

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ALFREDO NATAN, APPELLANT.

G.R. No. 181086. July 23, 2008

Ponente: YNARES-SATIAGO, J.

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YNARES-SATIAGO, J.:

Defilers of women are an especially despicable ilk of evil men, and more so those who would inflict their lasciviousness upon innocent and defenseless children. They are filthier than the slime where they belong. Whatever punishment imposed on them can never expiate their loathsome offense.[1] Rape is not a simple physical violation. It debases a woman's dignity, leaving a stigma on her honor and scarring her psyche for life.[2]

This case involves a crime of rape committed in 1992 against "Maria," a 6-year old girl. After suffering in silence for more than five years, Maria found courage and filed a complaint for rape against herein appellant Alfredo Natan on September 9, 1997, the accusatory portion of which reads:

That sometime on the month of June or July 1992 at around 5:30 o'clock in the afternoon, in the municipality of Inopacan, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused by means of force and intimidation, willfully, unlawfully and feloniously did lie and succeeded in having carnal knowledge with "Maria", a minor of 11 years old, in a grassy spot beside a caimito tree, against her will and consent.

CONTRARY TO LAW.[3]

Appellant pleaded not guilty when arraigned.

During trial, "Maria" testified that sometime in June or July of 1992 at around 5:30 in the afternoon, appellant who is her godfather, arrived at their house and brought her to Inopacan Central School in Inopacan, Leyte. Appellant who was holding a knife ordered "Maria" to remove her panty. Thereafter, he kissed and embraced her and tried to insert his penis into her vagina but he failed to penetrate her. Appellant warned the victim not to tell anyone about what happened or she would be killed.

Five days later, appellant returned to the victim's house and brought her to an isolated place in Brgy. Tinago, Inopacan, Leyte. Appellant undressed "Maria" and while in a standing position, proceeded to have carnal knowledge of her. Appellant again threatened Maria with bodily harm if she would tell her parents about what happened. Thereafter, appellant sexually assaulted the victim on several occasions.

On July 25, 1997, "Maria" was at the house of her Uncle Johnny but she immediately left upon the arrival of appellant. When she returned, she learned that her cousin "Gina" was sexually abused by appellant. At that time, "Maria" decided to inform her Uncle Johnny of the beastly acts also committed on her by appellant, who in turn informed her grandmother.

Dr. Antonina Ruiz, the resident physician at Western Leyte Provincial Hospital, conducted an examination on "Maria." She noted healed hymenal lacerations in her genitals which she opined could be caused by a penis or any

hard object.

The defense presented appellant as its lone witness. He denied having raped "Maria." He alleged that he was not present at the crime scene at the time of its commission; that in June, 1992, he was in Tacloban City and in July, 1992, he was in Samar; that the complaint against him was filed because the offended party and her family had a grudge against him; that sometime in 1991, he boxed Allan Simbahon, a brother of "Maria's" mother, during an altercation.

The trial court lent credence to the version of the prosecution. It found the narration of the victim candid, sincere and clear. It disregarded appellant's defense of alibi noting that Inopacan could be traversed by car in two hours, hence it was not physically impossible for the appellant to be present at the crime scene.

The trial court also found no ill motive on the part of the victim or her family in filing the suit; and that it was unthinkable for a victim who was a minor to fabricate the rape charge and to undergo the rigors of physical examination and public trial only because of hatred or ill-feelings.

On October 17, 2003, the Regional Trial Court of Hilongos, Leyte, Branch 18, rendered judgment finding appellant guilty as charged. The dispositive portion of the Decision, reads:

WHEREFORE, after painstakingly considering all the foregoing this court found the accused ALFREDO NATAN @ "BLACKIE" GUILTY BEYOND REASONABLE DOUBT of the crime of STATUTORY RAPE under Article 335 of the Revised Penal Code As Amended, and hereby sentences him to suffer the penalty of DEATH and to pay the victim the amount of Php50,000.00 as moral damages; Php75,000.00 as civil indemnity and Php20,000.00 as exemplary damages.

IN THE SERVICE OF HIS SENTENCE, accused is hereby credited with the full time of his preventive imprisonment if he agree in writing to abide by the same rules and regulations upon convicted prisoners otherwise he will only be entitled to 4/5 of the same.

SO ORDERED.[4]

On appeal, appellant alleged that Maria was inconsistent as to whether it was appellant or herself who removed her panty; and also as to when appellant brought her to Brgy. Tinago where she was raped the second time.

On June 28, 2007, the Court of Appeals rendered judgment[5] affirming with modification the decision of the trial court. The dispositive portion of the Decision, reads:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DISMISSING the appeal filed in this case and AFFIRMING the decision of the lower court with the MODIFICATION that the accused-appellant is hereby sentenced to suffer the penalty of reclusion perpetua, together with all the accessory penalties provided by law, and that the awards of moral damages and exemplary damages are hereby increased to P75,000.00 and P25,000.00, respectively.

SO ORDERED.[6]

The appellate court found the inconsistencies cited by the defense minor and irrelevant. It also observed that the victim was steadfast in her identification of the appellant as the person who defiled her.

Hence, the instant petition.

On February 27, 2008, the Court notified the parties to file their respective supplemental briefs, if they so desire, within 30 days from notice. To date, none of the parties has filed their supplemental briefs. They are therefore deemed to have waived their right to file the same.

We affirm the findings of the trial court and the Court of Appeals that appellant is guilty of statutory rape. Under paragraph 3, Article 335 of the Revised Penal Code, statutory rape is committed by having carnal knowledge of a woman below 12 years of age. In this specie of rape, neither force by the man nor resistance from the woman forms an element of the crime and apparent consent thereto will be of no avail, any more than in the case of a child who may actually consent but who by law is conclusively held incapable of legal consent. The law presumes that the victim on account of her tender years, does not and cannot have a will of her own. The heart of the matter is the violation of a child's incapacity to discern evil from good.[7] In the instant case, it was proven that appellant had carnal knowledge of Maria who was then under 12 years of age.[8]

The alleged inconsistencies mentioned by appellant are minor and irrelevant. Whether it was appellant or Maria who removed her panty does not detract from the established fact that she was raped. Moreover, the precise time of commission is not an essential element of the crime. What is important is the unfaltering declaration by the victim that she was raped and her positive identification of the appellant as the perpetrator of the crime.[9]

In any event, minor lapses are to be expected when a person is recounting details of a humiliating experience which are painful to recall. The victim was testifying in open court in the presence of strangers, about an extremely intimate matter not normally talked about in public. Such circumstances may be expected to cause the witness' narration to be less than letter-perfect.[10]

Besides, "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 x x x, 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." [11]

On the applicable penalty: The trial court found appellant guilty of statutory rape punishable under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659,[12] and imposed on him the death penalty. On appeal, the appellate court lowered the penalty to reclusion perpetua in view of Republic Act No. 9346 or the Anti-Death Penalty Law. It also awarded exemplary damages in the amount of P25,000.00 and increased the award of moral damages to P75,000.00 on the ground that qualified rape was committed.

The trial court and the Court of Appeals might have overlooked the fact that the crime imputed against appellant was committed in 1992, or before the effectivity of R.A. No. 7659 on December 31, 1993. Thus, the fact that the victim was below seven years old when raped cannot be appreciated as a special aggravating circumstance for the purpose of imposing the penalty of death under R.A. No. 7659. The proper imposable penalty is still reclusion perpetua.[13] It must be recalled that prior to December 31, 1993, the imposition of the death penalty has been suspended. Moreover, the Complaint did not specifically state the age of the victim as "below 7 years." Instead, it alleged that the victim was 11 years of age.

The awards of moral damages and civil indemnity should be modified. Civil indemnity is mandatory upon the finding of the fact of rape. It is automatically imposed upon the accused without need of proof other than the fact of the commission of rape. It is distinct and should not be denominated as moral damages which are based on different jural foundations and assessed by the court in the exercise of sound discretion.[14] In the instant case, the victim is entitled to an award of P50,000.00 as civil indemnity and another P50,000.00 as moral damages.[15] In criminal offenses, exemplary damages as part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances.[16] There being none in the instant case, the award of exemplary damages is without basis.

WHEREFORE, the appealed judgment finding appellant Alfredo Natan guilty of the crime of rape is AFFIRMED. Appellant is sentenced to suffer the penalty of reclusion perpetua and to pay the victim "Maria" the amount of P50,000.00 as civil indemnity and another P50,000.00 as moral damages.

Costs against appellant.

SO ORDERED.

Quisumbing, Austria-Martinez, Nachura, and Reyes, JJ., concur.

* Designated in lieu of Associate Justice Minita V. Chico-Nazario per Special Order No. 508 dated June 25, 2008.

[1] People v. Desuyo, G.R. No. L-71173, August 9, 1988, 164 SCRA 210.

[2] People v. Agunos, 375 Phil. 315, 326 (1999).

[3] CA rollo, p. 8.

[4] Id. at 39. Penned by Judge Ephrem S. Abando.

[5] Id. at 116-125. Penned by Associate Justice Isaias P. Dicdican and concurred in by Associate Justices Antonio L. Villamor and Stephen C. Cruz.

[6] Id. at 124.

[7] People v. Sayat, G.R. Nos. 102773-77, June 8, 1993, 223 SCRA 285, 291.

[8] The prosecution formally offered "Maria's" birth certificate which showed that she was born on July 26, 1986.

[9] See People v. Mayo, G.R. No. 170636, April 27, 2007.

[10] People v. Sayat, supra note 7 at 292.

[11] People v. Abellera, G.R. No. 166617, July 3, 2007.

[12] An Act To Impose The Death Penalty on Certain Heinous Crimes, Amending For That Purpose The Revised Penal Code, As Amended, Other Special Laws, And For Other Purposes.

[13] See People v. Santos, G.R. Nos. 131103 & 143472, June 29, 2000, 334 SCRA 655, 671.

[14] People v. Larena, 368 Phil. 614, 635-636 (1999).

[15] People v. Santos, supra note 13 at 671.

[16] CIVIL CODE, Art. 2230.

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