

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. OSCAR M. DOCUMENTO, APPELLANT.

G.R. No. 188706. March 17, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

On appeal is the Court of Appeals (CA) Decision[1] dated August 13, 2008, affirming the Regional Trial Court[2] (RTC) Decision[3] dated June 9, 2003, finding appellant Oscar Documento guilty beyond reasonable doubt of two (2) counts of Rape.

Documento was charged before the RTC with two (2) counts of Rape, as defined and punished under Article 335 of the Revised Penal Code, in separate Informations, which read:

CRIMINAL CASE NO. 6899

That sometime on April 22, 1996 at Ochoa Avenue, Butuan City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with the use of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with his daughter AAA, a minor, 16 years of age, against her will and consent.

CONTRARY TO LAW: (Art. 335 of the Revised Penal Code in relation to R.A. 7659).

CRIMINAL CASE NO. 6900

That sometime on October 15, 1995 at Barangay Antongalon, Butuan City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with the use of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with his daughter AAA, a minor, 16 years of age, against her will and consent.

CONTRARY TO LAW: (Art. 335 of the Revised Penal Code in relation to R.A. 7659).[4]

Upon arraignment, Documento pled not guilty. Subsequently, however, he changed his earlier plea to one of guilt. As such, the RTC ordered a re-arraignment and entered appellant's plea of guilt to the charges.

Thereafter, the prosecution presented evidence consisting of the testimonies of private complainant herself, AAA, her mother, BBB, and Dr. Johann A. Hugo. Their testimonies established the following:

1. Documento started sexually molesting his daughter, AAA, in 1989 when she was ten (10) years old. Eventually, AAA became pregnant and gave birth in 1993.
2. Documento raped AAA on a number of occasions in the houses of Barsilisa Morada, Documento's relative, and Aida Documento, both located in Butuan City. During each incident, Documento hit and hurt AAA physically. He likewise threatened to kill her if she told anyone of the rape.
3. AAA's mother, BBB, who was working in Manila from 1994 to 1996, went to Barsilisa and asked for help in

locating Oscar and AAA. BBB testified that she had not seen nor heard from the two since April 7, 1994, when Documento brought their daughters AAA and CCC to Tubod, Lanao del Norte, for a vacation. Thereafter, Documento left CCC in Tubod and brought AAA with him to Santiago, Agusan del Norte.

4. When BBB found out from their relatives that AAA got pregnant and gave birth, she suspected that Documento was the culprit. Upon learning that Documento and AAA were in Butuan City, she went to the Butuan Police Station and requested assistance in securing custody of AAA. As soon as Documento was arrested, AAA informed the police that Documento raped her.

5. Dr. Hugo testified on the genital examination he conducted on AAA, and affirmed the medical certificate he issued with the following findings:

Physical exam:

HEENT - within normal limits.

C/L - within normal limits.

CVB - within normal limits.

ABD - Soft; NABS

GU - (-) KPS

Genitalia

- Parous

- Healed vaginal laceration

- Vaginal introitus; admits 2 finger[s] with ease

- Hymen with remnants "caruncula multifida"

Labs; Vaginal Smear; Negative for Spermatozoa.[5]

Documento testified as the sole witness for the defense. He asseverated that he pled guilty to the crime of Rape only because Prosecutor Hector B. Salise convinced him to do so. Documento contended that he did not rape AAA, and that, to the contrary, they had a consensual, sexual relationship. He further alleged that the incident did not happen in Butuan City, but in Clarin, Misamis Occidental. Finally, on cross-examination, Documento disowned the handwritten letters he had supposedly written to his wife and to AAA, asking for their forgiveness.

The RTC rendered judgment convicting Documento of both counts of Rape, to wit:

WHEREFORE, as a consequence of the foregoing, this Court finds accused Oscar M. Documento GUILTY beyond reasonable doubt of the two (2) counts of rape and correspondingly sentences him:

1. To suffer the penalty of DEATH in each of the two (2) rape cases filed against him - Criminal Case No. 6899 and Criminal Case No. 6900;

2. To indemnify the victim, AAA, in the amount of P75,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages, respectively, for each count of rape in accordance with recent jurisprudence.

Let a Commitment Order be issued for the transfer of accused Oscar M. Documento from Butuan City Jail to the Bureau of Corrections, Muntinlupa, Metro Manila.

Let the records of these cases be forwarded immediately to the Supreme Court for mandatory review.

SO ORDERED.[6]

Consistent with our ruling in *People v. Mateo*,^[7] Documento's appeal was remanded to the CA.

Ruling on the appeal, the CA affirmed the RTC's conviction, but changed the penalty imposed on Documento from death penalty to reclusion perpetua, and increased the award of moral damages from P50,000.00 to P75,000.00 for each count of Rape. The fallo of the Decision reads:

WHEREFORE, the assailed Decision finding appellant Oscar Documento guilty beyond reasonable doubt of two counts of the crime of rape and ordering him to indemnify the victim for each count of rape the amounts of P75,000.00 as civil indemnity and P25,000.00 as exemplary damages, is AFFIRMED with the MODIFICATION that the award of moral damages is increased to P75,000.00 for each count of rape and that in lieu of the death penalty, appellant Oscar Documento is hereby sentenced to suffer the penalty of reclusion perpetua for each count of rape without possibility of parole.

SO ORDERED.[8]

Hence, this appeal, assigning the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN DECIDING THE CASE WITHOUT FIRST RESOLVING ITS TERRITORIAL JURISDICTION OVER THE CRIME CHARGED AS THE PROSECUTION FAILED TO ESTABLISH THAT THE TWO (2) COUNTS OF RAPE WERE PERPETRATED IN BUTUAN CITY.

II.

THE TRIAL COURT GRAVELY ERRED IN FAILING TO CONDUCT A SEARCHING INQUIRY INTO THE VOLUNTARINESS AND FULL COMPREHENSION BY ACCUSED-APPELLANT OF THE CONSEQUENCES OF HIS PLEA.[9]

We find no cogent reason to disturb Documento's conviction. We affirm the CA, but with modification.

On the issue of the trial court's territorial jurisdiction over the crime, we completely agree with the appellate court's ruling thereon. Contrary to the insistence of Documento that the prosecution failed to establish that the two (2) counts of Rape were perpetrated in Butuan City, the CA pointed to specific parts of the records which show that, although AAA did not specifically mention "Butuan City" in her testimony, the incidents in the present cases transpired in Barangay Antongalon and on Ochoa Avenue, both in Butuan City.

First. AAA in her Sworn Statement dated April 24, 1996 answered the prosecutor's question in this wise:

15.

Q :

Right after you arrived [in] Butuan City, did your father molest you or rape you?

A :

Yes, sir.

Q :

When was that?

A :

From the month of October 15, 1995 when we stayed [in] Barangay Antongalon, Butuan City, and the last happened in the evening of April 22, 1996 [on] Ochoa Avenue, Butuan City.

Second. The Resolution dated May 3, 1996 of Hector B. Salise, Second Assistant City Prosecutor, states that:

There were many places they stayed and several sexual intercourse that took place which this office has no jurisdiction to conduct preliminary investigation but only on the incidents of rape that took place [in] Antongalon, Butuan City on October 15, 1995 and [on] Ochoa Avenue, Butuan City on April 22, 1996.

Third. The two (2) Informations dated May 8, 1996, clearly state that the crimes charged against appellant were perpetrated in Barangay Antongalon and Ochoa Avenue, Butuan City on October 15, 1995 and April 22, 1996, respectively.

Fourth. The inclusion of the two Barangays in the City of Butuan is a matter of mandatory judicial notice by the trial court. Section 1 of Rule 129 of the Revised Rules on Evidence provides -

SECTION 1. Judicial notice, when mandatory. - A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, the official acts of the legislative, executive and judicial departments of the Philippines, the laws of nature, the measure of time, and the geographical divisions.[10]

Documento avers that his conviction for Rape must be reversed because the trial court did not properly conduct a searching inquiry on the voluntariness and full comprehension of his plea of guilt.

We disagree.

It is true that the appellate court noted the trial court's failure to conduct the prescribed "searching inquiry" into the matter of whether or not Documento's plea of guilt was improvidently made. Nonetheless, it still found the conviction of appellant proper. Its disquisition on Documento's plea of guilt is in point.

Nothing in the records of the case at bench shows that the trial court complied with the guidelines [set forth by the Supreme Court in a number of cases] after appellant's re-arraignment and guilty plea. The questions propounded to appellant during the direct and cross-examination likewise fall short of these requirements. x x x.

x x x x

The questions propounded were clearly not compliant with the guidelines set forth by the High Court. The appellant was not fully apprised of the consequences of his guilty plea. In fact, as argued by appellant, "the trial court should have informed him that his plea of guilt would not affect or reduce the imposable penalty, which is death as he might have erroneously believed that under Article 63, the death penalty, being a single indivisible penalty, shall be applied by the court regardless of any mitigating circumstances that might have attended the commission of the deed." Moreover, the trial court judge failed to inform appellant of his right to adduce evidence despite the guilty plea.

With the trial court's failure to comply with the guidelines, appellant's guilty plea is deemed improvidently made and thus rendered ineffectual.

This does not mean, however, that the case should be remanded to the trial court. This course of action is appropriate only when the appellant's guilty plea was the sole basis for his conviction. As held in *People v. Mira*, -

Notwithstanding the incautiousness that attended appellant's guilty plea, we are not inclined to remand the case to the trial court as suggested by appellant. Convictions based on an improvident plea of guilt are set aside only if such plea is the sole basis of the judgment. If the trial court relied on sufficient and credible evidence in finding the accused guilty, the judgment must be sustained, because then it is predicated not merely on the guilty plea of the accused but also on evidence proving his commission of the offense charged.[11]

On the whole, we find that the appellate court committed no reversible error in affirming the trial court's ruling convicting Documento.

Lastly, on the matter of the appellate court's award of exemplary damages, we increase the award from P25,000.00 to P30,000.00 in line with prevailing jurisprudence.

WHEREFORE, premises considered, the Court of Appeals Decision dated August 13, 2008 in CA-G.R. CR-HC No. 00285 is AFFIRMED with the MODIFICATION that the award of exemplary damages is hereby increased from P25,000.00 to P30,000.00. The Decision is affirmed in all other respects.

SO ORDERED.

Corona, Velasco, Jr., Peralta, and Mendoza, JJ., concur.

[1] Penned by Associate Justice Romulo V. Borja, with Associate Justices Mario V. Lopez and Elihu A. Ybañez, concurring; rollo, pp. 5-26.

[2] Agusan del Norte and Butuan City, Branch 5.

[3] Penned by Judge Augustus L. Calo, CA rollo, pp. 21-38.

[4] Rollo, p. 6.

[5] Id. at 8.

[6] CA rollo, p. 38.

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

[8] Rollo, pp. 25-26.

[9] CA rollo, p. 50.

[10] Rollo, pp. 23-24.

[11] Id. at 13-16.

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