

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARTURO PALER, ACCUSED-APPELLANT.

G.R. No. 186411. July 05, 2010

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

This is an appeal from the April 30, 2008 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02647 entitled *People of the Philippines v. Arturo L. Paler* which affirmed the November 22, 2006 Decision[2] of the Regional Trial Court of San Fernando City, La Union, Branch 13, in Criminal Cases Nos. 5474 and 5475. The trial court held accused-appellant Arturo Paler guilty of two counts of rape.

The Facts

AAA[3] is a mentally retarded young girl, whose mental condition is akin to that of a five years old child. On October 6, 2000, after attending classes at the La Union National High School, AAA, then 14 years old, headed for home at the eastern portion of the cemetery in Lingsat, San Fernando, La Union. She rode a jeepney and disembarked at the cemetery around 5 o'clock in the afternoon. While AAA was walking along the path near the Chinese pagoda, accused-appellant Arturo Paler pulled her to the side of the pagoda. Arturo then undressed AAA and he also removed his own clothes. Arturo thereafter, proceeded to have sexual intercourse with AAA. AAA felt pain. After the incident, she went home but did not tell anyone what had happened.[4]

On October 20, 2000, the same incident happened again. After attending classes, AAA rode a jeepney and got off the cemetery. While walking towards their home, AAA was suddenly pulled by Arturo near the Chinese pagoda. Arturo then removed AAA's uniform and underwear. Thereafter, he had sexual intercourse with her. When Arturo was done with his assault, AAA went home.[5]

Afraid that her mother might get mad at her, AAA chose to reveal to her auntie what had happened to her. Her auntie helped her in filing the case. They reported the matter to the barangay captain and then AAA was brought to the City Health Office for a medical examination. AAA underwent three medical examinations. The first two were conducted by Dr. Minda Amor Martinez while the third was conducted by Dr. Melina L. Mayames. Dr. Mayames' findings show, among others, that AAA's external genitalia had an "incomplete fresh laceration at the 9 o'clock position." [6]

Also, AAA underwent a psychological examination. Janet Calado, a psychologist and Chapter Executive Manager of the Philippine Mental Health Association, Inc., reported that AAA's mental condition is classified as severely retarded. She noted that AAA's IQ is equivalent to that of a five year-old child and she needs to be under continued counseling to help her develop the skills needed to enable her to perform her daily living as a normal person.[7]

Thereafter, on January 23, 2000, two Informations for rape, docketed as Criminal Cases Nos. 5474 and 5475,

were filed against Arturo Paler. Except for the date when the crime allegedly took place, the allegations in the Informations were the same, thus:

That on or about the 6[th] day of October, 2000, in the City of San Fernando, La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by using force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with the aforementioned 14 year-old [AAA] against her will and consent, to her damage and prejudice.

Contrary to law.[8] (Emphasis supplied.)

During trial, accused-appellant Arturo denied the charges against him. He claimed that around 2:00 p.m. of October 6, 2000, upon Federico Espiritu Jr.'s request, he fetched the latter's daughter from school and brought her to her home in Ili Norte, San Juan, La Union. He then waited for Federico to arrive at around 6:00 p.m. and thereafter they bought gin and had a drinking spree. He spent the night at Espiritu's house and left for Lingsat only on the next morning.[9]

He also averred that on October 20, 2000, he worked in the cemetery from 7:00 a.m. to 5:00 p.m., taking only a one hour break at noon. After working, he returned to the house where he was staying. He was then asked by Noli Valdriz to look after his daughter until 6:00 p.m. Thereafter, Valdriz brought out a bottle of gin and they had a drinking spree until 10:00 p.m. They went to sleep afterwards.[10]

Federico Espiritu Jr. and Noli Valdriz corroborated Arturo's statements.

On November 22, 2006, the RTC rendered a Decision, the dispositive part of which reads:

WHEREFORE, premises considered, the Court finds the accused ARTURO PALER guilty beyond reasonable doubt of two (2) counts of rape and sentences him to reclusion perpetua for each count and orders him to pay the complainant [Fifty Thousand Pesos (PhP50,000.00)] as civil indemnity and [Fifty Thousand Pesos (PhP50,000.00)] as moral damages. With Costs.

SO ORDERED.[11]

The case was appealed to the CA.

The Ruling of the Court of Appeals

Despite AAA's mental capacity, the CA upheld her credibility. It noted AAA's firm declaration that accused-appellant Arturo raped her and how she remained consistent with this statement even under grueling cross-examination.

Also, the appellate court affirmed the trial court's finding that Arturo had forced carnal knowledge of AAA. It noted that AAA's weak mental condition made it impossible for her to resist the attacks of Arturo. The CA emphasized that the force employed in rape does not need to be of such character as could not be resisted; instead, it must only be sufficient to consummate the purpose which the accused had in mind.[12]

Hence, we have this appeal.

The Issues

In a Resolution dated March 30, 2009, this Court required the parties to submit supplemental briefs if they so desired. On June 10, 2009, accused-appellant, through counsel, signified that he is not going to file a supplemental brief anymore. The issue raised in accused-appellant's Brief dated August 1, 2007 is now deemed adopted in this present appeal, thus:

The trial court erred in finding the accused-appellant guilty of the crime charged despite failure of the prosecution to establish his guilt beyond reasonable doubt.[13]

The Ruling of the Court

The appeal is without merit.

Appellant Arturo faults the CA for admitting evidence and basing its decision on AAA's mental retardation when such fact was not alleged in the Informations. He claims that AAA's mental retardation is an essential fact that should have been specifically alleged. He further asserts that AAA's weak mental state did not contribute to her credibility as a witness but instead showed that her statements in court were results of a systematic training and rehearsal. He insists that AAA's mother only coached her to implicate him in the crimes.

We are not convinced.

Article 266-A (1) of the Revised Penal Code provides that rape against a woman may be committed under any of the following circumstances:

Article 266-A. Rape: When And How Committed.

Rape is Committed -

1. By a man who shall have carnal knowledge of a woman under any of the following:

- Through force, threat, or intimidation;
- When the offended party is deprived of reason or otherwise unconscious;
- By means of fraudulent machination or grave abuse of authority; and
- When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present

In this provision, carnal knowledge of a woman who is a mental retardate is rape.[14] A mental condition of retardation deprives the complainant of that natural instinct to resist a bestial assault on her chastity and womanhood.[15] For this reason, sexual intercourse with one who is intellectually weak to the extent that she is incapable of giving consent to the carnal act already constitutes rape; without requiring proof that the accused used force or intimidation in committing the act.[16] In this circumstance, what needs to be alleged in the information and proven during trial are the facts of appellant's carnal knowledge of the victim, and the victim's mental retardation.

However, such is not the situation here. In the case at bar, appellant was charged with rape through force and intimidation. For conviction to lie, it is necessary for the prosecution to prove two elements--that appellant had carnal knowledge of the victim and that such act was done through force or intimidation. Clearly, contrary to appellant's claims, an allegation in the Information of the victim's mental retardation was not necessary.

Appellant attacks the victim's capacity to testify based on her weak mental condition. However, as correctly held by the appellate court, mental retardation, by itself, 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.[17] In this case, records show that despite the victim's mental retardation, she testified in a straightforward and categorical manner that appellant had raped her. The defense could not even shake her resolve to implicate appellant in the crime. On the contrary, her statements during cross-examination even support her position. There is thus, no reason to overturn the finding of credibility by the trial and appellate courts.

As to the sufficiency of the prosecution's evidence, we find appellant's conviction to be in order.

Appellant's carnal knowledge of the victim was established by her categorical narration of the incident. The victim clearly recounted how appellant pulled her in a secluded portion of the cemetery, removed her clothes, and had sexual intercourse with her.[18] Aware that appellant had committed an act she describes as "niyotnak" and "eyot", she said that she felt pain after the incident. Her testimony is supported by the medico-legal findings of lacerations on her hymen.[19] Lacerations, whether healed or fresh, are the best physical evidence of forcible defloration.[20] Moreover, when the victim's straightforward testimony is consistent with the physical finding of penetration, there is sufficient basis for concluding that sexual intercourse did take place.[21]

Likewise established is the attendant circumstance of force. Force or intimidation necessary in rape is relative, for it largely depends on the circumstances of the rape as well as the size, age, strength and relation of the parties.[22] In this case, the CA properly determined that appellant used force against the victim, thus:

Contrary to the suppositions of accused-appellant, records bear out that he indeed used force and intimidation on private complainant. It should be remembered that private complainant was pulled by accused-appellant towards the Chinese pagoda to satisfy his lust. Considering her weak mental state, her abduction in the cemetery cowered her into submission. While the intimidation on her could not hold true for others who are of normal events, she categorically testified that when she was pulled by accused-appellant, she thought that he would kill her. In her testimony, she consistently repeated that she was scared and afraid. Evidently, her mental condition was such that she would not resist sexual advances because she was so deprived of reason to make any effective resistance. Hence, by being so deprived, the act is made possible in the same way when there is active resistance but the same is overcome by force or threat, which is the essence of rape.[23]

As regards the award of damages, we find that exemplary damages of PhP 30,000 is warranted following recent jurisprudence.[24] The award of exemplary damages is granted when the crime is attended by an aggravating circumstance;[25] or as in this case, as a public example, in order to protect hapless individuals from molestation.[26]

WHEREFORE, the Court AFFIRMS the April 30, 2008 Decision Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 02647 with MODIFICATION. As modified, the dispositive portion of the affirmed November 22, 2006 Decision of the RTC Decision shall read:

WHEREFORE, premises considered, the Court finds the accused ARTURO PALER guilty beyond reasonable doubt of two (2) counts of rape and sentences him to reclusion perpetua for each count. Likewise, accused is ordered to pay the complainant, for each count of rape, PhP50,000.00 as civil indemnity and PhP50,000.00 as moral damages and PhP30,000 as exemplary damages. With Costs.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and Perez, JJ., concur.

[1] Rollo, pp. 2-16. Penned by Associate Justice Josefina Guevara-Salonga and concurred in by Associate Justices Magdangal M. De Leon and Normandie B. Pizarro.

[2] CA rollo, pp. 7-16. Penned by Judge Alpino P. Florendo.

[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, together with that of her immediate family members, is withheld and fictitious initials instead are used to represent her in order to protect her privacy.

- [4] Rollo, p. 4.
- [5] Id. at 4-5.
- [6] Id. at 5.
- [7] Rollo, pp. 6-7.
- [8] CA rollo, pp. 5-6.
- [9] Rollo, p. 8.
- [10] Id.
- [11] CA rollo, p. 16.
- [12] Rollo, p. 15.
- [13] Id. at 30.
- [14] *People v. Magabo*, G.R. No. 139471, January 23, 2001, 350 SCRA 126, 131.
- [15] *People v. Andaya*, G.R. No. 126545, April 21, 1999, 306 SCRA 202, 215.
- [16] Id.
- [17] *People v. Macapal, Jr.*, G.R. No. 155335, July 14, 2005, 463 SCRA 387, 400.
- [18] TSN, September 11, 2003, pp. 5-8; September 23, 2003, pp. 2-3.
- [19] *Supra* note 6.
- [20] *People v. Cabudbod*, G.R. No. 176348, April 16, 2009.
- [21] *People v. Malibiran*, G.R. No. 173471, March 17, 2009; *People v. Corpuz*, G.R. No. 168101, February 13, 2006, 482 SCRA 435, 448; *People v. Bañares*, G.R. No. 127491, May 28, 2004, 430 SCRA 435, 448.
- [22] *People v. Murillo*, G.R. Nos. 128851-56, February 19, 2001, 352 SCRA 105, 118.
- [23] Rollo, pp. 14-15.
- [24] *People v. Ofemiano*, G.R. No. 187155, February 1, 2010.
- [25] Civil Code, Art. 2230.
- [26] *People v. Tabio*, G.R. No. 179477, February 6, 2008, 544 SCRA 156.

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