

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEONARDO BATTAD, ACCUSED-APPELLANT, MARCELINO BACNIS, ACCUSED.

G.R. No. 206368. August 06, 2014

Ponente: REYES, J.

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REYES, J.:

This is an appeal from the Decision[1] dated July 19, 2012 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04800 which affirmed the conviction of Leonardo Battad (accused-appellant) of the crime of Rape rendered by the Regional Trial Court (RTC) of Cabugao, Ilocos Sur, Branch 24, on November 12, 2010 in Criminal Case No. 2334-K. The dispositive portion of the trial court's Decision[2] reads:

WHEREFORE, premises considered, the Court finds Marcelino Bacnis and Leonardo Battad guilty beyond reasonable doubt of the crime of rape. Leonardo Battad is hereby sentenced to suffer the penalty of reclusion perpetua. In view of the presence of a privileged mitigating circumstance. Marcelino Bacnis is hereby sentenced to suffer imprisonment of fourteen years, eight (8) months and one (1) day to seventeen (17) years and four (4) months of reclusion temporal in its medium period. The two accused are hereby ordered to pay jointly and severally AA[A][3] [P]50,000.00 as civil indemnity, [P]50,000.00 as moral damages, and [P]25,000.00 as exemplary damages.

SO ORDERED.[4]

The Information, charging the accused-appellant with rape reads:

That on or about the 9[th] day of April, 2004, in the municipality of (PPP), province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully, and feloniously have carnal knowledge of one AAA, by means of force and intimidation and against the latter's will and consent.

Contrary to law.[5]

Accused-appellant was duly arraigned on April 13, 2005, where he entered a plea of NOT GUILTY to the offense charged. Pre-trial was held and terminated on May 11, 2005, after which, trial on the merits ensued.

Antecedent Facts

The prosecution presented two witnesses, one of which is the 17-year old private complainant AAA, who testified that on April 9, 2004 at around three o'clock in the afternoon, she went to the fields located in Barangay PPP to pasture her three carabaos and eight goats. On her way to the fields, AAA saw the accused-appellant and Marcelino Bacnis (Bacnis) drinking gin in the house of both AAA and Bacnis' uncle, UUU.[6] AAA knew the accused-appellant and Bacnis as they used to go to her house to buy ice.[7]

After AAA had pastured her carabaos, she was surprised when the accused-appellant and Bacnis approached her from behind. Bacnis pulled her towards the place where paper trees grew.[8] AAA said that Bacnis undressed her and that the two accused took turns in raping her but she was confused as to who raped her first. While one of

them was raping her, the other was holding her hands and vice versa. Her mouth was also covered to prevent her from shouting. When asked how the accused-appellant raped her, AAA testified that he did it by inserting his penis.[9]

According to AAA, the accused-appellant and Bacnis warned her not to tell anyone about the incident, otherwise they would kill her. Eventually, however, AAA told her mother about it when the latter noticed that AAA was pregnant.[10] Later on, she slipped near a tamarind tree while carrying something heavy which resulted to the miscarriage of the baby.[11]

The other witness for the prosecution, Dr. Judylyn Rondaris-Eugenio (Dr. Eugenio), Medical Officer III of Gabriela Silang General Hospital testified that she examined AAA on July 22, 2004 and found that the latter was already 5 to 6 months pregnant as verified by an ultrasound result.[12] The medicolegal certificate[13] reads:

Introitus- admits 2 fingers with ease
Cervix- soft, long, close
Uterus enlarged to 5-6 months' size.

X X X X

The accused-appellant and Bacnis both interposed alibi as a defense. Bacnis alleged that he was with his friends in the town plaza from nine o'clock in the morning to seven o'clock in the evening on April 9, 2004 to attend the Good Friday procession. He denied having known the accused-appellant.[14]

Bacnis also testified that AAA was his girlfriend since January 2004 and they became intimate and had sexual intercourse the following month, February 2004. He allegedly offered to marry AAA when she told him that she was pregnant, but AAA's parents did not want him to marry her.[15] During his cross-examination, Bacnis claimed that he and AAA did not write love letters to each other and that he already tore all their pictures together.[16]

Bacnis' friend, Editha Tabil (Tabil), also testified that she was with AAA in the church at around one o'clock in the afternoon on April 9, 2004. She and AAA allegedly waited for and joined the procession, which started late in the afternoon when it was already dark. She and AAA went home at the same time after the procession. Tabil denied that she is a close friend of AAA but admits that she is close to accused Bacnis and his mother and that she came to testify upon the advice of Bacnis' mother, who paid for her fare in going to court.[17]

Michael Valoroso (Michael), another friend of Bacnis, testified that the latter went to his house around eight o'clock in the morning on April 9, 2004 and stayed there until twelve noon. Thereafter, Michael allegedly accompanied Bacnis to the latter's house. Bacnis took a bath and thereafter, they both proceeded to the town plaza where they waited for the procession to start. Around six o'clock in the evening, the procession started and they joined the same until seven o'clock that night.[18]

AAA and Bacnis' uncle UUU also testified, denying the fact that Bacnis and the accused-appellant had a drinking spree in his house at three o'clock in the afternoon of April 9, 2004. He said he left his house at one o'clock in the afternoon of that day, went to the town and came home only at four-thirty in the afternoon to pasture his animals. According to him, AAA's father is his cousin while Bacnis is his nephew.[19]

As for the accused-appellant, he testified that he did not know both Bacnis and AAA prior to the filing of the case against him. He stated that he was in Abra on April 9, 2004, the day of the alleged incident. He said he left PPP on April 6, 2004 to harvest palay in Abra and went back only on May 3, 2004.[20]

Ruling of the Courts A Quo

The trial court found AAA's testimony more credible than the two accused and their witnesses notwithstanding the inconsistencies in her testimony as to who raped her first. AAA was still a minor, although not mentioned in the information when the alleged rape was committed. This fact was admitted by the defense during the pre-trial conference. Furthermore, AAA is a person with low mentality as the public prosecutor stated during the hearing on November 30, 2005 and as observed by the Presiding Judge, Honorable Florencio Ruiz.[21] Thus, both the accused-appellant and Bacnis were convicted of the crime of rape.

In his appeal before the CA, the accused-appellant contended that the prosecution failed to prove his guilt beyond reasonable doubt. First, the prosecution failed to prove the existence of consummated rape. Second, when Dr. Eugenio examined AAA on July 22, 2004, the latter was already 5-6 months pregnant. Hence, the pregnancy of AAA will not prove the alleged rape on April 9, 2004. Lastly, the prosecution was not able to prove the elements of force, threat and intimidation.[22]

On July 19, 2012, the CA rendered its assailed decision, affirming the accused-appellant's conviction. The fallo of the Decision is as follows:

WHEREFORE, the appealed decision of the Regional Trial Court of Cabugao, Ilocos Sur, Branch 24, in Criminal Case No. 2334-K, dated 12 November 2010, convicting accused-appellant Leonardo Battad of rape under paragraph (1)(a), Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353, is AFFIRMED with MODIFICATION that the award of exemplary damages is DELETED for want of legal basis.

SO ORDERED.[23]

The accused-appellant, through counsel, filed a Notice of Appeal[24] with the CA, expressing his intention to appeal the Decision dated July 19, 2012 of the CA to the Court. The CA gave due course to the accused-appellant's Notice of Appeal on August 29, 2012 and directed its Judicial Records Division to elevate the records of the case to the Court.[25]

Ruling of the Court

After an extensive examination of the records, the Court does not find any basis to overrule the accused-appellant's conviction for the crime of Rape.

Under Article 266-A (1)(a) of the Revised Penal Code, as amended, rape is committed when: (1) the offender had carnal knowledge of a woman; and (b) that the same was committed by using force and intimidation.[26]

Despite her low mentality, AAA was able to narrate her harrowing experience in the hands of the two accused, who took turns in raping her.[27] "We have ruled that a victim who cries rape, more so if she is a minor, almost always says all that is needed to signify that the crime has been committed, and so long as her testimony meets the test of credibility, the accused may be convicted on the basis thereof." [28]

The accused-appellant also made the following submissions: First, he and Bacnis were unarmed. Second, while AAA alleged that he and Bacnis threatened to kill her should she reveal what happened that day, the threat came after the alleged rape and not before; hence, it cannot be said that the said threat was the compelling reason why she succumbed to their advances. Third, he and Bacnis did not say anything to threaten and intimidate her when she was allegedly pulled to the place where the paper trees grew. It is hard to believe that AAA could have been pulled against her will at a distance of about 20 to 25 meters in front of an inhabited house owned by her uncle in broad daylight by unarmed persons.[29]

The fact that AAA was not able to fight back or physically resist the attack does not negate the presence of force,

threat or intimidation. The Court has previously held that “[i]n rape, force and intimidation must be viewed in the light of the victim’s perception and judgment at the time of the commission of the crime. As already settled in jurisprudence, not all victims react the same way. Some people may cry out; some may faint; some may be shocked into insensibility; others may appear to yield to the intrusion. Some may offer strong resistance, while others may be too intimidated to offer any resistance at all. Besides, resistance is not an element of rape. A rape victim has no burden to prove that she did all within her power to resist the force or intimidation employed upon her. As long as force or intimidation was present, whether it was more or less irresistible, is beside the point.”[30]

AAA testified that while one of the accused raped her, her mouth was covered and her hands were held by the other. Thus, it is needless to say that the combined strength of the two accused, both male, overpowered AAA, a 17-year old female. Additionally, AAA and Bacnis’ uncle UUU, testified as witness for the defense that he was not home during the incident.[31] Therefore, the accused-appellant’s allegation that he along with Bacnis could not have pulled AAA in front of UUU’s inhabited house deserves scant consideration, for there was in fact no one in the house who could have come to AAA’s aid even if the crime was committed in broad daylight.

Finally, in the accused-appellant’s attempt to exonerate himself, he asserted that AAA was already 5 to 6 months pregnant based on Dr. Eugenio’s findings, whereas the alleged incident occurred merely 3 months before AAA’s medical examination; therefore he could not have authored the rape.

Contrary to accused-appellant’s view, AAA’s pregnancy is immaterial to the issue. “Pregnancy is not an essential element of the crime of rape. Whether the child which the rape victim bore was fathered by the accused, or by some unknown individual, is of no moment. What is important and decisive is that the accused had carnal knowledge of the victim against the latter’s will or without her consent, and such fact was testified to by the victim in a truthful manner.”[32] As long as the elements of rape are present and proven by the prosecution, the accused could be adjudged guilty thereof notwithstanding the attendance of other matters which are completely irrelevant to the crime.

In *People of the Philippines v. Edgar Jumawan*,[33] the Court pronounced the husband of the private complainant therein as guilty of rape in spite of his defense that he and the victim were a legally married and cohabiting couple. The Court brushed this defense aside and held that:

Rape is a crime that evokes global condemnation because it is an abhorrence to a woman’s value and dignity as a human being. It respects no time, place, age, physical condition or social status. It can happen anywhere and it can happen to anyone. Even, as shown in the present case, to a wife, inside her time-honored fortress, the family home, committed against her by her husband who vowed to be her refuge from cruelty. (Emphasis ours)

Hence, the actuality that AAA was pregnant at the time of the rape does not go against the fact that the accused-appellant and Bacnis had forcible sexual coitus with her. The gravamen of the offense is sexual intercourse with a woman against her will or without her consent.[34] And that is all the prosecution had to prove.

As for Bacnis, although his alibi was corroborated by other witnesses that he was in the town plaza on the afternoon of April 9, 2004, the trial court found their testimonies unbelievable. “The settled rule is that conclusions and findings of fact of the trial court are entitled to great weight on appeal and should not be disturbed unless for strong and cogent reasons because the trial court is in a better position to examine real evidence, as well as observe the demeanor of the witnesses while testifying in the case. The fact that the CA adopted the findings of fact of the trial court makes the same binding upon this Court.”[35]

The CA correctly affirmed the imposition of reclusion perpetua as penalty against the accused-appellant. “It must be emphasized, however, that the [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’.”[36]

The CA also affirmed the trial court’s award of moral damages and civil liability. But, the award of exemplary damages which the CA deleted must be reinstated in the increased amount of P30,000.00 to conform to prevailing jurisprudence.[37] The award of exemplary damages is justified under Article 2229 of the Civil Code to set a public example or correction for the public good. In addition, interest at the rate of six percent (6%) per annum shall be imposed on all the damages awarded, to earn from the date of the finality of the Court’s resolution until fully paid.[38]

WHEREFORE, the appeal is hereby DISMISSED. The Decision dated July 19, 2012 of the Court of Appeals in CA-G.R. CR-HC No. 04800 is AFFIRMED with MODIFICATIONS that exemplary damages in the amount of Thirty Thousand Pesos (P30,000.00) be awarded and that the penalty of reclusion perpetua imposed on accused-appellant Leonardo Battad shall be without eligibility for parole. Moreover, the damages awarded in this case shall earn an interest at the rate of six percent (6%) per annum from the date of the finality of this Decision until fully paid.

SO ORDERED.

Sereno, C.J., (Chairperson), Bersamin,[*] Mendoza,**] Villarama, and Reyes, JJ., concur.

[*] Acting Working Chairperson per Special Order No. 1741 dated July 31, 2014 vice Justice Teresita J. Leonardo-De Castro.

[**] Acting Member per Special Order No. 1738 dated July 31, 2014 vice Justice Teresita J. Leonardo-De Castro.

[1] Penned by Associate Justice Ricardo R. Rosario, with Associate Justices Jane Aurora C. Lantion and Leoncia Real Dimagiba, concurring; rollo, pp. 2-14.

[2] Issued by Judge Nida B. Alejandro; CA rollo, pp. 9-21.

[3] The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family or household members shall not be disclosed to protect her privacy and fictitious initials shall, instead be used, in accordance with *People v. Cabalquinto* (533 Phil. 703 [2006]), and A.M. No. 04-11-09 SC dated September 19, 2006.

[4] CA rollo, p. 21.

[5] Rollo, p. 3.

[6] Id. at 4.

[7] Id.

[8] CA rollo, p. 65.

[9] Rollo, p. 4.

[10] Id. at 4-5.

[11] Id. at 5.

[12] Records, p. 135.

- [13] Id. at 134.
- [14] Rollo, p. 5.
- [15] Id. at 5-6.
- [16] TSN, February 15, 2010, p. 8.
- [17] Rollo, p. 6.
- [18] Id.
- [19] Id. at 6-7.
- [20] Id. at 7.
- [21] CA rollo, p. 15.
- [22] Id. at 39-40.
- [23] Rollo, pp. 13-14.
- [24] Id. at 15.
- [25] Id. at 18.
- [26] *People v. Malana*, G.R. No. 185716, September 29, 2010, 631 SCRA 676, 685.
- [27] TSN, November 21, 2005, p. 4; TSN, November 30, 2005 p. 4; TSN December 14, 2005, p. 2.
- [28] *People v. Loriega*, 383 Phil. 572, 587 (2000).
- [29] CA rollo, pp. 40-41.
- [30] *People v. Dimanawa*, G.R. No. 184600, March 9, 2010, 614 SCRA 770, 778.
- [31] TSN, August 16, 2010, p. 3.
- [32] *People of the Philippines v. Mervin Gahi*, G.R. No. 202976, February 19, 2014.
- [33] G.R. No. 187495, April 21, 2014.
- [34] Id.
- [35] *Magdiwang Realty Corporation. v. The Manila Banking Corporation*, G.R. No. 195592, September 5, 2012, 680 SCRA 251, 263-264.
- [36] *People of the Philippines v. Floro Manigo y Macalua*, G.R. No. 194612, January 27, 2014.
- [37] *People of the Philippines v. Rogelio Manicat y De Guzman*, G.R. No. 205413, December 2, 2013; *People v. Velasco*, G.R. No. 190318, November 27, 2013, 710 SCRA 784, 799-800; *People v. Cedenio*, G.R. No. 201103, September 25, 2013, 706 SCRA 382, 387.
- [38] *People v. Cedenio*, *supra*; *People v. Bacatan*, G.R. No. 203315, September 18, 2013, 706 SCRA 170, 187.

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