

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FLORO MANIGO Y MACALUA, ACCUSED-APPELLANT.

G.R. No. 194612. January 27, 2014

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

“[R]ape is generally unwitnessed and oftentimes, the victim is left to testify for herself. Thus, in resolving rape cases, the victim’s credibility becomes the primordial consideration. If a victim’s testimony is straightforward, convincing and consistent with human nature and the normal course of things, unflawed by any material or significant inconsistency, it passes the test of credibility and the accused may be convicted solely on the basis thereof.”[1]

This is an appeal from the Decision[2] dated July 21, 2010 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00652-MIN, affirming with modification the October 21, 2007 Decision[3] of the Regional Trial Court (RTC), Branch 2, Tagum City, in Criminal Case No. 13954. The RTC found appellant Floro Manigo y Macalua (appellant) guilty beyond reasonable doubt of the crime of rape under Article 266-A in relation to Article 266-B of the Revised Penal Code, as amended by Republic Act (RA) No. 8353, otherwise known as “The Anti-Rape Law of 1997.” The trial court sentenced him to suffer the penalty of reclusion perpetua and to pay the victim civil indemnity.

The Charge

On October 15, 2004, an Amended Information[4] for rape was filed with the RTC against appellant which contained the following accusations:

The undersigned accuses FLORO MANIGO y MACALUA alias JUN of the crime of Rape under Article 266-A, par. 1 in relation to the 2[nd] par. of Article 266-B of the Revised Penal Code as amended by Republic Act No. 8353 in relation to Republic Act [N]o. 8369, committed as follows:

That on or about April 16, 2004, in the City of Tagum, Province of Davao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, through force or intimidation, willfully, unlawfully and feloniously had carnal knowledge of “AAA,”[5] a 13-year old minor, against her will.

CONTRARY TO LAW.

During his arraignment on November 17, 2004, appellant with the assistance of counsel entered a plea of not guilty to the charge. After the termination of the pre-trial conference, trial ensued.

Version of the Prosecution

At noontime on April 16, 2004, “AAA,” then 13 years of age being born on February 1, 1991,[6] and her classmate “BBB” were outside the compound of Magugpo Pilot Elementary School waiting for a ride home after

their summer remedial classes. Momentarily, a tricycle arrived which the two boarded. They told the driver, herein appellant, to bring them first to Purok Macasero where “BBB” resides. After “BBB” alighted, the tricycle took a different route prompting “AAA” to ask why. Appellant replied that he would just have the gas tank filled. But instead of going to the gas station, appellant proceeded to a banana plantation and when again asked by “AAA,” answered that he was going to take his lunch. When they stopped, appellant alighted and urinated nearby. He then positioned himself beside “AAA” who was still inside the tricycle and told the latter to undress. “AAA” pleaded for appellant not to harm her as she still has younger siblings but the same was unheeded. While pointing a knife on “AAA,” appellant took off her panties and his own clothes. “AAA” noticed a tattoo on appellant’s right upper hand. After warning “AAA” not to make any movement, appellant forced his penis inside her vagina and made a pumping motion. Once satiated, appellant told “AAA” to dress up. They then left the place and when they reached Makulay Restaurant, appellant gave “AAA” P40.00 pesos and allowed her to go home.

The following day, “AAA” disclosed her ordeal to her mother. Together, they went to the Davao Regional Hospital where she was subjected to physical examination that revealed a laceration on her hymen consistent with her claim of sexual abuse.[7] Dr. Suzette A. Perez (Dr. Perez) also found that “AAA” had abrasion which means that there was scratch or swelling or redness on the posterior portion of her vagina. Thereafter, “AAA” and her mother reported the matter to the Tagum City Police Station.

Version of the Defense

In his defense, appellant raised denial and alibi. According to him, he could not have raped “AAA” since on the day of the alleged incident, he was at their home in Uraya Subdivision, Mankilam, Tagum City, Davao del Norte. He is also happily married to Lyn, a teacher, and is not a tricycle driver but engaged in a lucrative business of money lending. In fact, the first time he saw “AAA” was when he was made to stand in a police line-up with several detainees for identification.

Ruling of the Regional Trial Court

The RTC accorded full faith and credence to the testimony of “AAA” on how the incident happened and her positive identification of the appellant. It rejected appellant’s defense of denial. Thus, the dispositive portion of its Decision, viz:

WHEREFORE, the Court finds the accused guilty beyond reasonable doubt of the crime of Rape under Article 266-A, Par. 1 in relation to the 2[nd] par. of Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353, in [r]elation to Republic Act No. 8369 and hereby sentences him to suffer the penalty of reclusion perpetua.

He is likewise ordered to pay the victim the sum of P100,000.00 as civil indemnity.

SO ORDERED.[8]

Ruling of the Court of Appeals

On appeal, the CA affirmed with modification the Decision of the RTC. While it sustained the findings relative to the credibility of “AAA” and her out-of-court identification of appellant, the said court, however, modified the award of damages. The decretal portion of the CA Decision reads:

WHEREFORE, the October 21, 2007 Decision of the Regional Trial Court, Branch 2 of Tagum City, Davao del Norte in Criminal Case No. 13954 is hereby AFFIRMED WITH MODIFICATION. Accused-appellant Floro Manigo y Macalua is found GUILTY beyond reasonable doubt of Rape under Article 266-A of the Revised Penal Code and is sentenced to suffer the penalty of reclusion perpetua. He is further ORDERED to pay AAA P75,000.00 as civil indemnity ex-delicto, P75,000.00 as Moral Damages, and P25,000.00 as

exemplary damages.

SO ORDERED.[9]

Undeterred, appellant is now before this Court for final review of his conviction. In our Resolution[10] of January 19, 2011, we required the parties to file their respective supplemental briefs if they so desire within 30 days from notice. Per their respective manifestations,[11] both parties opted to adopt the briefs they filed before the CA.

Issue

The pivotal issue in this case hinges on the credibility of “AAA,” thus our effort to scrutinize her testimony.

Our Ruling

The appeal is bereft of merit.

“AAA’s” testimony deserves full faith and credence.

Appellant points to several flaws in “AAA’s” testimony, to wit: (1) she did not make a particular description of the tricycle used at the time of the commission of the crime; (2) her description of appellant’s physical features during the trial is different from what she stated in her affidavit; and, (3) “AAA’s” out-of-court identification of appellant is doubtful.

Appellant’s contentions basically relate to the trial court’s appreciation of the evidence adduced by the prosecution and its factual findings based thereon.

“The legal aphorism is that factual findings of the trial court, its calibration of the testimonies of the witnesses, and its assessment of their probative weight are given great respect if not conclusive effect, unless it ignored, misconstrued, misunderstood, or misinterpreted cogent facts and circumstances of substance which, if considered, would alter the outcome of the case.”[12] A careful scrutiny of the records reveals that the case at bench is not an exception.

Like the lower courts, we find the narration of “AAA” to be candid, frank and straightforward. There is nothing therein that appears to be unnatural or illogical. Moreover, “AAA’s” claim of rape is supported by the medical findings of Dr. Perez, another prosecution witness. “Where a victim’s testimony is corroborated by the physical findings of penetration, there is sufficient basis for concluding that sexual intercourse did take place. A rape victim’s account is sufficient to support a conviction for rape if it is straightforward, candid and corroborated by the medical findings of the examining physician, as in the present case.”[13]

Also, “[c]ourts usually give greater weight to the testimony of a girl who is a victim of sexual assault, especially a minor, as in this case, because no woman would be willing to undergo a public trial and put up with the shame, humiliation and dishonor of exposing her own degradation were it not to condemn an injustice and have the offender apprehended and punished.”[14]

Insofar as the alleged inconsistency between “AAA’s” statements in her affidavit and testimony in open court is concerned, it has often been noted by this Court that if there is an inconsistency between the affidavit and the testimony of a witness, the latter should be given more weight since affidavits being taken ex-parte are usually incomplete and inaccurate.[15] Besides, the inconsistency respecting the physical appearance of appellant has no bearing on the principal question of whether appellant had carnal knowledge of the victim. Neither the failure of “AAA” to describe the tricycle will dent her credibility. Suffice it to say that these matters are not so material in the prosecution of the crime.

In yet another attempt to undermine the credibility of “AAA,” appellant asserts that his out-of-court identification

as the culprit is doubtful. He avers that “AAA” knew beforehand that she was being called to the police station precisely to identify her rapist.

In *Vidar v. People*,^[16] the Court laid down the following:

In ascertaining whether an out-of-court identification is positive or derivative, the Court has adopted the totality of circumstances test wherein the following factors are taken into consideration: (1) the witness’s opportunity to view the criminal at the time of the crime; (2) the witness’s degree of attention at that time; (3) the accuracy of any prior description given by the witness; (4) the level of certainty demonstrated by the witness at the identification; (5) the length of time between the crime and the identification; and (6) the suggestiveness of the identification procedure.^[17]

Guided by the above, we find “AAA’s” out-of-court identification of appellant not tainted with any irregularity. As aptly argued by the appellee in its brief:

All six (6) factors were substantially satisfied in the present case[:] (1) the victim had more than sufficient time to observe the rapist; (2) the victim’s attention was focused on appellant to whom she even pleaded not to hurt her since she still had younger siblings; (3) except for appellant’s complexion and hair, the victim gave prior descriptions of appellant which became the source of the cartographic sketch; (4) she immediately pointed to appellant as her rapist from among several men inside the prison cell; (5) the crime was committed on April 16, 2004 and appellant was identified by the victim a few days thereafter, or on April 20, 2004; (6) suggestiveness was non-existent. Even before she was requested to visit the police station, she was already able to describe to the police officers the physical features of her assailant which was made the basis for the cartographic sketch. Noticeably, nobody helped her in identifying the appellant. Verily, the totality of the circumstances in this case shows that her identification of appellant was spontaneous and independent.^[18]

It must also be stressed that “AAA” positively identified appellant in court as her assailant. In *People v. Rivera*,^[19] it was ruled that “even assuming arguendo that the out-of-court identification was defective, the defect was cured by the subsequent positive identification in court for the ‘inadmissibility of a police line-up identification x x x should not necessarily foreclose the admissibility of an independent in-court identification.’”

In view of the foregoing, the Court concludes that “AAA’s” testimony was correctly given full faith and credence by the lower courts.

Defense of Denial and Alibi Correctly
Rejected.

The defenses of denial and alibi proffered by appellant were correctly rejected by the courts below in view of “AAA’s” positive testimony and unflawed identification of appellant as the culprit. Alibi and denial are inherently weak defenses and “must be brushed aside when the prosecution has sufficiently and positively ascertained the identity of the accused.”^[20] And as often stressed, positive testimony prevails over negative testimony.^[21] Also, for his defense of alibi to prosper, appellant must prove not only that he was somewhere else when the crime was committed but he must also satisfactorily establish that it was physically impossible for him to be at the crime scene at the time of its commission. Appellant miserably failed in this regard.

All told, the Court sustains appellant’s conviction for the crime of rape.

The Penalty

Under Article 266-B of the Revised Penal Code, the penalty of reclusion perpetua to death shall be imposed whenever the crime of rape is committed through the use of a deadly weapon or by two or more persons. It was sufficiently alleged in the Information and established during trial that appellant used a knife, a deadly weapon, in

the commission of rape. Since no other circumstance, whether aggravating or mitigating, attended the commission of the crime, the lesser of the two indivisible penalties which is reclusion perpetua shall be imposed pursuant to Article 63[22] of the same Code. Consequently, the Court sustains the penalty of reclusion perpetua imposed by the CA. “It must be emphasized, however, that [appellant] shall not be eligible for parole pursuant to Section 3 of Republic Act No. 9346 which states that ‘persons convicted of offenses punished with reclusion perpetua, or whose sentence will be reduced by reclusion perpetua by reason of this Act, shall not be eligible for parole under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended’.”[23]

The Civil Indemnities

As to the award of damages, the Court sees a need for some modification in line with recent jurisprudence. Thus, “[c]onsidering that the penalty imposable is reclusion perpetua, the award of P75,000.00 by the CA as civil indemnity must be reduced to P50,000.00.”[24] “The award of civil indemnity to the rape victim is mandatory upon the finding that rape took place.”[25] Also the award of P75,000.00 as moral damages should be reduced to P50,000.00.[26] Moral damages are automatically granted to the rape victim without presentation of further proof other than the commission of the crime.[27] With respect to exemplary damages, we increase the same from P25,000.00 to P30,000.00 in line with prevailing jurisprudence.[28] Exemplary damages should be awarded by reason of the established presence of the qualifying circumstance of use of deadly weapon.[29]

In addition, interest at the rate of 6% per annum shall be imposed on all damages awarded from the date of finality of this judgment until fully paid likewise pursuant to prevailing jurisprudence.[30]

WHEREFORE, the Decision dated July 21, 2010 of the Court of Appeals in CA-G.R. CR-H.C. No. 00652-MIN is AFFIRMED with MODIFICATIONS. Appellant Floro Manigo y Macalua is found GUILTY beyond reasonable doubt of RAPE and is sentenced to suffer the penalty of reclusion perpetua without eligibility for parole and ordered to pay the victim “AAA” P50,000.00 as civil indemnity, P50,000.00 as moral damages and P30,000.00 as exemplary damages. The award of damages shall earn legal interest at the rate of 6% per annum from date of finality of this judgment until fully paid.

SO ORDERED.

Carpio, (Chairperson), Brion, Perez, and Perlas-Bernabe, JJ., concur.

[1] *People v. Arcosiba*, G.R. No. 181081, September 4, 2009, 598 SCRA 517, 526, citing *People v. Baligod*, 583 Phil. 299, 305 (2008).

[2] CA rollo, pp. 63-72; penned by Associate Justice Leoncia R. Dimagiba and concurred in by Associate Justices Edgardo A. Camello and Nina G. Antonio-Valenzuela

[3] Records, pp. 100-104; penned by Judge Justino G. Aventurado.

[4] *Id.* at 1.

[5] “The real names of the victim and of the members of her immediate family are withheld pursuant to Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act) and Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004)”; *People v. Teodoro*, G.R. No. 175876, February 20, 2013, 691 SCRA 324, 326.

[6] Exhibit “C,” Certificate of Live Birth, Records, p. 11.

[7] Exhibit “A,” Medical Certificate, *id.* at 9.

- [8] Id. at 104.
- [9] CA rollo, pp. 71-72.
- [10] Rollo, pp. 18-19.
- [11] See the Office of the Solicitor General's Manifestation and Motion (Re: Supplemental Brief), id. at 20-22 and the Public Attorney's Office's Notice of Appearance with Manifestation, id. at 29-32.
- [12] *People v. Oliva*, G.R. No. 187043, September 18, 2009, 600 SCRA 834, 839.
- [13] *People v. Corpuz*, 517 Phil. 622, 637 (2006).
- [14] *People v. Castro*, 594 Phil. 665, 674 (2008).
- [15] *People v. Villanueva, Jr.*, G.R. No. 187152, July 22, 2009, 593 SCRA 523, 542.
- [16] G.R. No. 177361, February 1, 2010, 611 SCRA 216.
- [17] Id. at 227.
- [18] CA rollo, pp. 55-56.
- [19] 458 Phil. 856, 877 (2003).
- [20] *People v. Torres*, 559 Phil. 408, 418 (2007).
- [21] *People v. Corpuz*, 517 Phil. 622, 638 (2006).
- [22] Rules for the Application of Indivisible Penalties.
- [23] *People v. Bacatan*, G.R. No. 203315, September 18, 2013.
- [24] *Sison v. People*, G.R. No. 187229, February 22, 2012, 666 SCRA 645, 667.
- [25] *People v. Delabajan*, G.R. No. 192180, March 21, 2012, 668 SCRA 859, 868.
- [26] *People v. Estoya*, G.R. No. 200531, December 5, 2012, 687 SCRA 376, 388-389.
- [27] *People v. Diocado*, 591 Phil. 736, 752 (2008).
- [28] *People v. Estoya*, *supra* at 389.
- [29] *People v. Toriaga*, G.R. No. 177145, February 9, 2011, 642 SCRA 515, 522.
- [30] *People v. Dumadag*, G.R. No. 176740, June 22, 2011, 652 SCRA 535, 550.

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