

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ARMANDO FERASOL, APPELLANT.

G.R. No. 185004. August 25, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

For review is the Decision[1] of the Court of Appeals (CA) in CA-G.R. CR HC No. 00344 which affirmed with modification the Decision[2] of the Regional Trial Court (RTC), Branch 26, Surallah, South Cotabato finding appellant Armando Ferasol guilty of Statutory Rape under Article 266-A of the Revised Penal Code.

The facts as summarized by the CA:

In an Information dated February 9, 2002, [appellant] was charged with the crime of Rape (Statutory) allegedly committed against AAA, viz.:

"That on or about the 31[st] day of August, 2001, in the morning thereof, in the house of the above-named [appellant] located at xxx, xxx, Province of South Cotabato, Philippines, and within the jurisdiction of this Honorable Court, the above-named [appellant] did then and there willfully, unlawfully and feloniously, by means of force, threats and intimidation and with lewd designs, have carnal knowledge of AAA,[3] nine (9) years old and his niece, against the will and consent of the said victim."

CONTRARY TO LAW.

Upon his arraignment on May 28, 2002, [appellant] pleaded "Not Guilty" to the crime charged. x x x.

Version of the Prosecution

x x x x

On August 8, 2001, around 8 o'clock in the morning, [nine]-year old AAA was sweeping the yard of their home in xxx, xxx, South Cotabato. AAA was left all alone. Her mother, BBB, departed for xxx proper early that morning, together with her aunt, Maribel Ferasol, wife of appellant Armando Ferasol. Her father, BBB had earlier left for their farm. AAA's older brother, DDD, went out of the house early, roaming the neighborhood, while her older sister, EEE, stayed with another aunt in xxx.

Appellant Armando Ferasol, AAA's uncle, whose house was located just 10 meters away from AAA's house, called AAA to come over to his house. Unsuspecting, AAA heeded her uncle's command. After AAA entered appellant's house, appellant removed her short pants. Immediately, appellant inserted his penis inside the young girl's vagina. After consummating the sexual intercourse, appellant sent AAA back home. He threatened her that he would kill her parents, her brother and sister as well as herself if she told anyone regarding the incident. Fearful for their lives, AAA at first kept appellant's abuse to herself.

Appellant had earlier been abusing AAA, who was already in her fourth grade, since she was in Grade 3. The child, however, did not tell anyone regarding appellant's repeated sexual assaults.

BBB went back to their house around 1 o'clock in the afternoon of the same day. Around 4:30 in that afternoon, BBB saw AAA arrive from school, looking weak and clutching at her groin. The following day, September 1, 2001, AAA's teacher, Mrs. Luz Puyonan, sent a note to BBB, informing her that she would like to talk to her on September 3, 2001. On September 3, 2001, Mrs. Luz Puyonan told BBB that she had a suspicion that AAA had been sexually abused. She advised BBB to see a doctor who could examine AAA. Forthwith, BBB brought AAA to Dr. Evelyn Diosana, the Municipal Health Officer of xxx. In the course of her examination, AAA revealed to Dr. Diosana that appellant had been abusing her. x x x.

Version of the Defense

Invoking the defense of denial and alibi, [appellant] testified that on August 31, 2001, he was at Sitio Lubo, Barangay Ned, Lake Sebu, South Cotabato, which is an eight-hour ride away from his place. He needed money to pay for the hospital expenses of his daughter who had a boil growing in her heart. [Appellant] went to Sition Lubo on August 28, 2001 to borrow money from his friend Rafael Haudar. He stayed there for several days helping Rafael Haudar in drying around fifty (50) sacks of corn. On August 31, 2001, after completely drying Rafael Haudar's corn, they sold them to a certain Rogelio for P15,000.00. From the proceeds, Rafael Haudar loaned [appellant] P4,000.00. Immediately on the next day, September 1, 2001, [appellant] went home.

Rafael Haudar, himself, corroborated [appellant's] claim. He attested that [appellant] stayed in his place in Sitio Lubo from August 28 to September 1, 2001. He also testified that [appellant] helped him in drying his corn and [appellant] borrowed from him P4,000.00.[4]

After trial, the RTC found appellant guilty as charged and disposed, as follows:

WHEREFORE, considering the above premises, the court finds the appellant Armando Ferasol, GUILTY of the crime of Statutory Rape.

Following then the above-quoted provision of the law, the court hereby imposes against the appellant the extreme penalty of DEATH.

The [appellant] is likewise ordered to pay his victim, AAA, the amounts of PH50,000.00 as moral damages; PH50,000.00 as exemplary damages and PH30,000.00 as restitution for the payment of attorney's fees.

The Clerk of Court of this court then is hereby directed to immediately forward the record of this case to the Court of Appeals, Cagayan de Oro City for the automatic review by said appellate court of this decision/judgment.

SO ORDERED.[5]

As previously adverted to, the CA, on appeal, affirmed the RTC's decision with modification:

WHEREFORE, the Decision of the Regional Trial Court, Branch 26, 11[th] Judicial Region, Surallah, South Cotabato, in Criminal Case No. 3008-N, is hereby AFFIRMED with MODIFICATIONS. [Appellant] Armando Ferasol is SENTENCED to suffer the penalty of reclusion perpetua with no possibility of parole for the crime of rape committed against AAA. He is also hereby ORDERED to indemnify AAA the amounts of P50,000.00 as moral damages and P50,000.00 as civil indemnity. Furthermore, the award of P50,000.00 as exemplary damages and P30,000.00 as attorney's fees are DELETED for lack of factual and legal basis. With costs.[6]

Appellant filed a notice of appeal and is now before us insisting on his innocence and beseeching the reversal of the lower courts' finding of guilt.

We abide by the identical conclusion of the lower courts that appellant raped AAA.

In the review of rape cases, we are guided by the following principles: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the nature of the crime of rape where only two persons are usually involved, the testimony of the complainant is scrutinized with extreme caution; and (3) the evidence for the prosecution stands or falls on its own merits and cannot be allowed to draw strength from the weakness of the defense.[7] Ultimately, in a prosecution for rape, the complainant's credibility becomes the single most important issue.[8]

A perusal of AAA's testimony leads us to the inevitable conclusion that appellant indeed raped her. AAA's testimony, although interspersed with minor lapses, did not waiver even on cross-examination:

Q:

You said earlier that you were called by your Papang Armando for (sic) to enter their house. Did you actually enter their house?

A:

Yes, sir.

Q:

Once inside, what happened next, AAA?

A:

He let me enter their room and he used me.

Q:

When you said "he used me," what do you mean by that?

A:

He removed my shorts and he entered his penis into my vagina.

Q:

For how long did he insert his penis into your vagina?

A:

For not so long.

Q:

Was that the first time that your Papang Armando Ferasol inserted his penis into your vagina?

A:

No, sir, that was not the first time.

Q:

Why?

A:

Because he has been using me since I was in Grade III.

Q:

Why, as of August 31, 2001, in what grade were you?

A:

I was in Grade IV.

Q:

After he used you, and what happened next, AAA?

A:

He sent me home and threatened me not to tell it.

Q:

And what was the threat you are particularly referring to.

A:

He threatened to kill me including my parents, my brothers and sisters.

Q:

Because of the threat, AAA, what did you feel?

A:

I was afraid.

Q:

And because you were afraid, did you actually comply with the threat of your Papang Armando Ferasol not to tell it to anybody?

A:

At first I did not tell it anybody, but when I and my mother went to Dr. Diosana, I told the truth to Dr. Diosana.

Q:

The truth about what?

A:

That I was used by Armando Ferasol.

Q:

And when was that when you were brought to Dr. Diosana and when you told the truth?

A:

That was on September 2, 2001.

Q:

[Who were you with] when you told the truth to Dr. Diosana?

A:

I was with my mother.

x x x x

Q:

When you were sent home by your Uncle Armando, you went straight to your house?

A:

Yes, sir.

Q:

You continued your work, sweeping in your yard?

A:

Yes, sir.

Q:

You continued your house chores as if nothing happened?

A:

Yes, sir.

Q:

In fact, when your mother arrived from xxx, you acted as if nothing happened?

A:

Yes, sir.

Q:

Because, actually, there is nothing that happened? (sic)

A:

There was. (sic)[9]

In connection with the minor inconsistencies in AAA's testimony which appellant harps on, we completely agree with the following disquisition of the appellate court:

It bears emphasis that AAA was only 11 years old at the time she testified before the trial court. She was only 9 years old when [appellant] started raping her. A child witness could not be expected to give a precise response to every question posed to her. Her failure to give an answer to the point as to be free of any minor inconsistencies is understandable and does not make her a witness less worthy of belief. It is not unnatural for a rape victim, especially one who is of tender age, to make discrepant statements. But, so long as the testimony is consistent on material points, slightly conflicting statements will not undermine the witness' credibility or the veracity of her testimony. They in fact tend to buttress, rather than impair, her credibility as they erase any suspicion of a rehearsed testimony. Inconsistencies and discrepancies as to minor matters which are irrelevant to the elements of the crime cannot be considered grounds for acquittal.

x x x. Although AAA's testimony is not perfect in details, it bore the earmarks of truth. We find that she was

unwavering and consistent. She never hesitated in testifying that it was her uncle who raped her. She may have confused certain minor details such as whether she was left alone in the house or had other companions, whether her aunt Maribel Ferasol went to the market or to the poblacion as testified by BBB, whether she attended school on the day of the rape incident or not, but she was consistent in her statements identifying [appellant] as the rapist. But the said variances focused more on her account of the events immediately prior to and following the rape than her narration of the commission of the crime itself. After all, AAA was but a little girl of nine (9) when her ordeal began and eleven (11) when she took the witness stand. It should be understandable that the young victim would more likely wish to forget rather than to remember the sordid details of the outrage that claimed her innocence.[10]

However, as regards the civil liability of appellant, we increase the appellate court's award of civil indemnity to P75,000.00. We likewise increase the grant of moral damages to P75,000.00, without need of proof, and additionally award P30,000.00 as exemplary damages.

WHEREFORE, the decision of the Regional Trial Court in Criminal Case No. 3008-N and the decision of the Court of Appeals in CA-G.R. CR HC No. 00344 are AFFIRMED with MODIFICATION. Appellant Armando Ferasol is SENTENCED to suffer the penalty of reclusion perpetua with no possibility of parole and to pay the victim, AAA, the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and the further sum of P30,000.00 as exemplary damages plus costs.

SO ORDERED.

Carpio Morales,[*] Chico-Nazario,**] (Acting Chairperson), Velasco, Jr., and Peralta, JJ., concur.

[*] Additional member in lieu of Associate Justice Consuelo Ynares-Santiago per Special Order No. 679 dated August 3, 2009.

[**] In lieu of Associate Justice Consuelo Ynares-Santiago per Special Order No. 678 dated August 3, 2009.

[1] Penned by Associate Justice Elihu A. Ybañez, with Associate Justices Romulo V. Borja and Mario V. Lopez, concurring; rollo, pp. 4-24.

[2] Penned by Judge Roberto L. Ayco, CA rollo, pp. 40-64.

[3] The real name of the victim is withheld as per Republic Act (R.A.) No. 7610 and R.A. No. 9262. See *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[4] Rollo, pp. 5-8. (Citations omitted.)

[5] CA rollo, pp. 63-64.

[6] Rollo, p. 24.

[7] *People v. Brondial*, G.R. No. 135517, October 18, 2000, 343 SCRA 600; *People v. Baygar*, G.R. No. 132238, November 17, 1999, 318 SCRA 358; *People v. Sta. Ana*, G.R. Nos. 115657-59, June 26, 1998, 291 SCRA 188; *People v. Auxtero*, G.R. No. 118314, April 15, 1998, 289 SCRA 75; *People v. Balmoria*, G.R. Nos. 120620-21, March 20, 1998, 287 SCRA 687; *People v. Barrientos*, G.R. No. 119835, January 28, 1998, 285 SCRA 221; *People v. Gallo*, G.R. No. 124736, January 22, 1998, 284 SCRA 590.

[8] *People v. Abellano*, G.R. No. 169061, June 8, 2007, 524 SCRA 388.

[9] Rollo, pp. 15-16.

[10] Rollo, pp. 17-18.

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