

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENE SANTIAGO, ACCUSED-APPELLANT.

G.R. No. 196970. April 02, 2014

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

Appellant Rene Santiago was charged with two counts of rape. The Informations[1] read as follows:

Criminal Case No. 3541:

That on December 25, 2004 at around 12:30 in the morning in Brgy. Pingit, Municipality of Baler, Province of Aurora and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously, by means of threats and intimidation, [have] carnal knowledge of “AAA”, [2] who was then an eleven[-]year old girl, by inserting his penis into her vagina against her will and consent and effectively prejudicing her development as a child.

CONTRARY TO LAW.

Criminal Case No. 3542:

That on January 21, 2005 in Brgy. Zabali, Municipality of Baler, Province of Aurora and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously, by means of threats and intimidation, [have] carnal knowledge of “AAA”, who was then an eleven[-]year old girl, by inserting his penis into her vagina against her will and consent and effectively prejudicing her development as a child.

CONTRARY TO LAW.

When arraigned on March 24, 2006, appellant entered a plea of not guilty.[3] Appellant’s defense of denial and alibi was not given any credence by the trial court for being self-serving and unsubstantiated and considering his positive identification by “AAA”. Consequently, on June 7, 2007, the Regional Trial Court of Baler, Aurora, Branch 96, rendered a Joint Decision[4] convicting appellant of two counts of simple rape, viz:

WHEREFORE, premises considered, the Court finds accused Rene Santiago GUILTY beyond reasonable doubt of two counts of the crime of RAPE, defined under Article 266-A(1)(a) and penalized under Article 266-B of the Revised Penal Code, and hereby sentences him to suffer the penalty of reclusion perpetua for each of the two cases and to pay the victim “AAA”, for said two counts of rape, the amount of One Hundred Thousand Pesos (Php100,000.00) as civil indemnity, the amount of One Hundred Thousand Pesos (Php100,000.00) as moral damages, and Fifty Thousand Pesos (Php50,000.00) as exemplary damages.

SO ORDERED.[5]

Aggrieved, appellant appealed to the Court of Appeals.[6] In its Decision[7] of October 21, 2010, the appellate court affirmed in toto the trial court’s ruling, viz:

WHEREFORE, premises considered, the appealed decision is wholly AFFIRMED.

SO ORDERED.[8]

Hence, this appeal.[9]

In a Resolution[10] dated July 13, 2011, we required both parties to file their Supplemental Briefs. However, they opted to adopt the briefs they filed before the Court of Appeals as their Supplemental Briefs.[11]

Appellant argues that “AAA” did not resist his sexual advances;[12] neither were they against her will.[13] Interestingly, by arguing in this manner, appellant changed the theory of his defense, i.e., from denial and alibi to consensual intercourse, to his utter detriment. As correctly observed by the Court of Appeals:

From a complete denial of the occurrence of the rape incidents when he testified before the trial court, appellant now makes a sudden turn-around by admitting in the present appeal having had sexual intercourse with AAA that were, however, consensual as the latter never resisted his advances. But he offered no reason why AAA would consent to having sexual liaison with him. Albeit, a change in theory merely accentuates the accused’s lack of credibility and candor. Changing the defense on appeal is an indication of desperation on the part of the accused-appellant, due to the seeming inadequacy of his defense adopted in the first instance.[14]

Appellant next claims that the prosecution failed to establish that he intimidated or coerced “AAA” into having sexual intercourse with him.

We are not persuaded.

Contrary to appellant’s contention, “AAA” testified that she was threatened, forced, and coerced into sexual copulation. When “AAA” was placed on the witness stand, she categorically testified that during the first rape incident, appellant threatened to hurt her if she would report the incident to anyone.[15] As regards the second rape incident, “AAA” declared that appellant consummated the dastardly act by pointing an “ice pick” at her.[16] Admittedly, these were not mentioned in “AAA’s” Sinumpaang Salaysay; however, they did not diminish her credibility. As correctly held by the appellate court:

That AAA failed to mention in her Sinumpaang Salaysay what she narrated in open court about appellant’s threats on her life and his use of an ice pick as he unleashed his perversity, hardly affects her credibility.

It is generally conceded that ex parte affidavits tend to be incomplete and inaccurate for lack of or absence of searching inquiries by the investigating officer. It is not a complete reproduction of what the declarant has in mind because it is generally prepared by the administering officer and the affiant simply signs it after it has been read to him. Hence, whenever there is a variance between the statements in the affidavit and those made in open court by the same witness, the latter generally [prevail]. Indeed, it is doctrinal that open court declarations take precedence over written affidavits in the hierarchy of evidence.

Moreover, during re-direct examination, AAA explained that her fear of appellant lingered in her consciousness and her young mind had yet to recover its bearings at the time she executed the Sinumpaang Salaysay leading to the incomplete account she made therein. In any case, an errorless recollection of a harrowing incident cannot be expected from a minor innocent rape victim, like AAA, especially when she was recounting details of an experience so humiliating and so painful as forced copulation. What is important is that the victim’s declarations, both in her sworn statement and her testimony in court, are consistent on basic matters constituting the elements of the crime of rape and the positive identification of the culprit.[17]

Finally, both the trial court and the Court of Appeals correctly convicted appellant of simple rape, instead of statutory rape. “The elements of [statutory rape] are: (1) that the accused had carnal knowledge of a woman; and (2) that the woman is below 12 years of age x x x.”[18] In this case, although the Informations alleged that

“AAA” was 11 years of age when the rape incidents transpired, she was actually 13 years of age when the rape incidents transpired on December 25, 2004 and January 21, 2005, as her Certificate of Birth[19] showed that she was born on March 10, 1991. Thus, appellant is guilty only of simple, not statutory rape for which he was properly imposed the sentence of reclusion perpetua pursuant to Article 266-B of the Revised Penal Code. However, it must be mentioned that appellant is not eligible for parole pursuant to Section 3[20] of Republic Act No. 9346.[21]

The awards of P50,000.00 as moral damages and P50,000.00 as civil indemnity are likewise proper. However, the award of exemplary damages must be increased to P30,000.00 in line with prevailing jurisprudence.[22] Also, interest at the rate of 6% per annum shall be imposed from date of finality of this judgment until fully paid.

WHEREFORE, the October 21, 2010 Decision of the Court of Appeals in CA-G.R. CR H.C. No. 02880 finding appellant Rene Santiago guilty beyond reasonable doubt of two counts of simple rape and sentencing him to suffer the penalty of reclusion perpetua and to pay “AAA” civil indemnity of P50,000.00 and moral damages of P50,000.00 for each count is AFFIRMED with MODIFICATIONS that appellant is not eligible for parole; the amount of exemplary damages is increased to P30,000.00 for each count; and all damages awarded shall earn interest at the rate of 6% per annum from date of finality of this judgment until fully paid.

SO ORDERED.

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

[1] Records, pp. 1- 2.

[2] “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.

[3] Records, p. 18.

[4] *Id.* at 169-182; penned by Judge Corazon D. Soluren.

[5] *Id.* at 182.

[6] *Id.* at 186-187.

[7] CA rollo, pp. 173-190; penned by Associate Justice Rebecca De Guia-Salvador and concurred in by Associate Justices Sesinando E. Villon and Amy C. Lazaro-Javier.

[8] *Id.* at 190.

[9] Rollo, p. 20.

[10] *Id.* at 24-25.

[11] *Id.* at 33-40.

[12] CA rollo, p. 107.

[13] *Id.* at 108.

[14] *Id.* at 185.

[15] TSN, July 7, 2006, p. 7.

[16] Id. at 9.

[17] CA rollo, p. 184.

[18] *People v. Amistoso*, G.R. No. 201447, January 9, 2013, 688 SCRA 376, 383.

[19] Records, pp. 5, 61.

[20] Sec. 3. Person convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to 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.

[21] AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES. Approved June 24, 2006.

[22] *People v. Vergara*, G.R. No. 199226, January 25, 2014.

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