

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REYNALDO SANZ LABOA, ACCUSED-APPELLANT.

G.R. No. 185711. August 24, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For review is the Decision[1] dated 31 January 2008 of the Court of Appeals in CA-G.R. CR-H.C. No. 00211-MIN, which affirmed with modification the Decision[2] dated 22 July 2003 of the Regional Trial Court (RTC) of Isulan, Sultan Kudarat, Branch 19, in Criminal Case No. 2838, finding herein appellant Reynaldo Sanz Laboa guilty beyond reasonable doubt of the crime of rape committed against AAA[3] and sentencing him to suffer the penalty of reclusion perpetua.

Appellant Reynaldo Sanz Laboa was charged before the RTC of Isulan, Sultan Kudarat with raping AAA in an Information which reads:

That on or about in the afternoon of [26 June 2001], at Barangay XXX, Municipality of XXX, Province of XXX, Philippines, and within the jurisdiction of this Honorable Court, the said [appellant] with lewd and unchaste design and by means of force and intimidation, did then and there, willfully and feloniously lie and succeeded in having carnal knowledge of one AAA, a minor, under twelve (12) years old against her will and consent.[4]

Upon arraignment, the appellant, assisted by counsel de officio, pleaded NOT GUILTY to the crime charged. After pre-trial was terminated, trial on the merits ensued.

The prosecution presented the testimonies of the following witnesses: Dr. Alfredo Calingin (Dr. Calingin), Municipal Health Officer of Sen. Ninoy Aquino, Sultan Kudarat, who conducted the physical examination on AAA; Police Inspector (PO) 1 Melinda Dedoro Rosal (PO1 Rosal), Women and Children Protection Desk Officer at Sen. Ninoy Aquino Municipal Police Station, who conducted the investigation on the complaint of AAA; Ariel Estabillo (Ariel), laborer at the corn drier of the victim's parents; BBB, the mother of AAA; and AAA, the private complainant herself.

The evidence for the prosecution, culled from the testimonies of the aforesaid witnesses, established the following facts:

On 26 June 2001, AAA, then nine years old, was helping her parents at their corn drier located in XXX, XXX, XXX, which is about 300 meters away from their house. At around 5:00 p.m., AAA was instructed by her father to go home and to cook rice. Before going home, AAA gathered firewood. When she reached their house, she was already tired, so she decided to lie down on a long bench where she eventually fell asleep. At that time, the appellant was already outside their house making a divider, because he was hired by AAA's mother to make a divider for them.[5]

While AAA was sleeping on a long bench inside their house, the appellant entered, went directly to where she

was and started removing her short pants and underwear. AAA was awakened, but the appellant still proceeded to undress her. The appellant then placed saliva on her vagina, spread her legs and went on top of her. Thereafter, the appellant unzipped his pants, held his penis and placed it in AAA's vagina. AAA felt that the penis of the appellant was hard. She also felt pain when the appellant tried to insert his penis into her vagina. She tried to resist but to no avail. After a while, AAA felt something wet in her vagina.[6]

At this juncture, Ariel arrived; he went there in order to return an adjustable tool that he borrowed from the parents of AAA. Ariel was so shocked seeing the appellant, whose pants' zipper was open, on top of AAA, who was naked from the waist down. At once, Ariel struck the appellant at the back with the tool he was holding. The appellant immediately stood up, fixed his long pants, closed his zipper, gathered his carpentry tools and left. AAA was then crying and asked Ariel to punch the appellant. Subsequently, Ariel brought AAA to her parents, who were at their corn drier. AAA was silent but teary-eyed when Ariel informed her mother about her ordeal.[7]

Upon being informed, BBB, together with AAA, immediately reported the rape incident to the barangay chairman. As the latter was unavailable, they reported the said incident to the officer-in-charge, who ordered to look for the appellant. With the help of the Civilian Armed Forces Geographical Unit (CAFGU), the appellant was picked up in the house of one Bartoloy Dema. He was then brought to the barangay hall.[8]

AAA and her parents also went at the Municipal Police Station of Sen. Ninoy Aquino to report the rape incident. It was PO1 Rosal, the Women and Children Protection Desk Officer assigned to that Police Station, who conducted the investigation on the said rape incident. She took AAA's sworn statement on how the appellant ravished her. Then, she referred AAA to the Department of Social Welfare and Development (DSWD) and to the Municipal Health Office for medical examination.[9]

AAA was examined by Dr. Calingin, the Municipal Health Officer of Sen. Ninoy Aquino. Dr. Calingin found incomplete fresh hymenal lacerations on AAA's vagina at the 2:00 o'clock and 7:00 o'clock positions. The findings were contained in the Medical Certificate dated 28 June 2001,[10] which he issued. According to Dr. Calingin, said lacerations could have been possibly caused by bicycle riding, horse riding or an attempt to sexually penetrate AAA's private part.[11]

Thereafter, a Criminal Information for Rape was filed against the appellant. After an Order of Detention was issued, the appellant was arrested by the Philippine National Police (PNP) personnel.[12]

For its part, the defense presented the lone testimony of the appellant, who interposed the defense of denial.

The appellant claimed that on 26 June 2001, at around 5:00 p.m., he entered the house of AAA's parents to get the bench, which he would use in attaching the door of the divider he was making. Since AAA was lying on the said bench, he kicked the bench to wake her up, but AAA refused to get up. He then pushed the bench. At such instance, Ariel arrived. The appellant averred that Ariel touched him on his back with the tool the latter was carrying. The appellant told Ariel to assist him in making the divider; however, as it was already late in the afternoon, the appellant just gathered his carpentry tools and left the house of AAA's parents. On cross-examination, however, the appellant testified that after kicking the bench, AAA was still asleep, and this prompted him to shake the bench to wake her up. He also admitted that he was bending over the bench, as he was holding the two legs of AAA when suddenly Ariel arrived. The appellant asserted that Ariel merely misinterpreted such position of him as having sexual intercourse with AAA.[13]

After trial, a Decision was rendered by the court a quo on 22 July 2003 finding the appellant guilty beyond reasonable doubt of the crime of rape. The trial court found AAA's testimony on how she was raped by the appellant on 26 June 2001 to be straightforward, credible, truthful and convincing. Moreover, AAA's positive

identification of the appellant as her ravisher completely overturned appellant's defense of denial. The trial court thus decreed:

WHEREFORE, upon all the foregoing considerations, the Court finds the [appellant], Reynaldo Sanz Laboa, guilty beyond reasonable doubt of the crime of rape.

Accordingly, the Court hereby sentences the [appellant], Reynaldo Sanz Laboa:

- (a) to suffer the penalty of RECLUSION PERPETUA;
- (b) to indemnify the private offended party, AAA;
 - the amount of FIFTY THOUSAND (P50,000.00) PESOS, as moral damages
 - the amount of SEVENTY FIVE THOUSAND (P75,000.00) PESOS, by way of civil indemnity, consistent with current prevailing jurisprudence;
 - the amount of TWENTY FIVE THOUSAND (P25,000.00) PESOS, as exemplary damages; and
- (c) to pay the costs.

Being a detention prisoner, the [appellant] Reynaldo Sanz Laboa, is entitled to full credit of the entire period of his preventive imprisonment, in accordance with Article 27 of the Revised Penal code, as amended by R.A. No. 6127, provided he had agreed in writing to abide by the same disciplinary rules and regulations imposed upon convicted prisoners, otherwise, with only four-fifths (4/5) thereof.[14]

The records of this case were originally transmitted to this Court on appeal. Pursuant to *People v. Mateo*, [15] the records were transferred to the Court of Appeals for appropriate action and disposition.

In his brief, the appellant raised his lone assigned error:

THE TRIAL COURT ERRED IN CONVICTING THE [APPELLANT] OF THE CRIME OF CONSUMMATED RAPE WHEN HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.[16]

On 31 January 2008, the Court of Appeals rendered a Decision affirming the conviction of the appellant for the crime of rape and sentenced him to suffer the penalty of reclusion perpetua, with the modification reducing the amount of civil indemnity awarded by the trial court to AAA from P75,000.00 to P50,000.00.

The appellant appealed to this Court, contending that his conviction for the crime charged was based mainly on the testimonies of AAA, Dr. Calingin and Ariel. Appellant claimed that the testimonies of the aforesaid witnesses showed uncertainty as to his participation or how he consummated the crime charged. According to the appellant, AAA herself admitted that she did not know whether the appellant's penis penetrated her vagina. Similarly, Dr. Calingin testified that the fresh hymenal lacerations on AAA's vagina could have been possibly caused by bicycle riding, horse riding or an attempt to sexually penetrate AAA's vagina. In the same way, Ariel admitted that he failed to see neither the penis of the appellant nor the actual penetration of the same on AAA's vagina. With the foregoing circumstances, the appellant claims that penetration of AAA's vagina by his penis was not proven beyond reasonable doubt. Thus, he may only be held guilty of the crime of attempted rape and not of consummated rape.

Appellant's contentions are bereft of merit.

It is a fundamental rule that the trial court's factual findings, especially its assessment of the credibility of witnesses, are accorded great weight and respect and are binding upon this Court, particularly when affirmed by

the Court of Appeals.[17] This is so because the trial court is in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying during the trial. The appellate courts will generally not disturb such findings, unless it plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.[18]

In this case, this Court finds no cogent reason to disturb the findings of both the trial court and the Court of Appeals that, indeed, appellant is guilty of the crime of consummated rape and not merely of attempted rape.

As it has been repeatedly said, no woman would want to go through the process, the trouble and the humiliation of trial for such a debasing offense, unless she actually has been a victim of abuse and her motive is but a response to the compelling need to seek and obtain justice.[19]

As observed by the trial court, AAA had testified in a straightforward, candid and convincing manner on how she was raped by the appellant. Truly, AAA did not know whether the penis of the appellant penetrated her vagina or not. But, it does not mean that the appellant did not consummate the crime of rape. Settled is the rule that in order to establish rape, it is not necessary to show that the hymen was ruptured, as full penetration of the penis is not an indispensable requirement. What is fundamental is that the entrance, or at least the introduction of the male organ into the labia of the pudendum, is proved. The mere introduction of the male organ into the labia majora of the victim's genitalia, and not the full penetration of the complainant's private part, consummates the crime. Hence, the "touching" or "entry" of the penis into the labia majora or the labia minora of the pudendum of the victim's genitalia constitutes consummated rape.[20]

In this case, AAA categorically stated that the appellant raped her by having sexual intercourse with her. She vividly described that after the appellant removed her shorts and underwear, the appellant, in turn, opened his pants and unzipped it. Thereafter, the appellant spread her legs, held his penis and placed it in her vagina. At such instance, she felt pain in her private part.[21] From the said testimony of AAA, there can be no doubt that there was at least a partial entry, so as to make the crime consummated rape, considering the pain the entry caused.

The fact that the rape was consummated was also supported by the medical findings of the examining physician, Dr. Calingin, who found incomplete fresh hymenal lacerations at the 2:00 o'clock and 7:00 o'clock positions on AAA's vagina. According to him, said lacerations were possibly caused by an attempt to sexually penetrate AAA's private part. As the Court of Appeals stated in its Decision, while Dr. Calingin said that the lacerations could have also been possibly caused by bicycle riding or horse riding, said circumstance was not however shown to be the usual activities of AAA. Thus, when the testimony of a rape victim is consistent with the medical findings, sufficient basis exists to warrant a conclusion that the essential requisite of carnal knowledge has thereby been established.[22]

Although Ariel, one of the prosecution witnesses, failed to see the penis of the appellant or its actual penetration on AAA's vagina, still, his testimony clearly established and corroborated AAA's testimony that, indeed, she was raped by the appellant. Records revealed that Ariel declared before the court a quo that when he saw the appellant on top of AAA, who was naked from the waist down, the appellant's pants were lowered down to his buttocks while doing the push and pull movement.[23] Such action of the appellant cannot be interpreted in any way other than having sexual intercourse with AAA.

In contrast, the evidence presented by the defense consisted mainly of bare denials. Denial, like alibi, is inherently a weak defense. Unless supported by clear and convincing evidence, the same cannot prevail over the positive declaration of the victim,[24] who, in a simple and straightforward manner, convincingly identified the appellant as the one who had sexually molested her in the afternoon of 26 June 2001.

Clearly from the foregoing, the prosecution witnesses persuasively established beyond reasonable doubt the guilt of the appellant of the crime of consummated rape. Thus, this Court is convinced that the trial court and the appellate court correctly convicted him of the crime of rape,[25] which is punishable by reclusion perpetua.[26]

This Court affirms the award of P50,000.00 as civil indemnity given by the Court of Appeals to the victim. Civil indemnity, which is actually in the nature of actual or compensatory damages, is mandatory upon the finding of the fact of rape.[27]

Moral damages in rape cases should be awarded without need of showing that the victim suffered trauma of mental, physical, and psychological sufferings constituting the basis thereof. These are too obvious to still require the victim's recital thereof at the trial, since we even assume and acknowledge such agony as a gauge of her credibility.[28] Thus, this Court finds the award of moral damages by both lower courts in the amount of P50,000.00, proper.

As to the award of exemplary damages, the same must be deleted. Article 2231 of the Civil Code provides that exemplary damages may be awarded if the crime was committed with one or more aggravating circumstances.[29] Thus, this Court is constrained not to award exemplary damages in this case, since no aggravating circumstances attended the commission of the crime.

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00211-MIN dated 31 January 2008 finding herein appellant guilty beyond reasonable doubt of the crime of rape is hereby AFFIRMED with the modification that the award of exemplary damages is deleted. No costs.

SO ORDERED.

Velasco, Jr., Leonardo-De Castro,[***] and Peralta, JJ., concur.

Carpio Morales,[*] J., please see concurring opinion & dissenting opinion.

[*] Per Special Order No. 679 dated 3 August 2009, signed by Chief Justice Reynato S. Puno designating Associate Justice Conchita Carpio Morales to replace Associate Justice Consuelo Ynares-Santiago, who is on official leave.

[**] Per Special Order No. 681 dated 3 August 2009, signed by Chief Justice Reynato S. Puno designating Associate Justice Minita V. Chico-Nazario as Acting Chairperson to replace Associate Justice Consuelo Ynares-Santiago, who is on official leave.

[***] Associate Justice Teresita J. Leonardo-De Castro was designated to sit as additional member replacing Associate Justice Antonio Eduardo B. Nachura per Raffle dated 16 February 2009.

[1] Penned by Associate Justice Rodrigo F. Lim, Jr. with Associate Justices Teresita Dy-Liacco Flores and Michael P. Elbinias, concurring; rollo, pp. 6-23.

[2] Penned by Judge German M. Malcampo; CA rollo, pp. 10-30.

[3] This is pursuant to the ruling of this Court in *People of the Philippines v. Cabalquinto* (G.R. No. 167693, 19 September 2006, 502 SCRA 419), wherein this Court resolved to withhold the real name of the victim-survivor and to use fictitious initials instead to represent her in its decisions. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed. The names of such victims, and of their immediate family members, other than the accused, shall appear as "AAA," "BBB," "CCC," and so on. Addresses

shall appear as "XXX" as in "No. XXX Street, XXX District, City of XXX."

The Supreme Court took note of the legal mandate on the utmost confidentiality of proceedings involving violence against women and children set forth in Sec. 29 of R.A. No. 7610, otherwise known as Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act; Sec. 44 of R.A. No. 9262, otherwise known as Anti-Violence Against Women and Their Children Act of 2004; and Sec. 40 of A.M. No. 04-10-11-SC, known as Rule on Violence Against Women and Their Children effective November 15, 2004.

[4] CA rollo, pp. 4-5.

[5] Testimony of AAA, TSN, 4 July 2002, pp. 47-49.

[6] Id. at 50-54.

[7] Testimony of Ariel Estabillo, TSN, 4 July 2002, pp. 10-16; Testimony of AAA, TSN, 4 July 2002, pp. 54-56.

[8] Testimony of BBB, TSN, 4 July 2002, pp. 30-32.

[9] Testimony of PO1 Melinda Dedoro Rosal, TSN, 1 July 2002, pp. 15-18.

[10] Records, p. 12.

[11] Testimony of Dr. Alfredo Calingin, TSN, 1 July 2002, pp. 7-12.

[12] Testimony of PO1 Melinda Dedoro Rosal, TSN, 1 July 2002, pp. 17-21.

[13] Testimony of the appellant, TSN, 23 July 2002, pp. 2-14.

[14] CA rollo, pp. 29-30.

[15] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640.

[16] CA rollo, p. 61.

[17] People v. Mahinay, G.R. No. 179190, 20 January 2009.

[18] People v. Jose, 367 Phil. 68, 76 (1999).

[19] People v. Lopez, 362 Phil. 285, 293 (1999).

[20] People v. Velasquez, 427 Phil. 454, 461 (2002).

[21] Testimony of AAA, TSN, 4 July 2002, pp. 50-54.

[22] People v. Galisim, 421 Phil. 638, 647 (2001).

[23] Testimony of Ariel Estabillo, TSN, 4 July 2002, pp. 18-19; 23-24.

[24] People v. Agravante, 392 Phil. 543, 551 (2000).

[25] ART. 266-A. Rape: When and How Committed. - Rape is committed:

1) By a man who have carnal knowledge of a woman under any of the following circumstances:

x x x x

d) When the offended party is under twelve (12) years of age x x x (Revised Penal Code).

[26] ART. 266-B. Penalties.-Rape under paragraph 1 of the next preceding article shall be punished by reclusion

perpetua. (Revised Penal Code).

[27] *People v. Callos*, 424 Phil. 506, 516 (2002).

[28] *People v. Docena*, 379 Phil. 903, 917-918 (2000).

[29] *People v. Amba*, 417 Phil. 852, 865 (2001).

CONCURRING AND DISSENTING OPINION

CARPIO MORALES, J.:

I concur in the Decision, except with respect to the deletion of the award of exemplary damages. I am of the view that the minority of the victim alone warrants such award.

The majority insists on a strict construction of Article 2230 of the Civil Code providing that 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. I am not unaware of jurisprudence either applying this rule *strictissimi juris* or requiring the concurrence of minority and relationship in rape cases in order to warrant the award of exemplary damages.

Paying particular attention to rape cases, however, I consider to be the better view that espoused by the Court in its very recent Decisions awarding exemplary damages to minor victims of rape without requiring any other circumstance to concur with minority.

In *People v. Sia*,^[1] the Court en banc even increased the exemplary damages awarded by the appellate court on account of the victim's minority from P25,000 to P30,000. The Court sustained the appellate court's ratiocination that the purpose of the award is to deter individuals with perverse tendencies from sexually abusing young children. *People v. Wasit*^[2] and *People v. Cruz*^[3] echoed the *Sia* holding. All these cases were unanimously decided by the participating members of the Court.

The underlying public policy behind the award of exemplary damages is to set a public example or correction for the public good. This is effectively defeated by the strict application of Article 2230 of the Civil Code in rape cases wherein the victim is a minor.

I, therefore, vote to AFFIRM in toto the challenged Decision of the Court of Appeals.

[1] G.R. No. 174059, February 27, 2009.

[2] G.R. No. 182454, July 23, 2009.

[3] G.R. No. 186129, August 4, 2009.

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