house repeatedly stabbing AAA. Joanna ran away and reported the incident to her mother.

At around 8:00 p.m. of the same day, BBB, AAA's father, went to his brother-in-law, CCC, and asked the latter to help him search for AAA. When they passed by the appellant's place, they saw the appellant pouring liquid into a fire. They approached the appellant, but the latter fled towards his house.

BBB and CCC inspected what the appellant was burning, and saw partially burnt grasses and clothes. Thereafter, they saw AAA's lifeless body covered with grass, one (1) meter away from the fire. AAA's body was half-naked and partially burnt; it also bore multiple stab wounds.

CCC lifted AAA's body, while BBB stayed and shouted invectives at the appellant. Thereafter, the townspeople and barangay officials arrived and surrounded the appellant's house. Soon after, the police came and arrested the appellant.

The prosecution charged the appellant before the RTC with the special complex crime of rape with homicide. The appellant denied the charges against him, and claimed that he was drinking with his buddies until 8:30 p.m. on September 5, 2004.

The RTC found the appellant guilty beyond reasonable doubt of the crime charged, and imposed the death penalty. It also ordered the appellant to pay the victim's heirs the following amounts: P75,000.00 as civil indemnity; P50,000.00 as moral damages; and P40,000.00 as exemplary damages.

On appeal, the CA affirmed the RTC decision with the following modifications: (1) the penalty of death was reduced to reclusion perpetua without eligibility for parole; (2) civil indemnity was increased to P100,000.00; (3)

moral damages was increased to P75,000.00; (4) exemplary damages was increased to P100,000.00; and (5) the appellant was further ordered to pay the victim's heirs P25,000.00 as temperate damages.

The CA held that Joanna positively identified the appellant as the person who repeatedly stabbed the victim. It also gave weight to the physician's finding that the victim had been sexually abused before she was killed. It further ruled that the pieces of evidence obtained at the appellant's house were admissible.

We deny the appeal, but reduce the amount of exemplary damages.

In the special complex crime of rape with homicide, both the rape and the homicide must be established beyond reasonable doubt.[4] The prosecution for this crime is particularly difficult since the victim can no longer testify against the perpetrator of the crime.[5] Thus, resort to circumstantial evidence is usually unavoidable.[6]

Circumstantial evidence consists of proof of collateral facts and circumstances from which the main fact in issue may be inferred based on reason and common experience. Under Section 4, Rule 133 of the Revised Rules of Court, circumstantial evidence is sufficient for conviction if the following requisites concur: (a) there is more than one circumstance; (b) the facts from which the inferences are derived have been established; and (c) the combination of all the circumstances unavoidably leads to a finding of guilt beyond reasonable doubt.[7] These circumstances must be consistent with one another, and the only rational hypothesis that can be drawn therefrom must be the guilt of the accused.

In the present case, no one witnessed AAA being raped. Nonetheless, the following circumstances form a solid and unbroken chain of events that leads us to conclude beyond reasonable doubt that the appellant had raped the victim: first, AAA and the appellant were seen watching television together at the latter's house; second, AAA's half-naked, partially burnt and lifeless body was seen outside the appellant's house, one (1) meter away from where the appellant had been seen burning clothes; third, AAA's legs were spread apart, and the labia of her private part was gaping when her body was found; fourth, Dr. Jesus Arturo De Vera, the Municipal Health Officer of Calasiao, Pangasinan, testified that AAA had hymenal lacerations at 4, 7 and 10 o'clock positions, and anal lacerations at 7 and 10 o'clock positions; fifth, Dr. De Vera stated that AAA's anal and hymenal lacerations could have been caused by a hard object like an erect penis; sixth, Nerigo Daciego, the Medico-Legal Officer of the Philippine National Police (PNP) Crime Laboratory, saw positive signs of anal and vaginal penetrations on AAA; and finally, Daciego testified that AAA had been raped when she was still alive due to the presence of amucosal erosion on her anal and vaginal tissues.

These circumstances, taken together, lead to no other conclusion than that the appellant, to the exclusion of others, had raped AAA.

The prosecution likewise established that the appellant had killed AAA. Joanna positively identified the appellant as the person who repeatedly stabbed AAA. The lower courts found her testimony convincing and credible. We have no reason to doubt Joanna's identification of the appellant, as the records show that she was merely four (4) meters away from the incident and that the area was illuminated by a light coming from the appellant's house. The defense likewise did not impute any ill motive on her part to falsely testify against the appellant. At any rate, findings of the trial court pertaining to the credibility of witnesses are entitled to great respect; the trial court has the distinct opportunity of viewing the demeanor of the witnesses as they testify, and of judging - based on its firsthand observation - whether their witnesses are telling the truth.

Joanna's testimony was also corroborated by Dr. De Vera and Daciego who both stated that the victim suffered, among others, 29 stab wounds.

In addition, the following pieces of physical evidence found at the appellant's house lead to no conclusion other

than the appellant's guilt: a kitchen knife with bloodstains; a wet towel stained with blood; bloodstains at the door of his house; and a broomstick, T-shirt, pillow case and blanket, all with bloodstains. The PNP Crime Laboratory found that these bloodstains contained "female genes."

We do not find the appellant's uncorroborated alibi and denial believable as they contradict the testimonial and physical evidence presented by the prosecution. Alibi and denial necessarily fail when there is positive evidence of the physical presence of the accused at the crime scene, as in this case.

While correct in all the above respects, the CA committed an overreach in the award of exemplary damages. Pursuant to prevailing jurisprudence, we have to reduce this award from P100,000.00 to P50,000.00.[8]

WHEREFORE, premises considered, we AFFIRM the July 3, 2007 decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00970, with the MODIFICATION that the award of exemplary damages is REDUCED to P50,000.00.

SO ORDERED.

Carpio Morales, on wellness leave.

Bersamin, [***]Abad, Villarama, Jr., and Sereno, JJ., concur.

[**]Brion, Acting Chairperson.

[**] Designated Acting Chairperson of the Third Division per Special Order No. 925 dated January 24, 2011.

[***]Designated additional Member of the Third Division per Special Order No. 926 dated January 24, 2011.

[1] Penned by Associate Justice Andres B. Reyes, Jr., and concurred in by Associate Justice Jose C. Mendoza (now a member of this Court) and Associate Justice Ramon M. Bato, Jr.; rollo, pp. 2-17.

[2] Penned by Judge Silverio Q. Castillo; CA rollo, pp. 17-37.

[3] See *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, citing Section 40, Rule on Violence Against Women and their Children.

[4] *People v. Narzabal*, G.R. No. 174066, October 12, 2010.

[5] *People v. Seranilla*, G.R. Nos. 113022-24, December 15, 2000, 348 SCRA 227, 235.

[6] See *People v. Nanas*, G.R. No. 137299, August 21, 2001, 363 SCRA 452, 464.

[7] See *People v. Pascual*, G.R. No. 172326, January 19, 2009, 576 SCRA 242, 252.

[8] See *People v. Narzabal*, *supra* note 4; and *People v. Villarino*, G.R. No. 185012, March 5, 2010.

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