

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ERNESTO PILI, ACCUSED-APPELLANT.

G.R. No. 181255. October 16, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For Review under Rule 45 of the Revised Rules of Court is the Court of Appeals Decision[1] dated 13 August 2007 in CA-G.R. CR-H.C. No. 01260 entitled *People of the Philippines v. Ernesto Pili*, affirming the Decision[2] rendered by the Regional Trial Court (RTC) of Macabebe, Pampanga, Branch 55, in Criminal Case No. 98-2130 (M), finding Ernesto Pili (accused-appellant) guilty beyond reasonable doubt of the crime of rape, and sentenced with reclusion perpetua and ordered to indemnify the offended party the amount of P50,000.00.

Accused-appellant appeals his conviction of rape.

On 14 August 1998, accused-appellant was charged with rape in a Criminal Information filed before the RTC, Branch 55, of Macabebe, Pampanga, docketed as Criminal Case No. 98-2130 (M), as follows:

That on or about the 18[th] day of June, 1998, in the municipality of Apalit, province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused ERNESTO PILI, by means force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with (AAA)[3] against her will and without her consent.[4]

Accused-appellant, with the assistance of counsel, pleaded NOT GUILTY to the charge.[5]

A pre-trial conference was held on 14 September 1998 in the presence of the government prosecutor, the accused-appellant, and his counsel. Based on the pre-trial order issued by the trial court on the same date, the prosecution marked in evidence the following documents, to wit:

Exhibits A and A-1 - the Sinumpaang Salaysay of the complaining witness AAA;[6]

Exhibit B - the Medico Legal O.B. Gyne Report of Dr. Emerita Cristobal;[7]

Exhibit C - the Criminal Complaint docketed as Criminal Case No. 92-93 at the Municipal Circuit Trial Court Apalit-San Simon, Apalit, Pampanga;[8] [and]

Exhibits D and D-1 -the Police Investigation Report of PO1 Conchita Guevarra;[9]

Exhibit E - the Sinumpaang Salaysay of the mother of the victim AAA.[10]

The defense denied Exhibits A, D, and E; but admitted Exhibits B and C as to their existence.

Thereafter, trial on the merits ensued.

The prosecution presented private complainant AAA, whose version of the events has been summarized by the Office of the Solicitor General as follows:

At about 8 o'clock in the evening of 18 June 1998, AAA was inside a rented room located at XXX, Apalit, Pampanga, accompanied by her two nieces ages four years and one year old, respectively,, who were then both asleep. Momentarily, she heard someone knocking at the door. Thinking that it was her sister BBB, she opened the door. Thereupon, she saw accused-appellant Ernesto Pili who pushed her backward and continued to do so until she was forced to lie down on the wooden bed. AAA screamed and tried to fight back. However, accused-appellant covered her mouth and threatened to kill her and her two nieces if she would persist in shouting. Intimidated by appellant's threat, AAA quieted down. Accused-appellant forcibly kissed AAA all over her body and, despite her resistance, he was able to remove her pants and panty. He raised her blouse and mashed her breasts. Thereafter, accused-appellant placed himself on top of her. AAA crossed her legs but accused-appellant forcibly spread them apart and thereafter inserted his penis into her vagina. Accused-appellant had sexual intercourse with AAA. She felt extreme pain and because of her helplessness, she just cried. After satisfying his lust, accused-appellant hurriedly left. The incident was reported to the police authorities on 24 June 1998. On 25 June 1998, AAA was subjected to a medico-legal examination at the Jose B. Lingad Hospital in San Fernando, Pampanga. Upon physical examination, it was determined that AAA had a deep laceration in her hymen.

On the other hand, the defense presented its version of the facts through the testimonies of its five witnesses, namely: (1) Francisco Pangilinan (Pangilinan); (2) Efren Bernarte Sabado; (3) DDD (a relative of AAA); (4) Emma P. Santos, a sister of accused-appellant; (5) Ernesto Pili, accused-appellant.

Francisco Pangilinan testified, among other things, that he and his family were renting a room inside the house of accused-appellant, which room is adjacent to the room rented by BBB, the sister of AAA. The two rooms were separated only by a hollow block wall with an open space before the roofing. On 18 June 1998 at about 7:00 o'clock in the evening, DDD arrived at the room rented by them. At that time, accused-appellant was already inside the room conversing with the witness. Efren Sabado and CCC (brother-in-law of AAA) were also inside the room. They then started drinking liquor and were conversing. As the room of Pangilinan is small, they occupied the front portion near the door and window of the room. While they were drinking liquor, BBB, wife of CCC, came and asked money from CCC, and the latter told BBB that he did not have money. When BBB was not able to get money from her husband CCC, she left. Upon hearing that BBB asked money from her husband and was not given money, DDD told accused-appellant who was then seated by the door to give BBB the amount of P20.00 and accused-appellant obliged. According to the witness, the room occupied by AAA was about seven steps from the door of his room, with accused-appellant taking only a few seconds to give the money and return to the room of Pangilinan. Pangilinan saw accused-appellant hand the P20.00 bill to BBB and accused-appellant, after giving the money, returned to Pangilinan's room. Accused-appellant did not even enter the room of AAA and that the only time he left the room where they were drinking liquor was when DDD asked him to give money to BBB. It was about past 9:00 o'clock in the evening when DDD, Efren Sabado, accused-appellant, and CCC, left his room. From 7:00 to 9:00 o'clock in the evening, CCC, the brother-in-law of AAA, was with the above-named persons drinking liquor. According to him, during the time their group was inside his room, they did not hear any shouts or commotion inside the adjacent room occupied by AAA and her sister BBB.

DDD and Efren Sabado took the witness stand to corroborate the testimony of Pangilinan, affirming his earlier testimony that they were at the room rented by him on 18 June 1998 from 7:00 to past 9:00 o'clock in the evening. Both testified to DDD handing over P20.00 to accused-appellant and requesting the latter to give BBB the P20.00 bill. Accused-appellant handed over the P20.00 bill to BBB and he thereafter returned to Pangilinan's room where they were drinking and conversing, after only a few seconds from the time they left. CCC, the brother-in-law of AAA, was with them from 7:00 to past 9:00 o'clock at the room of Pangilinan. As in the testimony of Pangilinan, it was elicited from the testimonies of the two witnesses that accused-appellant did not leave the room except for a

very few seconds when he gave the money to BBB. They did not notice any commotion or shouts inside the adjacent room occupied by AAA and her sister.

Emma P. Santos, a sister of accused-appellant, testified that she is the caretaker of the house (which is owned by her sister Elsa who is based in Japan) rented by Pangilinan, accused-appellant, AAA and her sister. According to Santos, on 18, 19, 20, 21, 22, and 23 of June 1998, Santos visited her parents and accused-appellant, wherein she also happened to see AAA and BBB. During the times she encountered AAA on those dates, nothing was relayed to her in relation to the filing of a complaint against her brother.

The last witness for the defense was accused-appellant himself who denied the rape charges against him by AAA. He affirmed the testimony of Pangilinan that he and his wife were inside the room of Pangilinan on 18 June 1998 before 7:00 in the evening up to past 9:00 o'clock in the evening. DDD, Efren Sabado and CCC, brother-in-law of AAA, were drinking liquor and conversing inside the room of Pangilinan on said date and time. Since he was seated near the door of the room of Pangilinan, accused-appellant was requested by DDD, a relative of AAA and BBB, to give P-20.00 to BBB who was at the room adjacent to their room. Accused-appellant then complied with the request of DDD and gave the P20.00 to BBB who was then near the door of the room where they were drinking. The distance from the door of Pangilinan's room to the door of the room of BBB is only about seven steps away. Accused-appellant returned to the room of Pangilinan immediately after giving the money to BBB. Accused-appellant did not enter the room of AAA and no commotion or shouts were heard. The following day, accused-appellant saw AAA in front of their rented room, who gave the usual friendly gestures to him. On subsequent dates, or from 20-23 June 1998, AAA stayed at their rented room and maintained the same friendly attitude towards him. On 24 June 1998, AAA left their rented room. AAA did not accuse him of doing anything wrong before leaving their rented room on 24 June 1998. Accused-appellant denies AAA's rape accusations against him alleging that the charges were fabricated because AAA and her mother became aware that his mother's land was being sold for a considerable amount and they just wanted the case settled for money.

Giving more credence to the evidence for the prosecution, the trial court rendered judgment on 23 August 1999 convicting accused-appellant as charged, disposing as follows:

WHEREFORE, all the foregoing considered, the Court finds the accused Ernesto Pili guilty beyond reasonable doubt of the crime of rape penalized under Article 335 of the Revised Penal Code, as amended and as a consequence of which, he is hereby sentenced to suffer the mandatory penalty of reclusion perpetua and to indemnify the offended party the amount of P50,000.00.[11]

Claiming that the constitutional presumption of innocence was not overcome by the evidence of the prosecution, accused-appellant filed a Motion for Reconsideration[12] with the same court on 15 September 1999.

While the motion for reconsideration was still pending resolution, Assistant Prosecutor Olimpio Datu asked for leave to confer with the trial judge in chambers, which request was granted by the trial court. Thereafter, Assistant Prosecutor Datu filed a Motion to Dismiss[13] on the basis of an Affidavit of Recantation[14] allegedly executed before him by AAA on 17 September 1999. The Motion to Dismiss dated 20 September 1999 contained these allegations:

- That the private complainant (AAA) executed her Affidavit of Recantation attached hereto, stating therein the reasons for doing so;
- That considering that the above-entitled case was already decided by this Honorable Court convicting the accused of the crime charged, the undersigned lost no time to talk to the private complainant regarding the probable effects and consequences of her recantation;

- That after a thorough and intense conference with the private complainant and immediate members of her family, the private complainant attested to the truth of what was stated in her Affidavit of Recantation, as well as her knowledge of the consequences of such an act;

- That the private complainant reiterated that she was not forced nor coerced into making her recantation, neither was it in exchange for any valuable consideration but was made voluntarily following the dictates of her conscience;

WHEREFORE, in the interest of justice, it is respectfully prayed that the above entitled case be dismissed.[15]

On 21 September 1999, AAA personally affirmed under oath the contents of her affidavit of recantation during the hearing of the pending motions, reiterating the following statements in her affidavit:

That I very careful(sic) considered the facts and circumstances that cause(sic) the filing of the above entitled complaint and have finally ascertained that what transpired between me, and the accused, the subject of the above-entitled complaint is a mere misunderstanding and out of revenge and to save face and embarrassment, I made it appear in my salaysay and testimony given in court that I was raped by the accused, the truth of the matter is that what accused did to me was done with my consent and that I was not intimidated neither threatened by the accused;

That whatever transpired between me and the accused and whatever he had done to me, by virtue of this affidavit, I voluntarily manifest that I have forgiven and pardoned the accused;

That I will not have peace of mind if the above entitled case be not re-opened in order to make known to the Honorable Court the true facts of the case, to save an innocent person languishing (sic) jail through out his life;

That by virtue of this affidavit, I am recanting the allegations stated in my Salaysay and my testimony given in court the truth of the matter relative to the above entitled case is that stated above.[16]

The court a quo refused to give credence to the Affidavit of Recantation of AAA, denying the Motion for Reconsideration filed by the defense and holding complainant AAA liable for Direct Contempt of Court.[17] In its Order dated 24 September 1999, the RTC resolved:

WHEREFORE, the Motion for Reconsideration is denied. At the same time, the Court finds the complainant AAA guilty of Direct Contempt of Court and hereby sentence her to imprisonment often (10) days and pay a fine of P2,000.00.

The Provincial Prosecutor is directed to conduct appropriate preliminary investigation for the crime of perjury against AAA and if evidence warrant, to file the corresponding information before the proper court and to report to this court the action taken thereon.

Likewise the Hon. Secretary of Justice is called upon to conduct if it so warrants, appropriate administrative proceedings against Assistant Prosecutor Olimpio R. Datu for committing the foregoing questionable acts and who shall also be charged in a separate order, to be docketed separately, and heard and tried by this Court for Indirect Contempt of Court pursuant to Sec. 3 (a) and (d), Rule 71 of the Revised Rules of Court.

A duplicate original of this Order is hereby furnished the Hon. Secretary of Justice by way of 1[st] Endorsement for appropriate action.¹⁸

Accused-appellant interposed an appeal to the Court of Appeals. Finding no sufficient basis to overturn the findings of the lower court, the Court of Appeals, on 13 August 2007, rendered the assailed decision affirming the findings and conclusions of the trial court. The appellate court, however, clarified that the RTC incorrectly cited

Article 335 of the Revised Penal Code as the legal provision applicable to the case[19] but Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353, which reclassified rape as a crime against persons.

Accused-appellant filed a Notice of Appeal with this Court.[20] The records of the case were elevated to the Court which required the parties to simultaneously file their respective supplemental briefs, if they so desire, within 30 days from notice.[21] Both parties, however, manifested that they were adopting their respective briefs submitted to the appellate court.

Accused-appellant raises the following assignments of error:

I. THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF RAPE DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II. THE TRIAL COURT ERRED ANEW WHEN IT ISSUED AN ORDER DATED SEPTEMBER 24, 1999 DENYING THE MOTION FOR RECONSIDERATION DATED SEPTEMBER 13, 1999 AND FURTHER DISREGARDED THE AFFIDAVIT OF THE PRIVATE COMPLAINANT AAA RECANTING HER SALAYSAY AND TESTIMONIES IN OPEN COURT.

In this appeal, accused-appellant Pili makes furor concerning the following: AAA's Affidavit of Recantation; failure of the victim to shout or offer tenacious resistance; the alleged delay in filing the complaint which impairs AAA's credibility; the alleged impossibility of committing the rape inside the room of the victim AAA which is just adjacent to where AAA's brother-in-law was; the plausibility of his denial and corroborative testimonies of the defense witnesses.

We find no cogent reason to reverse the assailed judgment of the trial court and the Court of Appeals.

At the time the crime was allegedly committed, Republic Act No. 8353 or the Anti-Rape Law of 1997,[22] amending Article 335 of the Revised Penal Code and classifying rape as a crime against persons, was already in effect. The new provisions on rape, embodied in Article 266-A of the Revised Penal Code, provide:

ART. 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:

(a) Through force, threat or intimidation; x x x.

In reviewing rape cases, this Court has been guided by the following well-entrenched principles: (a) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (b) due to the nature of the crime of rape where only two persons are usually involved, the testimony of the private complainant must be scrutinized with extreme caution; and (c) 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.[23]

It is well-established that when a woman says that she has been raped, she says, in effect, all that is necessary to show that she has indeed been raped.[24] A victim of rape would not come out in the open if her motive were anything other than to obtain justice. Her testimony as to who abused her is credible where she has absolutely no motive to incriminate and testify against the accused.[25]

The records herein establish beyond reasonable doubt that at about eight in the evening of 18 June 1998, AAA was ravished by accused-appellant inside the rented room occupied by her and her sister's family. The sexual assault happened after AAA opened the door believing it was her sister who had knocked. At that time, AAA was inside the room with her 2 sleeping nieces who were aged 1 and 4 years old.

The fact that accused-appellant was part of a drinking party on the date and time of the rape did not preclude the opportunity for him to sneak undetected into the room where AAA was, and commit the rape against her. The room was adjacent to where the drinking party was, and was only a few steps away. The rape was committed in a matter of minutes. Thus, it is highly probable that the members of the drinking party would not have noticed accused-appellant's absence for a few minutes. Certainly, it is unbelievable that their attention was focused all the time to the movements of accused-appellant. The testimony of Emma Santos, being a relative and a sister of accused-appellant, is highly suspect and should be received with caution.[26] In fact, her testimony was bereft of any evidence that would negate the commission of the offense by accused-appellant. Significantly, her testimony pertained to negative averments vis-a-vis complainant's affirmative testimony. An affirmative testimony is far weightier than a negative one, especially when the former comes from a credible witness.[27] Hence, we discredit totally the testimonies of Pangilinan, Sabado, DDD, Santos, and accused-appellant.

In contrast, AAA narrated the harrowing events which transpired that night:

Q.

While you were inside the room on that specific date and time, what, if anything, happened?

A.

At about eight o'clock in the evening, sir, somebody knocked on the door of the room.

Q.

When somebody knocked, what, if anything did you do?

A.

I opened the door because I thought it was my sister, but instead,

I saw Ernesto Pili, sir.

Q.

Ernesto Pili, the accused in this case?

A.

Yes, sir.

Q.

And then when you opened the door and saw Ernesto Pili, what transpired next?

A.

He pushed me towards the wooden bed, sir.

Q.

What happened to you when you were pushed by Ernesto Pili towards the wooden bed?

A.

Due to the force of his push, I was made to sit on the wooden bed, sir.

Q.

And then, what happened next?

x x x

x x x

x x x

A. He forced me to lay down on the wooden bed, sir.

Q. When he forced you to lay down on the wooden bed, what, if anything, did you do?

A. I shouted, sir.

Q. And then what happened next?

A. I fought back, sir.

Q. You said that you fought back, why did you fight back?

A. Because he was forcing me to lay down, sir.

Q. Aside from forcing you to lay down, what else, if any, did the accused do?

x x x

x x x

x x x

A. I happened to lay down, sir.

Q. What happened next?

A. I shouted, sir.

Q. Why did you shout?

A. To ask for help, sir.

Q. Why were you calling for help?

A. Because he was intending to rape me, sir.

x x x

x x x

x x x

Q.

After you shouted for help, what happened next?

A.

He covered my mouth, sir.

Q.

And then what happened next?

A.

He threatened to kill me, sir, and my nieces.

Q.

And then what happened after that?

A.

I got scared of his threat to kill us, sir.

Q.

After that what else happened?

A.

I was scared of his threat, sir.

COURT:

Q.

Is there anything that the accused did to you?

A.

He forcibly kissed me, sir.

x x x

x x x

x x x

PROSECUTOR DATU:

Q. And then, when he was forcibly kissing you, what else, if anything, did you do?

x x x

x x x

x x x

A.

I fought back, sir.

Q.

After that, what happened next?

A.

He forcibly removed my pants, sir.

Q.

What else did the accused remove aside from your pants?

A.

He removed my panty, sir.

Q.

After the accused was able to remove your pants and panty, what transpired next?

A.

He placed his body on top of me, sir.

PROSECUTOR DATU:

At this juncture, your honor, may we make it of record that the private complainant starts to shed tears.

ATTY. SIGUA:

I do not see any tears rolling down on the face of the witness, your honor.

COURT:

The Court expects that. Let the Court make his own observation.

PROSECUTOR DATU:

Q. After the accused went on top of you, what happened next?

A. I crossed my legs, sir, but he forcibly spread them apart.

Q. After the accused forcibly opened your legs, what else transpired?

A. He forcibly inserted his genital into mine, sir.

Q. How many times did the accused forcibly insert his private organ into yours?

A. Twice, sir.

Q. What did you feel after the accused was able to penetrate his private organ into yours?

A. I was hurt, sir; It was painful.

Q. After that, what happened next?

A. I shouted, sir.

Q. What else did you do, if any?

A. I just cried, sir.

Q. Where was the accused then when you shouted and cried?

A. He hurriedly left, sir.

Q. After that, what else transpired?

A. I just cried and cried, sir.[28]

AAA's testimony was supported by the medico-legal report dated 25 June 1998, with the following findings:

EXTERNAL GENITALIA & PERINEUM:

LABIAMAJORA:

LABIA MINORA: Coaptated

HYMEN: with healed deep laceration at 6 o'clock.

PELVIC EXAM:

I.E. FINDINGS: introitus admits 2 fingers, uterus not enlarged, no adnexial mass.

LABORATORY REQUEST:

Pregnancy test — negative

Smear for Spermatozoa — negative[29]

Accused-appellant challenges the prosecution's accusation against him by harping on the fact that the alleged rape

could not have taken place since AAA's room where the rape was supposed to have taken place was adjacent to the room where AAA's brother-in-law CCC and uncle DDD, were conversing and drinking liquor with other people. Her nieces were also with her inside the room.

His argument deserves scant consideration and is no aid for his denial. This Court has, time and again, ruled that rape can be committed in the same room where other members of the family are also sleeping,[30] in a house where there are other occupants or even in places which to many might appear unlikely and high-risk venues for its commission.[31] Rape is not a respecter of place or time.[32] Neither is it necessary for the rape to be committed in an isolated place, for rapists bear no respect for locale and time in carrying out their evil deed.

AAA's alleged failure to cry out for help during the time the rape was supposed to have been committed, in spite of the physical proximity of her relatives, or to report the incident to them, did not make her testimony improbable. The argument of the defense that no resistance was offered by the victim to prevent accused-appellant from inserting his penis inside her vagina, lacks merit. The fact that AAA did not shout or make an outcry when her relatives were nearby does not mean that she was not raped by accused-appellant. Failure of the victim in rape cases to shout or offer tenacious resistance did not make the sexual intercourse voluntary. The workings of a human mind when placed under emotional stress are unpredictable and people react differently. In such a situation, some may shout; others may faint; some may be shocked into insensibility; while others may welcome the intrusion. Verily, the law does not impose on the rape victim the burden of proving resistance where force or threats and intimidation were used on her. Resistance of the victim is not an element of the crime. The fact that AAA did not exert tenacious resistance did not mean that her submission to the lustful desire of accused-appellant is voluntary. In rape cases, it is not necessary that the victim should have resisted unto death.[33] The prosecution has established beyond doubt that accused-appellant made threats on the life of AAA, as well as on the lives of her two nieces. This threat alone is sufficient for AAA to revoltingly submit to the bestial act of the accused. It bears to emphasize that accused-appellant covered her mouth when she fought him off and shouted. It was then that he threatened to kill her and her nieces should she again shout. His threat to kill them intimidated her. At this juncture, AAA could only cry helplessly when accused-appellant ravished her against her will.

Accused-appellant contends that after the alleged rape, AAA did not report immediately to her mother, and that it took her six (6) days to report the incident to the police authorities. Delay in reporting the crime is not an indication of a fabricated charge and does not necessarily detract from the witness' credibility as long as it is satisfactorily explained.[34] In some cases, even a delay of three years was not considered to detract from the complainant witness' credibility. It is noteworthy that the alleged delay involved here, as contemplated by the defense, concerns only a period of six days from the time of the incident. Said period is hardly a delay. The reason thereof was also sufficiently explained. As rationalized by the trial court:

Because of the threat made by the accused, she opted to remain silent and did not immediately inform her family about the incident. She goes on with her life as if nothing happened but not after June 22, 1998 when another attempt on her womanhood was made by Elmer Pili, brother of the accused, and for fear that the sexual assault on her person might be repeated, she broke her silence and revealed the sexual abuse committed against her by the accused, as well as the attempt made by Elmer Pili, to her mother and the same was reported to the police authorities on June 24, 1998.[35]

It is not unusual for a victim immediately following the sexual assault to conceal at least momentarily the incident, for it is not uncommon for a victim of rape to be intimidated into silence and conceal for sometime the violation of her honor, even by the mildest threat on her life.

As to accused-appellant's allegation that he was charged with rape because AAA's family wanted to extort money

from him upon learning that his sister was about to sell a fishpond worth

P2,000,000.00 is too flimsy a reason, as correctly found by the trial court and appellate court. It is unnatural for a parent to use his offspring as an engine of malice.[36] Moreover, this mere say-so which was not substantiated by any evidence is not enough to impugn a sincere prosecution for the grave crime of rape. In fact, private complainant had come to know accused-appellant only on 11 June 1998 when he moved residence to Apalit, Pampanga which is seven days prior to the date of the rape. Accused-appellant admitted that at the time the rape incident allegedly took place, he had no misunderstanding with AAA. There was no reason why AAA would accuse him of sexually abusing her if it were not true. Thus, the absence of any ill motive on the part of AAA and her family for imputing this charge of rape, added to the credibility of the charges against accused-appellant.

The RTC was correct in rejecting AAA's recantation of her testimony in court. A thorough evaluation of her Affidavit of Recantation and her recantation in court manifests that AAA did not negate the commission of the rape. In fact, her Affidavit of Recantation confuses more than it clarifies matters. While stating therein that she consented to what the accused had done to her and that she was neither intimidated nor threatened in declaring her recantation, she also stated: "I voluntarily manifest that I have forgiven and pardoned the accused." What was there to forgive and pardon?

The trial court correctly explained why the recantation could hardly be given any credence:

The Court cannot close its eyes in observing the fact that AAA was crying profusely when she was presented by the Public Prosecutor to affirm her affidavit in support of the Motion to Dismiss. After observing and comparing her demeanor when she was testifying during the trial and her testimony in support of the Motion to Dismiss, the Court believes that it has to sustain its findings of facts established during the trial. Her Affidavit of Recantation prepared and presented by Prosecutor Datu cannot be given credit by the Court.

Moreover, the Court wonders why it occurred to the mind of the Public Prosecutor to file his Motion to Dismiss on the basis of the Affidavit of Recantation of the private complainant despite the fact that said complainant was presented by him during the trial and from which the court based its decision mainly and purely on the truthfulness and merit of such testimony. The prosecutor should have seriously considered not to proceed with his presentation of AAA who has been crying all the time that she was testifying on her Affidavit of Recantation supporting the Motion to Dismiss of the said prosecutor. Said AAA did not stop crying and it has been made clear to the Court that what she was telling at that time was against her will.[37]

Retractions are generally unreliable and are looked upon with considerable disfavor by the courts.[38] In *People v. Ballabare*,[39] we held that a retraction of a witness does not necessarily negate an original testimony. Affidavits of retraction can easily be secured from poor and ignorant witnesses usually for a monetary consideration.[40] Like any other testimony, recantations are subject to the test of credibility based on the relevant circumstances and, especially, on the demeanor of the witness on the stand.[41]

Rape, defined and penalized under paragraph 1(a) of Article 266-A, in relation to Article 266-B, of the Revised Penal Code, as amended by Republic Act No. 8353, is punishable by reclusion perpetua, viz:

ARTICLE 266-B. Penalties. — Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

With respect to the monetary awards, the award of P50,000.00 as civil indemnity is proper. In *People v. Biong*[42] and *People v. Zamoraga*,[43] we held that upon a finding of the fact of rape, the award of civil indemnity ex delicto is mandatory in the amount of P50,000.00. Award of moral damages is also in order. Moral damages in the amount of P50,000.00 is automatically granted in addition without need of further proof inasmuch as it is assumed that a victim of rape has actually suffered moral injuries that entitles her to such an award.[44]

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR-HC No. 01260 dated 13 August 2007 finding herein accused-appellant ERNESTO PILI guilty beyond reasonable doubt of violating Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353,[45] and sentencing him to suffer the penalty of reclusion perpetua is hereby AFFIRMED with MODIFICATION as to the award of damages. Accused-appellant is ordered to pay private complainant AAA the amounts of P50,000.00 as civil indemnity, and P50,000.00 as moral damages. Costs de oficio.

SO ORDERED.

Carpio Morales,[*] Nachura, Peralta, and Abad,**] JJ., concur.

[1] Penned by Associate Justice Lucas P. Bersamin (now a member of this Court) with Associate Justices Portia Alino Hormachuelos and Estela M. Perlas-Bernabe, concurring; rollo, pp. 4-16.

[2] Penned by Judge Reynaldo V. Roura; records, pp. 118-120.

[3] The name and address of the victim are withheld to protect her privacy, pursuant to Republic Act No. 9262 (The Anti-Violence Against Women and Their Children Act of 2004) and its implementing rules; and Administrative Matter No. 04-10-11 -SC (The Supreme Court Rule on Violence Against Women and their Children), effective 15 November 2004. (See also *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006, 502 SCRA 419.)

[4] Records, p. 2.

[5] *Id.* at 20.

[6] *Id.* at 56.

[7] *Id.* at 58.

[8] *Id.* at 59.

[9] *Id.* at 60.

[10] *Id.* at 7.

[11] *Id.* at 20.

[12] *Id.* at 128-133.

[13] *Id.* at 136.

[14] Exhibit A; records, p. 142.

[15] Records, p. 136.

[16] *Id.* at 142.

[17] *Id.* at 145-148.

[18] *Id.* at 147-148.

[19] Rollo, pp. 14-15.

- [20] Pursuant to Section 13, Rule 124 of the Revised Rules on Criminal Procedure, as amended by A.M. No. 00-5-03-SC.
- [21] Rollo, p. 16.
- [22] Took effect on 22 October 1997.
- [23] *People v. Ruales*, 457 Phil. 160, 169 (2003); *People v. Rizaldo*, 439 Phil. 528, 533 (2002).
- [24] *People v. Mihon*, G.R. Nos. 148397-400, 7 July 2004, 433 SCRA 671, 681.
- [25] *People v. Novio*, 452 Phil. 568, 584 (2003).
- [26] *People v. Suarez*, 496 Phil. 231, 247 (2005).
- [27] *People v. Aagsaoay, Jr.*, G.R. Nos. 132125-26, 3 June 2004, 430 SCRA 450, 465.
- [28] TSN, 5 October 1998, pp. 4-8.
- [29] Records, p. 58.
- [30] *People v. Villorente*, G.R. No. 100198, 1 July 1992, 210 SCRA 647, 659.
- [31] *People v. Malones*, 469 Phil. 301, 326 (2004).
- [32] *People v. Alviz*, G.R. Nos. 144551-55, 29 June 2004, 433 SCRA 164, 172.
- [33] *People v. Espinosa*, G.R. No. 138742, 15 June 2004, 432 SCRA 86, 95; *People v. Almanzor*, 433 Phil. 667, 700 (2002); *People v. Gumahob*, 332 Phil. 855, 867 (1996).
- [34] *People v. Barcena*, G.R. No. 168737, 18 February 2006, 482 SCRA 543, 555.
- [35] Records, p. 120.
- [36] *People v. Ching*, 310 Phil. 269, 287 (1995); *People v. Suarez*, 496 Phil. 231, 248 (2005).
- [37] Records, p. 147.
- [38] *Reano v. Court of Appeals*, G.R. No. 80992, 21 September 1988, 165 SCRA 525, 530; *People v. Morales*, 199 Phil. 157, 163 (1982).
- [39] 332 Phil. 384 (1996).
- [40] *People v. Ayuman*, 471 Phil. 167, 180 (2004); *People v. Dalabajan*, 345 Phil. 945, 957 (1997); *Lopez v. Court of Appeals*, G.R. No. 101507, 29 December 1994, 239 SCRA 562, 565.
- [41] *People v. Alejo*, 458 Phil. 461, 474 (2003); *People v. Gonzales*, 393 Phil. 338, 353-354 (2000).
- [42] 450 Phil. 432, 448 (2003).
- [43] G.R. No. 178066, 6 February 2008, 544 SCRA 143, 154.
- [44] *People v. Espinosa*, G.R. No. 138742, 15 June 2004, 432 SCRA 86, 103.
- [45] Id.
- [*] Per Special Order No. 744, dated 14 October 2009, signed by Chief Justice Reynato S. Puno designating Associate Justice Conchita Carpio Morales to replace Associate Justice Antonio T. Carpio, who is on official leave.

[**] Per Special Order No. 753, dated 13 October 2009, signed by Chief Justice Reynato S. Puno designating Associate Justice Roberto A. Abad to replace Associate Justice Presbitero J. Velasco, Jr., who is on official leave.

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