PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WARLITO MARTINEZ, ACCUSED-APPELLANT.

G.R. No. 182687. July 23, 2009

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

This is an appeal from the October 9, 2007 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00217 entitled People of the Philippines v. Warlito Martinez which held accused-appellant Warlito Martinez guilty of qualified rape. The assailed Decision affirmed the January 29, 2003 Decision[2] in Criminal Case Nos. 98-297, 98-298, and 98-299 of the Regional Trial Court (RTC), Branch 68 in P.D. Monfort North, Dumangas, Iloilo.

The Facts

The spouses Warlito and BBB live in Janipaan, Mina, Iloilo. They have six children: the three elder daughters have left home, while the three younger ones, a mentally retarded daughter and two sons, live with them. AAA[3] is their mentally retarded daughter.

In the early morning of November 8, 1997, BBB went to Iloilo City to procure a ship ticket for her trip to Manila. At around eight o'clock in the morning, AAA, then 13 years old, was tasked to cook rice while her brothers gathered firewood in a distant place. While AAA was cooking, Warlito approached her. Without a word, Warlito removed AAA's clothes and panties. He then forced his naked daughter to lie down on a bed just two arms length away from the kitchen. Thereafter, he stripped off his shirt, pants, and underwear. He parted AAA's thighs, went on top of her, and inserted his penis into AAA's vagina. AAA could only cry in pain.[4]

After the molestation, Warlito threatened to kill AAA if she would reveal the incident to her mother. Thereafter, Warlito left AAA. AAA then walked away from their home. After about an hour, AAA returned.

Around noontime, while AAA's brothers were playing outside the house, Warlito again forced AAA to lie down on the bed. After removing his clothes, he undressed AAA and went on top of her. He then inserted his penis into her vagina. When he was done, he put on his clothes and left her. AAA then put on her clothes and went out of the house. She kept the incident a secret.[5]

In the evening of November 8, 1997, Warlito went to the room where his children were sleeping together. Inside, he saw his two sons sleeping on the left side of AAA. He went beside AAA, removed her clothes and underwear, and likewise, removed his clothes. He, thereafter, went on top of AAA and inserted his penis inside her vagina. AAA cried in pain but Warlito muffled her cries by covering her mouth. After which, Warlito dressed up and went downstairs to sleep. AAA likewise got dressed and fell asleep.[6]

Remembering her father's threat, AAA did not tell her mother that her father had raped her. When AAA's mother left for Manila a few days later, AAA had to endure her father's weekly assault on her virtue.[7]

On March 11, 1998, AAA's grade one teacher, Lorline Siccio, noticed AAA leaning dizzily on her desk. She also observed that AAA appeared to be unusually weak, hardly having the strength to move. Alarmed, Lorline reported the matter to the officer-in-charge of the Janipaan Elementary School. Aware of the fact that Warlito had sired two children from AAA's elder sister, Lorline asked AAA if her father had raped her. AAA answered in the affirmative. The teachers then reported the matter to the Department of Social Welfare and Development.[8]

On March 15, 1998, BBB returned to Janipaan, Mina, Iloilo from Manila. She then learned that her husband had sexually abused AAA. Unable to contain her outrage over Warlito's assault on their mentally retarded daughter, she and AAA filed a complaint against him.

Dr. Flaviano Nestor Tordesillas, a resident physician at the Iloilo Provincial Hospital in Pototan, Iloilo, physically examined AAA. His medical report stated that AAA suffered "[o]ld healed hymenal lacerations at 7:00, 10:00 and 3:00" positions and that her vagina admitted "one examining finger with ease."[9] Dr. Flaviano noted that the lacerations could have been caused by sexual intercourse or by trauma caused by large blood clots during the menstrual period, or masturbation and insertion of an object.[10]

Dr. Japheth Fernandez, a psychiatrist, conducted a psychological test on AAA. She confirmed AAA's mental retardation and concluded that AAA's intelligence quotient is equivalent to that of a four (4) years old child.[11]

Warlito was then charged with three counts of qualified rape. Except for the dates of the commission of the crime, the three Informations contained the same allegations, thus:

> That on or about the 8[th] day of November, 1997, in the municipality of Mina, Province of Iloilo, Philipines, and within the jurisdiction of this Honorable Court, the above-named accused by means of force did then and there willfully unlawfully and feloniously did lie and succeed in having carnal knowledge of [AAA], his 14 year old daughter, for the first time, against her will and consent.[12]

In his defense, Warlito raised denial and alibi. He claimed that it was impossible for him to rape his daughter because he was at the river about 50 meters away from their house during the times that the alleged rape took place.[13] Moreover, he faulted AAA's teachers for maliciously imputing the charge against him and for forcing BBB to file the complaint.

On January 29, 2003, the RTC rendered a Decision, the dispositive part of which reads:

> WHEREFORE, in view of the foregoing, the court finds the accused WARLITO MARTINEZ GUILTY beyond reasonable doubt of three (3) counts of rape under Art. 395 of the Revised Penal Code as amended in relation to Republic Act No. 7695 and imposes on him the extreme penalty of death on each of the three (3) counts of rape he committed. It is further ordered that on each count of rape, the accused must pay the victim the sum of SEVENTY FIVE THOUSAND (PhP 75,000.00) PESOS as civil indemnity; FIFTY THOUSAND (PHP 50,000.00) PESOS as moral damages; and TWENTY THOUSAND (PhP 25,000.00) as exemplary damages.
>
> SO ORDERED.

The case was appealed to the CA.

The Ruling of the CA

Convinced of AAA's credibility, the appellate court affirmed the trial court's decision. It emphasized that AAA's mental retardation alone is not a ground for her disqualification as a witness. It stressed that the qualification of a witness is anchored on the ability to relate to others the event that was witnessed. In this case, although AAA's intelligence quotient is equivalent to that of a four years old child, the CA found her testimony to be credible,

clear, and convincing.

The fallo of the October 9, 2007 CA Decision reads:

> WHEREFORE, premises considered, the decision of the Regional Trial Court, Branch 68, P.D. Monforth North, Dumangas, Iloilo, finding accused Warlito Martinez guilty beyond reasonable doubt of three (3) counts of rape is hereby AFFIRMED with the following MODIFICATIONS: (i) the amount of moral damages for each count of rape is [PhP] 75,000.00; (ii) in view, however, of Republic Act No. 9346 prohibiting the imposition of the death penalty, appellant is hereby sentenced to suffer the penalty of reclusion perpetua for each count of rape filed against him without the benefit of parole.

Hence, we have this appeal.

The Issues

In a Resolution dated July 16, 2008, this Court required the parties to submit supplemental briefs if they so desired. On September 2, 2008, Warlito, through counsel, signified that he was no longer filing a supplemental brief. Thus, the following issues raised in accused-appellant's Brief dated April 15, 2004 are now deemed adopted in this present appeal:

> I.
> The trial court erred in not finding the private complainant's testimony as incredible and that there was apparent improbability in the commission of the rape charges.
>
> II.
>
> The trial court erred in finding the accused-appellant guilty beyond reasonable doubt of three (3) counts of rape.[14]

The Ruling of the Court

The appeal is without merit.

In attacking AAA's credibility, Warlito asserts that her mental retardation affects her ability to convey her experience, thus, making her testimony unreliable. He then points to the inability of AAA to state with certainty the dates when the alleged acts of rape happened. He claims that it was against human experience to forget such a harrowing experience. Moreover, he maintains that AAA's teachers coached her in fabricating the charge against him.

It was established that AAA has an intelligent quotient equivalent to that of a four years old. Further, her mental condition makes her gullible and vulnerable to coercion. Despite these, the RTC and the CA considered AAA's testimony as credible, clear, and convincing. There is no reason to overturn this finding.

It is a basic doctrine that anyone who can perceive, and perceiving, can make known such perception to others, may be a witness.[15] Thus, by itself, mental retardation does not disqualify a person from testifying. What is essential is the quality of perception, and the manner in which this perception is made known to the court.[16]

Accordingly, People v. Tabio[17] upheld the credibility of the mentally retarded complaining witness after noting that the witness spoke unequivocally on the details of the crime. The Court in that case observed that the witness would not have spoken so tenaciously about her experience had it not really happened to her. In People v. Macapal, Jr.,[18] the court stressed that testimonial discrepancies caused by a witness' natural fickleness of memory does not destroy the substance of the testimony of said witness. Likewise, People v. Martin[19] appreciated the natural and straightforward narration of the mentally deficient victim and dismissed her inaccurate

and unresponsive answers. The Court in Martin reasoned that even children of normal intelligence can not be expected to give a precise account of events considering their naiveté and still undeveloped vocabulary and command of language.

In this case, AAA testified in a straightforward and categorical manner that her father had raped her. She even demonstrated before the court their relative positions during the molestations.[20] And even during grueling cross-examination, she remained consistent with her statement that her father had raped her. Thus, her conduct before the court does not indicate that she had been coached, as Warlito would have us believe.

Furthermore, the inconsistencies that Warlito faults AAA with are too minor to be considered. The date of the commission of the crime is not an element of the crime of rape and has no substantial bearing on its commission.[21] What is essential is that there be proof of carnal knowledge of a woman against her will.[22] And the testimony of AAA clearly proved that Warlito had raped her. She would not have been firm in her allegations had not the same really happened.

Nonetheless, Warlito insists that AAA's testimony is not supported by physical evidence. He maintains that the lacerations on AAA's hymen are not conclusive proof of the crime attributed to him because such injuries could result from AAA's own activities as jumping, running, or falling on a hard object.

We are not persuaded. As correctly held by the CA, AAA's healed lacerations on her hymen support her testimony rather than destroy it. True, a physician's finding that the hymen of the alleged victim was lacerated does not establish rape. Such result, however, is not presented to prove the fact of rape; rather, it is presented to show the loss of virginity.[23] And when, as in this case, the victim's forthright testimony is consistent with the physical finding of penetration, there is then, sufficient basis for concluding that sexual intercourse did take place.[24]

As regards Warlito's defense of alibi, we affirm the findings of the CA, thus:

> In the instant case, the place where the alleged rape was committed and the river where the accused was tending his motor pump at the time of the alleged incident was just separated by a 50 meter distance and the accused admitted that it would not take five minutes to reach his house by normal walking at an average speed. Thus, it was not physically impossible for accused to be at the crime scene. Moreover, positive identification of an eyewitness prevails over the defense of alibi. Hence, accused's attempt to exculpate himself through alibi must fail.[25]

As to the damages, we note that the appellate court correctly modified the amount of moral damages that should be awarded to AAA--from PhP 50,000 to PhP 75,000, in line with current jurisprudence on qualified rape. The amount of exemplary damages, however, should also be modified. Following People v. Layco,[26] the award of exemplary damages is increased from PhP 25,000 to PhP 30,000, in order to serve as public example and to protect the young from sexual abuse.

WHEREFORE, the Court AFFIRMS the October 9, 2007 CA Decision in CA-G.R. CR-H.C. No. 00217 with MODIFICATIONS. As modified, the dispositive portion of the CA Decision shall read:

> WHEREFORE, the accused WARLITO MARTINEZ is found GUILTY beyond reasonable doubt of committing three (3) counts of QUALIFIED RAPE and is sentenced to suffer the penalty of reclusion perpetua for each count of rape, without benefit of parole. Likewise, for each count of rape, he is ordered to pay the victim, the sum of PhP 75,000 as civil indemnity, PhP 75,000 as moral damages, and PhP 30,000 as exemplary damages.

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SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Nachura, and Peralta, JJ., concur.

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[1] Rollo, pp. 5-40. Penned by Associate Justice Stephen C. Cruz and concurred in by Associate Justices Antonio L. Villamayor and Francisco Acosta.

[2] CA rollo, pp. 20-32. Penned by Judge Gerardo D. Diaz.

[3] Pursuant to Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004," and its implementing rules, the real name of the victim, with that of her immediate family members, is withheld and fictitious initials instead are used to represent her to protect her privacy.

[4] Rollo, p. 9.

[5] Id.

[6] Id. at 9-10.

[7] Id. at 10

[8] Id.

[9] CA rollo, pp.24-25.

[10] Id. at 25.

[11] Rollo, p. 11.

[12] Id. at 6.

[13] Id. at 11.

[14] CA rollo, p. 51.

[15] RULES OF COURT, Rule 130, Sec. 20.

[16] People v. Macapal, Jr., G.R. No. 155335, July 14, 2005, 463 SCRA 387, 400.

[17] G.R. No. 179477, February 6, 2008, 544 SCRA 156.

[18] Supra note 16.

[19] G.R. No. 172069, January 30, 2008, 543 SCRA 143.

[20] Rollo, p. 24.

[21] People v. Dela Cruz, G.R. No. 177572, February 26, 2008, 546 SCRA 703, 722; People v. Emilio, G.R. Nos. 144305-07, February 6, 2003, 397 SCRA 62, 70; People v. San Agustin, G.R. Nos. 135560-61, January 24, 2001, 350 SCRA 216, 223-224.

[22] People v. Dadulla, G.R. No. 175946, March 23, 2007, 519 SCRA 48, 59.

[23] People v. Bañares, G.R. No. 127491, May 28, 2004, 430 SCRA 435, 448; People v. Asuncion, G.R. No. 136779, September 7, 2001, 364 SCRA 703, 714, citing People v. Castillo, G.R. No. 84310, May 29, 1991, 197 SCRA 657.

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[24] People v. Malibiran, G.R. No. 173471, March 17, 2009; People v. Corpuz, G.R. No. 168101, February 13, 2006, 482 SCRA 435, 448; Bañares, supra note 23.

[25] Rollo, p. 37.

[26] G.R. No. 182191, May 8, 2009.

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