

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BEN RUBIO Y ACOSTA, ACCUSED-APPELLANT.

G.R. No. 195239. March 07, 2012

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

This is an appeal from the July 26, 2010 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03489, which affirmed in toto the June 30, 2008 Decision[2] in Criminal Case No. 117310-H of the Regional Trial Court (RTC), Branch 261 in Pasig City. The RTC found accused Ben Rubio y Acosta (Rubio) guilty beyond reasonable doubt of the crime of Rape.

The Facts

On January 6, 2006, Rubio was charged before the RTC with qualified rape. The accusatory portion of the Information provides:

On or about January 8, 2000, in Pasig City and within the jurisdiction of this Honorable Court, the defendant, being her father, with lewd design and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with [AAA],[3] 15 years old, against her will and consent.

Contrary to Law.[4]

Upon arraignment, Rubio pleaded “not guilty.” During the pre-trial conference, Rubio admitted being the father of private complainant AAA and that she was under eighteen (18) years of age when the alleged rape happened. Trial ensued.

Through the testimony of AAA, it was established that on January 8, 2000 at around two o’clock in the afternoon, she was sleeping inside their house with her two-year old sister and three-year old brother, when the accused approached her and removed her shorts and panty. AAA tried to push him away but he was too strong, and he succeeded in inserting his penis inside her vagina. AAA continued resisting despite being afraid that the accused would hurt her. After some time, the accused ejaculated outside her vagina.

At around four o’clock in the afternoon of the same day, AAA went to a neighbor, a certain “Kuya Gene” who is a Barangay Tanod, and informed him that she was raped by her own father. They then proceeded to the Barangay Hall and to the Police Headquarters to file a complaint against her father.[5]

AAA further testified that she did not tell her mother about the incident, because she knew the latter would not believe her. AAA averred that she was first raped by her father in 1993, and when she reported this to her mother, she was casually told to forget about the incident, because it would bring shame to their family.[6]

Dr. Emmanuel Reyes, a medico-legal expert who examined the private complainant after the alleged rape

incident, testified that he found a shallow-healed laceration at a three o'clock position as well as a deep-healed laceration at a six o'clock position on the complainant's labia minora which showed that she had been subjected to numerous sexual assaults.[7]

For the defense, Rubio took the witness stand. He described the place where the alleged rape occurred as a small house made of wood with one room, and a floor area of around 10 x 12 meters. At that time, three families were occupying the house including the complainant's grandmother, aunt, uncle, and cousin. Considering the cramped space, the accused asserted that if anything happened within its confines, such as rape, it could be easily noticed by other persons in the room. He also declared that AAA, sometime in 1991, threatened to kill him because of his alleged womanizing.[8]

Rulings of the RTC and the CA

On June 30, 2008, the RTC rendered its Decision finding the accused guilty of qualified rape, the dispositive portion of which reads:

WHEREFORE, in light of the foregoing considerations, the prosecution having proved the guilt of the defendant BEN RUBIO y ACOSTA beyond reasonable doubt, he is hereby meted out the penalty of Reclusion Perpetua without eligibility of parole. Accused is likewise ordered to pay the victim the sum of Seventy Five Thousand Pesos (P75,000.00) as civil indemnity, Fifty Thousand Pesos (P50,000.00) as moral damages without necessity of proving the same. An amount of Twenty Five Thousand Pesos (P25,000.00) as exemplary damages is also in order to deter fathers with perverse behavior from sexually abusing their daughters.

The Warden of Nagpayong City Jail, Pasig City, Metro Manila is hereby directed to immediately transfer the defendant to the Bureau of Corrections, New Bilibid Prisons, Muntinlupa.

SO ORDERED.[9]

Rubio filed an appeal with the CA, which affirmed in toto the decision of the RTC. The decretal portion of the July 26, 2010 Decision of the CA reads:

WHEREFORE, in view of the foregoing premises, the instant appeal is hereby ordered DISMISSED, and the appealed decision is AFFIRMED in toto.[10]

Hence, We have this appeal. The Office of the Solicitor General, for the People and by Manifestation and Motion, opted not to file a supplemental brief. Accused-appellant entered a similar manifestation. Thus, in resolving the instant appeal, We consider the issues and arguments he earlier raised in his Brief for the Accused-Appellant before the CA.

Accused-appellant raises the following issues for Our consideration:

- THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED; AND
- THE COURT A QUO GRAVELY ERRED IN REJECTING THE ACCUSED-APPELLANT'S DEFENSE.[11]

Our Ruling

We uphold the ruling of the CA.

Guiding Principles in Rape Cases

In deciding rape cases, We are guided by these three well-entrenched principles:

(a) an accusation for rape is easy to make, difficult to prove and even more difficult to disprove; (b) in view of the intrinsic nature of the crime, the testimony of the complainant must be scrutinized with utmost caution; and (c) the evidence of the prosecution must stand on its own merits and cannot draw strength from the weakness of the evidence for the defense.[12]

As a result of these guiding principles, the credibility of the victim becomes the single most important issue.[13]

Core Issue: Credibility of the Victim-Complainant

When it comes to credibility, the trial court's assessment deserves great weight, and is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence.[14] The reason is obvious. Having the full opportunity to observe directly the witnesses' deportment and manner of testifying, the trial court is in a better position than the appellate court to evaluate testimonial evidence properly.[15] As this Court held in *People v. Gabrino*:

We have held time and again that "the trial court's assessment of the credibility of a witness is entitled to great weight, sometimes even with finality." As We have reiterated in the recent *People v. Combate*, where there is no showing that the trial court overlooked or misinterpreted some material facts or that it gravely abused its discretion, then We do not disturb and interfere with its assessment of the facts and the credibility of the witnesses. This is clearly because the judge in the trial court was the one who personally heard the accused and the witnesses, and observed their demeanor as well as the manner in which they testified during trial. Accordingly, the trial court, or more particularly, the RTC in this case, is in a better position to assess and weigh the evidence presented during trial.[16]

Accused-appellant alleges that the testimony of the victim is replete with material inconsistencies and questions her credibility, to wit:

- AAA first testified that she returned to their house on September 15, 1997[17] but during cross-examination she stated that she returned to the house of her parents in 1999.[18]
- AAA alleged at one point that the accused-appellant had physically beaten her once prior to the sexual assault subject of the instant case[19] but she then categorically stated that accused-appellant never laid a hand on her.[20]
- AAA at first alleged that there was a store in their house at the time of the rape,[21] but later said it was already closed.[22]

Although there are inconsistencies in AAA's testimony, inaccuracies and inconsistencies in the rape victim's testimony are to be expected.[23] This Court finds that these inconsistencies are not material to the instant case. We held, "Rape victims are not expected to make an errorless recollection of the incident, so humiliating and painful that they might in fact be trying to obliterate it from their memory. Thus, a few inconsistent remarks in rape cases will not necessarily impair the testimony of the offended party." [24]

There is no showing that the trial court's findings were tainted with arbitrariness or oversight; hence, the trial court's finding as to the credibility of the victim is final and binding on this Court.

Furthermore, it bears stressing that testimonies of child victims are given full weight and credit, for youth and immaturity are badges of truth. In *People v. Perez*, the Court aptly held:

This Court has held time and again that testimonies of rape victims who are young and immature deserve full credence, considering that no young woman, especially of tender age, would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being subject to a public trial, if she was not motivated solely by the desire to obtain justice for the wrong committed against her. Youth and

immaturity are generally badges of truth. It is highly improbable that a girl of tender years, one not yet exposed to the ways of the world, would impute to any man a crime so serious as rape if what she claims is not true.[25]

Elements of Qualified Rape Duly Proved

The elements of rape as provided in the Revised Penal Code (RPC) are as follows:

ART. 266-A. Rape, When and How Committed. – Rape is committed –

- By a man who shall have carnal knowledge of a woman under any of the following circumstances:
- Through force, threat or intimidation;
- When the offended party is deprived of reason or is otherwise unconscious;
- By means of fraudulent machination or grave abuse of authority;
- When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present. (Emphasis supplied.)

And one of the aggravating circumstances that would qualify the crime and raise the penalty to death is:

ART. 266-B. Penalties –

x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

- 1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim. (Emphasis supplied.)

The testimony of the victim-complainant is as follows:

Q:

On January 8, 2000 at about 2 o'clock in the afternoon, do you recall where you were?

A:

Yes, Sir.

Q:

Where were you then at the said date and time?

A:

I was at our room, sir.

Q:

What were you doing in your room at that time?

A:

I was sleeping, sir.

Q:

While you were sleeping was there anything unusual that happened?

x x x x

A:

Yes, sir.

Q:

What was that?

A:

Ben Rubio removed my shorts and my panty, sir.

Q:

What did you do when Ben Rubio removed your shorts and your panty?

A:

I pushed him, sir.

Q:

How did you know that it was Ben Rubio who removed your shorts and panty when you said you were sleeping at that time?

A:

When I woke up he was already in front of me, he was laying [sic] face down, sir.

Q:

You said Ben Rubio, if he is inside the courtroom will you be able to identify him?

A:

Yes, sir.

Q:

Will you point to him?

Interpreter:

The witness pointed to the only accused seated on the first bench of the courtroom wearing yellow t-shirt and maong pants, who, when asked, identified himself as Ben Rubio.

Q:

You said that when Ben Rubio removed your shorts and panty you pushed him, were you able to push him?

A:

No, sir because he was stronger than me.

Q:

Was he able to remove your shorts and panty?

A:

Yes, sir.

Q:

What happened after he was able to remove your shorts and panty?

A:

He inserted his penis inside my vagina, sir.

Q:

What did you do when he inserted his penis inside your vagina?

A:

I resisted, sir.

Q:

How did you resist?

A:

I moved my body but I was not able to resist because he was stronger than me, sir.

Q:

Did you shout?

A:

No, sir.

Q:

Why?

A:

Because if I shout he would hurt me, sir.[26]

The testimony of AAA stated that accused-appellant had carnal knowledge with her, and, thus, being AAA's father, he is presumed to have employed force and/or intimidation. The fear towards her father was more than enough to intimidate her to submit to his lewd advances without shouting for help.[27]

The sole testimony of a rape victim, if credible, suffices to convict.[28] The complainant's testimony—if credible, natural, convincing, and consistent with human nature and the normal course of things—may suffice to support a conviction of rape.[29] This Court finds that the testimony of AAA is straightforward and convincing with no inconsistency with regard to the material elements of the crime of rape.

Furthermore, the aggravating circumstances of minority and relationship were stipulated upon during pre-trial; thus, there is no further need to prove them during trial.

Accused-appellant seeks to deny the charge against him by stating that the victim did not shout during the alleged bestial act. The Court has declared repeatedly that "[f]ailure to shout or offer tenacious resistance [does] not make voluntary [the victim's] submission to [the perpetrator's] lust. Besides, physical resistance is not an essential

element of rape.”[30]

Accused-appellant further claims that it is unlikely that rape was committed, because the house where it allegedly occurred only has one room and was then being occupied by three families. This is of no consequence. This Court has reiterated that lust is no respecter of time and place.[31] Rape may even be committed in the same room where other family members also sleep.[32] Besides, it must be noted that the rape occurred in the early afternoon and not in the evening when the rest of the occupants are presumably sleeping in the cramped space.

Medical Findings Corroborate Rape

Accused-appellant also questions the conclusion of the medical examination done by Dr. Reyes. He alleges that since the hymenal lacerations have already healed, then these could not have been due to what AAA claimed, and that even if there were lacerations, it could not be determined if he was the one who caused them.

We are not convinced.

We must bear in mind that “a medical examination of the victim is not indispensable in a prosecution for rape inasmuch as the victim’s testimony alone, if credible, is sufficient to convict the accused of the crime. In fact, a doctor’s certificate is merely corroborative in character and not an indispensable requirement in proving the commission of rape.”[33]

The presence of healed or fresh hymenal laceration is not an element of rape.[34] However, it is the best physical evidence of forcible defloration.[35] Thus, the findings of Dr. Reyes corroborate and support the testimony of AAA.

Proper Penalties

Since all the elements of qualified rape were duly alleged and proved during the trial, the proper penalty should be death according to Article 266-B of the RPC. However, with the effectivity of Republic Act No. 9346, entitled An Act Prohibiting the Imposition of Death Penalty in the Philippines, the imposition of the supreme penalty of death has been prohibited. Pursuant to Section 2 of the Act, the penalty to be meted out should be reclusion perpetua without eligibility for parole.

The trial court correctly awarded PhP 75,000 as civil indemnity, but the amount of moral and exemplary damages awarded has to be modified consonant to current jurisprudence. Civil indemnity, which is actually in the nature of actual or compensatory damages, is mandatory upon the finding of the fact of rape.[36] Moral damages are 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.[37] According to prevailing jurisprudence, the amount of moral damages should be PhP 75,000.[38] Likewise, exemplary damages should have been PhP 30,000, and this is awarded in order to serve as public example and to protect the young from sexual abuse.[39]

WHEREFORE, the Decision of the CA in CA-G.R. CR-H.C. No. 03489 is hereby AFFIRMED, with MODIFICATION in that the award of moral damages is increased to PhP 75,000 and exemplary damages to PhP 30,000. The civil indemnity and damages shall earn interest at six percent (6%) per annum from finality of this Decision until fully paid.[40] Costs against accused-appellant.

SO ORDERED.

Peralta, Abad, Villarama, Jr.,[*] and Mendoza, JJ., concur.

[*] Additional member per Special Order No. 1076 dated September 6, 2011.

[1] Rollo, pp. 2-19. Penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Bienvenido L. Reyes (now a member of this Court) and Estela M. Perlas-Bernabe (now also a member of this Court).

[2] CA rollo, pp. 80-84. Penned by Judge Agnes Reyes Carpio.

[3] The name and other personal circumstances tending to establish the victim's identity and those of her immediate family are withheld pursuant to Republic Act No. 7610, "An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes"; Republic Act No. 9262, "An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes;" Section 40 of A.M. No. 04-10-11-SC, known as the "Rule on Violence Against Women and Their Children," effective November 5, 2004; and *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[4] CA rollo, p. 14.

[5] TSN, May 23, 2000, pp. 5-12.

[6] CA rollo, p. 81.

[7] TSN, June 24, 2003, pp. 3-6.

[8] TSN, November 23, 2006, pp. 3-7; September 26, 2007, pp. 3-12.

[9] CA rollo, p. 104.

[10] Rollo, p. 18.

[11] *Id.* at 6-7.

[12] *People v. Marcos*, G.R. No. 185380, June 18, 2009, 589 SCRA 661, 669.

[13] *Id.*

[14] *People v. Perez*, G.R. No. 182924, December 24, 2008, 575 SCRA 653, 671.

[15] *Id.*

[16] G.R. No. 189981, March 9, 2011, 645 SCRA 187, 193-194; citations omitted.

[17] TSN, May 23, 2000, p. 6.

[18] TSN, January 15, 2001, p. 7.

[19] TSN, May 23, 2000, p. 6.

[20] TSN, January 15, 2001, p. 12.

[21] *Id.* at 16-18.

[22] TSN, April 17, 2001, p. 15.

[23] *People v. Veluz*, G.R. No. 167755, November 28, 2008, 572 SCRA 500, 518.

[24] *People v. Balbarona*, G.R. No. 146854, April 28, 2004, 428 SCRA 127, 139.

- [25] Supra note 14.
- [26] TSN, May 23, 2000, pp. 3-6.
- [27] People v. Francisco, G.R. No. 135200, February 7, 2001, 351 SCRA 351, 356.
- [28] People v. Capili, G.R. No. 142747, March 12, 2002, 379 SCRA 203, 209.
- [29] People v. Nazareno, G.R. No. 167756, April 9, 2008, 551 SCRA 16, 31.
- [30] People v. Arraz, G.R. No. 183696, October 24, 2008, 570 SCRA 136, 146.
- [31] People v. Anguac, G.R. No. 176744, June 5, 2009, 588 SCRA 716, 724; citation omitted.
- [32] People v. Evina, 453 Phil. 25, 41 (2003); citing People v. Perez, G.R. No. 122764, September 24, 1998, 296 SCRA 17.
- [33] People v. Castro, G.R. No. 172874, December 17, 2008, 574 SCRA 244, 254.
- [34] People v. Espino, Jr., G.R. No. 176742, June 17, 2008, 554 SCRA 682, 700.
- [35] People v. Malones, G.R. Nos. 124388-90, March 11, 2004, 425 SCRA 318, 335.
- [36] People v. Molleda, G.R. No. 153219, December 1, 2003, 417 SCRA 53, 59.
- [37] People v. Codilan, G.R. No. 177144, July 23, 2008, 559 SCRA 623, 636.
- [38] People v. Iroy, G.R. No. 187743, March 3, 2010, 614 SCRA 245, 253.
- [39] Id.
- [40] People v. Combate, G.R. No. 189301, December 15, 2010, 638 SCRA 797.

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