PEOPLE OF THE PHILIPPINES, APPELLEE, VS. PROMULGATED: JOJO DELA PAZ Y TABOCAN, APPELLANT.

G.R. No. 182412. November 28, 2011

Ponente: BRION, J.

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BRION, J.:

On appeal is the decision[1] dated September 28, 2007 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02331, which affirmed and modified the decision of the Regional Trial Court (RTC), Branch 276, of Muntinlupa City.[2] The RTC found Jojo dela Paz y Tabocan (appellant) guilty beyond reasonable doubt of raping a woman who has the mental age of a five-year old child. The CA modified the RTC decision by imposing reclusion perpetua instead of life imprisonment, and by ordering the payment of moral damages.

The Facts

The appellant and AAA[3] were neighbors whose houses were located in the same residential compound in Summitville, Putatan, Muntinlupa City. AAA, who suffers from mental retardation, lived with her mother and brothers, and was 30 years old when the rape occurred.

Sometime from December 1993 to January 1994, the appellant—whenever he would take a bath—would call AAA to join him in the common comfort room of the compound; he timed their entrance when no one was looking. Once inside, the appellant would kiss and embrace AAA, undress her, make her lie down on the floor, proceed to lie on top of her, insert his organ into hers, and make pumping motions with his buttocks. AAA felt pain in her vagina each time and had bleeding.

In May 1994, AAA's mother (BBB) noticed AAA's swelling abdomen and began to suspect that AAA was pregnant. She confronted AAA and told her that she could be with child. Initially, AAA denied her mother's allegation, but she eventually disclosed what the appellant did to her in the communal comfort room.

BBB brought AAA to a medical doctor who, after an obstetric ultrasonography, confirmed that she was indeed pregnant and was five (5) months on the family way. BBB reported the matter to their barangay officials and executed a Sinumpaang Salaysay[4] before the Women's Desk of the Muntinlupa Police Station.[5] This led to the appellant's arrest and the filing of a criminal case against him for rape.[6]

BBB also brought AAA to the National Bureau of Investigation (NBI) for neuro-psychiatric evaluation. Dr. Erlinda Marfil, the neuro-psychiatrist in the team of medical doctors and psychologists who evaluated AAA, found her to be a mental retardate with the mental age of a five-year old child. Dr. Marfil also diagnosed AAA to have psychosis.[7]

At the trial, the prosecution presented AAA,[8] BBB,[9] arresting and investigating officer Estela Formales,[10] and NBI medical officers Dr. Marfil[11] and Dr. Antonio Vertido.[12] In her testimony, AAA repeatedly declared that the appellant was the one who caused her pregnancy.[13] She also testified that she had given birth to a baby boy.[14]

The appellant[15] and his brother Eddie dela Paz[16] testified for the defense. The appellant interposed the defenses of denial and alibi. He claimed that he could not have raped AAA inside the common comfort room of their compound as he was always away during daytime, working as a plumber either in Soldier's Hill — which he stated was less than a kilometer away — or in Intercity Subdivision in Sucat. He was at a loss as to why a rape charge was filed against him. The appellant also claimed that he was subjected to a strangling hold and a gun was poked at him by one of the arresting officers during his custodial investigation to secure his statement that although he had engaged in intimate acts with AAA, he did not insert his penis inside her.

His brother, who has a store inside the compound, claimed that it was impossible for AAA to enter the compound's common comfort room without being noticed, either by him or by the other residents of the compound.

The RTC's ruling

The RTC found AAA to be coherent and believable. It held that AAA had no reason to falsely testify against the appellant or to falsely identify him as the father of her child. It held that it was not physically impossible for the appellant to be at the scene of the crime at the time of its commission since the distances between this scene and his places of work were short and could easily be negotiated using public transportation. The RTC also pointed out that the appellant's brother could not be expected to observe the comfort room all the time since he also attended to his store. While the RTC no longer took up the matter in the decision, the transcripts show that the RTC disbelieved the appellant's claim of coercion during custodial investigation since he kept changing his testimony on the matter.[17]

The RTC imposed the penalty of "life imprisonment, with no hope of parole,"[18] and ordered the appellant to acknowledge the child as his natural child and to pay AAA the amount of P50,000.00 "by way of indemnity."[19]

The Court of Appeals' Ruling

The CA affirmed the appellant's conviction but imposed reclusion perpetua to rectify the penalty of life imprisonment erroneously imposed by the RTC. It also imposed the payment of P50,000.00 as moral damages.

The CA held that the prosecution "indubitably" established the rape and the mental retardation of the victim. The CA agreed that AAA was a credible witness for her testimony was "candid and straightforward[,] and replete with adequate details of her ravishment"[20] despite her low intelligence. It upheld the RTC's reliance on the testimonies of Dr. Marfil and AAA in concluding that AAA is indeed intellectually disabled. The CA pointed out that a woman with a mental age below that of a person less than 12 years of age is effectively "deprived of reason" and that sexual intercourse with her constitutes rape under either paragraph (2) or paragraph (3), Article 335 of the Revised Penal Code. It disregarded the appellant's alibi by pointing out that he could have still committed the rape either before he left for work or after coming home from work.

The Court's Ruling

We affirm the judgment of the CA, with the modification that exemplary damages in the amount of P30,000.00 be awarded in addition to civil indemnity and moral damages.

Our review confirms that the CA and the RTC correctly appreciated the evidence in arriving at their findings of fact. These findings are of course conclusive on this Court unless shown to have been attended by grave abuse of discretion. We found no such grave abuse of discretion and in fact found, after due consideration of the facts on record, that indeed AAA is intellectually disabled and yet was a credible witness. Her positive identification of the appellant as her comfort room lover and as the father of her child established his sexual relationship with her. By

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law and jurisprudence, sexual intercourse with a mentally retarded woman incapable of giving rational consent constitutes rape.[21]

The RTC and the CA correctly rejected the defenses of denial and alibi as these are the weakest of defenses and are easy to concoct and fabricate.[22] In this case, the appellant's alibi is not persuasive for his failure to demonstrate the physical impossibility of his presence at the crime scene; for instance, he himself admitted that the crime scene was only about one kilometer away from his place of work. Likewise, his denial is unpersuasive in light of AAA's positive and credible testimony on the sexual intercourse he instigated and essentially forced upon her at the communal comfort room.

We affirm the RTC's award of civil indemnity in the amount of P50,000.00 and its order for the appellant to acknowledge AAA's child as his natural child. The award of P50,000.00 as civil indemnity conforms with current jurisprudence on simple rape,[23] while the order is authorized under Article 345 of the Revised Penal Code.[24] In this case, the order is appropriate since the records[25] show the appellant to be unmarried.[26]

We likewise affirm the CA's award of moral damages in the amount of P50,000.00. Moral damages are awarded to rape victims without need of proof other than the fact of rape, as the victim suffered moral injuries from the experience she underwent.[27]

Finally, considering the intellectual disability of the private complainant in this case, we award P30,000.00 as exemplary damages. Exemplary damages are imposed as a public example in order "to protect hapless individuals from [sexual] molestation."[28]

WHEREFORE, in view of these considerations, we AFFIRM the September 28, 2007 decision of the Court of Appeals in CA-G.R. CR-H.C. No. 02331, subject to the MODIFICATION that exemplary damages in the amount of P30,000.00 be imposed in addition to civil indemnity and moral damages.

SO ORDERED.

Carpio, (Chairperson), Perez, Sereno, and Reyes, JJ., concur.

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[1] Penned by Associate Justice Rebecca de Guia-Salvador, and concurred in by Associate Justices Magdangal M. de Leon and Ricardo R. Rosario; rollo, pp. 2-29.

[2] In Criminal Case No. 94-595; penned by Presiding Judge Norma C. Perello. CA rollo, pp. 17-26.

[3] Pursuant to Section 44 of Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004, and Section 63, Rule XI of The Rules and Regulations Implementing the Anti-Violence Against Women and Their Children Act of 2004, the real name of the victim is withheld to protect her and her relatives' privacy.

[4] Records, p. 5.

[5] TSN, September 5, 1994.

[6] The accusatory portion of the Information dated May 31, 1994 reads:

That on or about the period from December 1993 to 27th day of May, 1994, in the Municipality of Muntinlupa, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused [referring to the appellant], by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the complainant [AAA], a retardate. (CA rollo, p. 8.)

[7] Records, pp. 28-29.

[8] TSNs, October 19, 1995 and March 11, 1996.

[9] TSN, September 5, 1994.

[10] TSN, October 19, 1995.

[11] TSN, October 24, 1994.

[12] TSN, November 28, 1994.

[13] TSN, October 19, 1995.

[14] Id. at 10.

[15] TSN, November 5, 1998.

[16] TSN, May 20, 1997.

[17] TSN, November 5, 1998, p. 17.

[18] Supra note 2, at 26.

[19] Ibid.

[20] Supra note 1, at 9.

[21] Paragraphs (2) and (3), Article 335, Revised Penal Code; People v. Almacin, 363 Phil. 18, 30 (1999).

[22] People v. Ayade, G.R. No. 188561, January 15, 2010, 610 SCRA 246, 252.

[23] People v. Ofemiano, G.R. No. 187155, February 1, 2010, 611 SCRA 250, 260, cf. People of the Philippines v. Conrado Laog y Ramin, G.R. No. 178321, October 5, 2011.

[24] Art. 345. Civil liability of persons guilty of crimes against chastity. — Person guilty of rape, seduction or abduction, shall also be sentenced:

1. To indemnify the offended woman.
2. To acknowledge the offspring, unless the law should prevent him from so doing.
3. In every case to support the offspring.

[25] TSN, November 5, 1998, p. 2.

[26] People v. Oliquino, G.R. No. 171314, March 6, 2007, 517 SCRA 579, 598, citing People v. Sgt. Bayani, 331 Phil. 169, 202 (1996).

[27] People v. Nieto, G.R. No. 177756, March 3, 2008, 547 SCRA 511.

[28] People v. Neverio, G.R. No. 182792, August 25, 2009, 597 SCRA 149.

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