

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FELIX PALGAN, APPELLANT.***G.R. No. 186234. December 21, 2009*

Ponente: NACHURA, J.

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For final review by the Court is the trial court's conviction of appellant Felix Palgan for rape. In the October 29, 2008 Decision[1] of the Court of Appeals in CA-G.R. CR-HC No. 00169, the appellate court affirmed with modification the June 24, 2002 Decision[2] of the Regional Trial Court (RTC), Branch 17, Kidapawan City, Cotabato in Criminal Case Nos. 191-98 and 214-98.

Angelina Palgan and appellant Felix Palgan were married on January 31, 1984. Out of their marriage, they begot three children, namely: Abner, Rene and Fe. Before their marriage, Angelina had a daughter named AAA by a man named "Jun," whose surname she could no longer recall.

On March 16, 1997, at around seven o'clock in the evening, AAA, then fourteen (14) years old, was ordered by appellant to go to the rubber plantation, which was about forty (40) meters from their house, both of which places were located in Old Bulatukan, Makilala, Cotabato. At the plantation, appellant inquired if AAA was mad at him, because he learned that she was spreading stories that he was not her father. When she denied this, appellant got angry and removed her dress and panty, laid her down and mounted her. He then undressed himself, held his penis and forcibly inserted it into her vagina. AAA cried and told appellant that it was painful. AAA testified that, after about ten (10) minutes of the push and pull movement, appellant shivered, and that some substance spilled onto her thighs. She did not tell anyone about the incident because appellant threatened her.

On September 9, 1997, at around eight o'clock in the evening, while her mother was away, AAA testified that she was sleeping on the bed, while her three (3) siblings lay on the floor; that appellant woke her up and told her to transfer to the floor, which she obeyed; that he turned the lights off and then touched her cheeks and breasts; that he removed her shorts and panty, while he raised her shirt up to her armpits; and that he removed his shorts and brief, took hold of his penis, and inserted it into her vagina. AAA stated that appellant did the push and pull movement for about ten (10) minutes. Afterwards, she observed that appellant had a chilling motion and that she felt a slippery substance spill onto her thighs. Appellant then put on his clothes.

AAA kept quiet about the incident until her mother, Angelina, discovered a letter in the former's bag. The letter contained the phrase "he will get angry if I will not let him to (sic) touch my body." Angelina caused AAA to reveal that the latter was raped by appellant.

On September 12, 1997, Angelina and AAA reported appellant's acts to the Makilala Police Station.

On the same date, AAA was examined by Dr. Wilson Solis, Municipal Health Officer of Makilala, Cotabato. The internal examination of AAA revealed: "admits middle finger with ease; index and middle finger with slight difficulty; vaginal wall is lax (sic), not tense; and cervix is firm and non-tender. Laxity of the vaginal wall could

be due to repeated manipulation or entry of a foreign body (e.g. glans penis)."

Consequently, two Informations for rape were filed as follows:

CRIMINAL CASE NO. 214-98

That on September 9, 1997, in the Municipality of Makilala, Province of Cotabato, Philippines, the said accused, with lewd design, with force and intimidation, did then and there, willfully, unlawfully and feloniously succeeded (sic) in having carnal knowledge with AAA, against her will.

CONTRARY TO LAW.[3]

CRIMINAL CASE NO. 191-98

That on March 16, 1997, in the Municipality of Makilala, Province of Cotabato, Philippines, the said accused, with lewd design, with force and intimidation, did then and there, willfully, unlawfully and feloniously succeeded (sic) in having carnal knowledge with AAA, against her will.

CONTRARY TO LAW.[4]

Appellant denied having sexual intercourse with AAA on March 16, 1997, because he was at Sandique Rubber Plantation which was more than one (1) kilometer away from their house in Old Bulatukan, Makilala, Cotabato. He also maintained that on September 9, 1997, when he arrived home, his wife was not there since she had gone to Toril, Davao City. AAA was not there also, because she was probably afraid to be reprimanded, for appellant discovered two love letters sent by the former's boyfriend, Scorpio. Appellant also learned that AAA went to school for 2½ days only in September 1997. Furthermore, he maintained that the reason his stepdaughter implicated him was that he denied his wife's request to sell his 2½-hectare land in order for her to use the proceeds to start a business.

After trial on the merits, the RTC rendered the June 24, 2002 Decision,[5] convicting appellant of two (2) counts of rape in Criminal Case Nos. 191-98 and 214-98, and imposing the penalty of reclusion perpetua for each count. The RTC further ordered appellant to pay the victim the amount of P50,000.00 as civil indemnity and P50,000.00 as moral damages.[6]

On review, the appellate court affirmed with modification the ruling of the trial court as follows:

WHEREFORE, the Judgment of the court a quo finding appellant Felix Palgan guilty for two (2) counts of Rape and sentencing him to suffer the penalty of Reclusion Perpetua for each count of Rape, is AFFIRMED WITH MODIFICATION that appellant is to pay private complainant, Michelle Palgan, P50,000.00 as Civil Indemnity for each count of Rape, or a total of P100,000.00, and, P50,000.00 as Moral Damages.

SO ORDERED.[7]

The case having been elevated to this Court, we now finally review the trial and the appellate courts' findings.

We affirm the conviction of appellant Palgan for two counts of rape.

Three principles guide the courts in resolving rape cases: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape in which only two persons are usually involved, the testimony of complainant must be scrutinized with extreme caution; and (3) 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.[8]

The determination of guilt of appellant depends primarily on the credibility of a victim. Her testimony alone, if

credible, would render appellant's conviction inevitable.

The rule is settled that the trial court's findings on the credibility of witnesses and of their testimonies are entitled to the highest respect and will not be disturbed on appeal, in the absence of any clear showing that the court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which would have affected the result of the case. This is because the trial court, having seen and heard the witnesses themselves and observed their behavior and manner of testifying, is in a better position to decide the question of credibility.[9]

In the case at bar, the trial court gave full weight and credence to AAA's testimony that appellant raped her on two occasions. AAA testified in a clear, spontaneous and candid manner; she positively identified appellant as the person who raped her; and she stated that she was unable to resist appellant because he was angry and strong.

AAA's failure to resist or to cry for help during those times that she was raped cannot be taken against her. Verily, when threat, intimidation and fear are employed, as was done here by appellant, there is no need to establish physical resistance. Certainly, an added reason for her failure was her stepfather's dominance over her. In rape committed by a father against his daughter, the father's moral ascendancy and influence over the latter substitute for violence and intimidation. The foregoing principle applies in the case of a sexual assault of a stepdaughter by her stepfather and of a goddaughter by a godfather in the sacrament of confirmation.[10]

Moreover, no woman, especially one of tender age like AAA, would concoct a rape complaint and would, at the same time, allow a gynecological examination on herself, as well as subject herself to a public trial if she were not motivated by the desire to have her offender apprehended and punished.[11]

Appellant alleged that his wife instigated AAA's filing of the two rape charges against him because of his adamant refusal to heed his wife's request to sell his 2½-hectare farm land. However, such ill motive imputed to appellant's wife is too flimsy. This is especially so, considering that it is unnatural for appellant's wife to use her daughter as an engine of malice, as no mother would stoop down so low as to subject her own daughter to the hardships and shame concomitant to a prosecution for rape, just to assuage the mother's own hurt feelings. Furthermore, appellant's wife would not have dared encourage her daughter to publicly expose the dishonor of the family, unless the crime was, in fact, committed.

On the other hand, appellant's defenses of denial and alibi that he was not in the place where the crimes were allegedly committed are inherently weak and cannot prevail over the positive and categorical testimony of AAA that appellant forcibly had carnal knowledge of her on two occasions.

Hence, the court a quo correctly convicted appellant of two counts of rape under Article 266-A(1-a) of the Revised Penal Code for having carnal knowledge of AAA through force, threat and intimidation.

Accordingly, the penalty of reclusion perpetua was properly meted out for each count of rape, pursuant to Article 266-B, paragraph 1 of the Revised Penal Code.

The appellate court correctly ruled when it modified the amount of civil indemnity that the lower court awarded to AAA. The amount of P50,000.00 should have been given for each count of rape, or a total of P100,000.00, as civil indemnity, which is actually in the nature of actual or compensatory damages, and mandatory upon the finding of the fact of rape.[12]

It, however, erred when it only awarded P50,000.00 in moral damages. The amount of P50,000.00 should have been given for each count of rape, or a total of P100,000.00, in accordance with current jurisprudence, which amount is automatically granted in a rape case without need of further proof other than the fact of its commission. For it is assumed that a rape victim has actually suffered moral injuries entitling her to such an award.[13]

WHEREFORE, premises considered, the October 29, 2008 Decision of the Court of Appeals in CA-G.R. CR-HC No. 00169 is AFFIRMED WITH THE MODIFICATION that the award for Moral Damages is increased to P100,000.00, or P50,000.00 for each count of rape.

**SO ORDERED.**

Corona, (Chairperson), Velasco, Jr., Peralta, and Del Castillo,[\*] JJ., concur.

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[\*] Additional member per Special Order No. 805 dated December 4, 2009.

[1] Penned by Associate Justice Michael P. Elbinias, with Associate Justices Rodrigo F. Lim, Jr. and Ruben C. Ayson, concurring; CA rollo, pp. 112-120.

[2] CA rollo, pp. 14-24.

[3] Id. at 5.

[4] Id. at 7.

[5] Id. at 14-24.

[6] The dispositive portion of the trial court's Decision reads:

Prescinding from the foregoing considerations, the accused is found guilty beyond reasonable doubt of two (2) counts of rape, particularly found in Criminal Case Nos. 191-98 and 214-98, thus, he is meted the penalty of reclusion perpetua for each count and to pay the victim the amount of Fifty thousand (P50,000.00) pesos as indemnity for rape and Fifty thousand (P50,000.00) pesos for moral damages.

SO ORDERED. (Id. at 24.)

[7] CA rollo, p. 119.

[8] People v. Glivano, G.R. No. 177565, January 28, 2008, 542 SCRA 656, 662; citing People v. Malones, 469 Phil. 301, 318 (2004).

[9] People v. Pacina, G.R. No. 123150, August 16, 2000, 338 SCRA 195, 207.

[10] People v. Casil, 311 Phil. 300, 309 (1995).

[11] People v. Abad, 335 Phil. 712, 722 (1997).

[12] People v. Molleda, 463 Phil. 461, 471 (2003).

[13] People v. Codilan, G.R. No. 177144, July 23, 2008, 559 SCRA 623, 636.

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