

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODRIGO GUTIEREZ Y ROBLES ALIAS “ROD AND JOHN LENNON”, ACCUSED-APPELLANT.

G.R. No. 208007. April 02, 2014

Ponente: LEONEN, J.

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LEONEN, J.:

For a measly five- or ten-peso tip that a 10-year-old child would need for lunch money, a known acquaintance of their family would destroy a child’s dignity by having illicit carnal knowledge of her. This case involves an act that is so dastardly that it is punished by Article 266-A of the Revised Penal Code as statutory rape which carries a sentence of reclusion perpetua.

We are asked to review the Court of Appeals decision[1] in CA-G.R. CR-HC No. 02955. This decision affirmed the conviction of the accused-appellant for statutory rape under Article 266-A of the Revised Penal Code and imposed the penalty of reclusion perpetua.

The facts of the case are as follows:

On November 30, 2005, an information[2] was filed against the accused-appellant before the Regional Trial Court of Baguio City, Branch 59. The information reads:

That on or about November 29, 2005, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have carnal knowledge of the offended party, (AAA), who is under twelve (12) years old.

Contrary to law.

Upon arraignment, Rodrigo Gutierrez pleaded “not guilty.” Trial on the merits ensued.

The prosecution presented the victim, AAA, who was then 10 years old and a Grade 2 student at Camp 7 Elementary School in Baguio City. She testified that on November 29, 2005, she went home from school at around 12 noon to have lunch.[3] On the way home, she met Rodrigo at his house. He brought her to his room and laid her down on the bed. He then raised her skirt and removed her panties. He pulled down his pants and then inserted his penis into her vagina.[4]

According to AAA, Rodrigo stayed on top of her for a long time, and when he withdrew his penis, white liquid came out. He then gave her five pesos (₱5.00) before she went back to school.[5]

AAA went back to school at about 2:10 p.m. Her adviser, Agustina Chapap, asked her where she came from because she was tardy. AAA initially did not answer. When asked again why she was tardy, AAA admitted she came from “Uncle Rod.” She also admitted that she went there to ask for money. Chapap then brought AAA to Rona Ambaken, AAA’s previous teacher. Together, they brought AAA to the principal’s office. AAA was brought to the comfort room where Ambaken inspected her panties. The principal was able to confirm that AAA

was touched since AAA's private organ was swelling. Her underwear was also wet.[6]

Another teacher, Jason Dalisdis, then brought AAA to Baguio General Hospital where her underwear was again inspected. Dr. Anvic Pascua also examined her. On the way to the hospital, Dalisdis passed by the barangay hall and the police station to report the incident.[7]

AAA also disclosed during trial that the accused-appellant had done the same thing to her about 10 times on separate occasions. After each act, he would give her ten (P10.00) or five (P5.00) pesos.[8]

The prosecution also presented Dr. Asuncion Ogues as an expert witness. Dr. Ogues was the superior of Dr. Pascua who examined AAA. Dr. Ogues testified based on the medical certificate issued by the examining physician that there was blunt force penetrating trauma that could have been caused by sexual abuse. She also stated that there was another medico-legal certificate issued by Dr. Carag, surgical resident of the Department of Surgery of Baguio General Hospital, showing findings of some hematoma in AAA's legs.[9]

In his defense, Rodrigo denied that AAA went to his house at 12 noon on November 29, 2005 and claimed he was already at work at 1:30 p.m. He has known AAA for a long time since his family rented the house of AAA's grandfather from 2001 to 2004.[10] When the police came and asked him if he knew AAA, he answered in the affirmative. He was then brought to Baguio General Hospital where he was told that AAA identified him as the one who raped her.[11]

Rodrigo admitted that he had a relationship with AAA's sister, and they even lived together as common-law spouses.[12] He also admitted that a similar complaint was filed against him by AAA's mother when AAA was eight years old, but they settled the case at the barangay level.[13]

On July 4, 2007, the trial court rendered a judgment[14] finding Rodrigo guilty beyond reasonable doubt of statutory rape and imposing on him the penalty of reclusion perpetua. He was additionally required to indemnify the offended party P50,000.00 moral damages and P25,000.00 exemplary damages with costs of suit.

Rodrigo appealed[15] to the Court of Appeals claiming that AAA's testimony fell short of the requirement of the law on the quantum of evidence required. He argued that she did not cry for help when her family's house was just nearby, which was cause for reasonable doubt that the trial court failed to appreciate.

On February 28, 2013, the Court of Appeals rendered a decision[16] affirming the conviction.

On March 11, 2013, Rodrigo filed a notice of appeal[17] with the appellate court, which was given due course in a resolution[18] dated March 15, 2013.

Hence, this appeal was instituted.

In the resolution[19] of September 9, 2013, this court required the parties to submit their respective supplemental briefs, if they so desired. Both parties, however, manifested that they were dispensing with the filing of a supplemental brief as their arguments were already substantially and exhaustively discussed in their respective briefs filed before the appellate court.

The only issue to be resolved by this court is whether the prosecution was able to prove beyond reasonable doubt that the accused-appellant was guilty of statutory rape punishable under Article 266-A of the Revised Penal Code.

Rape is defined in Article 266-A of the Revised Penal Code, which states:

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 otherwise unconscious;
- By means of fraudulent machination or grave abuse of authority; and
- When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

x x x x

Statutory rape is committed when (1) the offended party is under 12 years of age and (2) the accused has carnal knowledge of her, regardless of whether there was force, threat or intimidation; whether the victim was deprived of reason or consciousness; or whether it was done through fraud or grave abuse of authority. It is enough that the age of the victim is proven and that there was sexual intercourse.

People v. Teodoro[20] explained the elements of statutory rape committed under Article 266-A, paragraph (1) (d):

Rape under paragraph 3 of this article is termed statutory rape as it departs from the usual modes of committing rape. What the law punishes in statutory rape is carnal knowledge of a woman below twelve (12) years old. Thus, force, intimidation and physical evidence of injury are not relevant considerations; the only subject of inquiry is the age of the woman and whether carnal knowledge took place. The law presumes that the victim does not and cannot have a will of her own on account of her tender years; the child's consent is immaterial because of her presumed incapacity to discern good from evil. (Emphasis supplied)

The defense did not dispute the fact that AAA was 10 years old at the time of the incident. Her birth certificate was presented before the trial court.[21] What is critical in this case, therefore, is whether there is a showing that Rodrigo had carnal knowledge of AAA.

In the testimony of AAA, she narrated that on November 29, 2005, she met Rodrigo in his house, thus:

Q:

Now, when you met the accused, what did he do?

A:

He brought me in the room, Ma'am.

Q:

The room is located inside his house?

A:

Yes, Ma'am.

Q:

And, was that the first time you entered the room?

A:

(The witness nods.)

Q:

After entering the room, what did Uncle Rod tell you?

A:

He laid me down, Ma'am.

COURT:

Q:

Where?

A:

On the bed, Ma'am.

PROS. BERNABE:

Q:

Who were the persons inside the room aside from you and Uncle Rod?

A:

(Witness shook her head – meaning no persons around.)

Q:

After lying down on the bed, what did he do next?

A:

He raised up my skirt.

Q:

After raising up your skirt, what else did he do?

A:

He removed my panty, Ma'am.

Q:

Was he able to remove it from your legs your panty? [sic]

A:

No, Ma'am.

Q:

Until where was he able to remove?

A:

(Witness is pointing down to the ankle.)

Q:

After pulling down your panty until your ankle, what happened?

A:

He pulled down his short pants, Ma'am.

Q:

After pulling down his short pants, what did Uncle Rod do?

A:

He brought out his penis.

Q:

After bringing out his penis, what did he do next?

A:

He inserted his penis to my vagina, Ma'am.

Q:

Will you please show us where is your vagina?

A:

(The witness stood and pointed to her private part.)

Q:

You also mentioned AAA that Uncle Rod inserted his penis to your vagina, could you point to the "ari" of Uncle Rod?

A:

(The witness pointed to a portion where the private part of the elder brother was standing.)

Q:

Was it painful when Uncle Rod inserted his penis inside your vagina?

A:

Yes, Ma'am.

Q:

Did you cry when Uncle Rod inserted his penis inside your vagina?

A:

Yes, Ma'am.

Q:

Did he stay long on top of you? At around how many minutes?

A:

Very long, Ma'am.

Q:

Did he withdraw his penis from your vagina?

A:

Yes, Ma'am.

Q:

And after he withdrew his penis inside your vagina, what happened?

A:

There is some white liquid that came out of his penis, Ma'am.[22]

As shown by her testimony, AAA was able to narrate in a clear and categorical manner the ordeal that was done to her. As a child-victim who has taken significant risks in coming to court, her testimony deserves full weight and credence. *People v. Veloso*[23] stated that:

In a litany of cases, this Court has ruled that the testimonies of child-victims of rape are to be given full weight and credence. Reason and experience dictate that a girl of tender years, who barely understands sex and sexuality, is unlikely to impute to any man a crime so serious as rape, if what she claims is not true. Her candid narration of how she was raped bears the earmarks of credibility, especially if no ill will—as in this case—motivates her to testify falsely against the accused. It is well-settled that when a woman, more so when she is a minor, says she has been raped, she says in effect all that is required to prove the ravishment. The accused may thus be convicted solely on her testimony—provided it is credible, natural, convincing and consistent with human nature and the normal course of things.[24]

AAA's ordeal was supported by the testimonies of her teachers whose concern for her led to the discovery of the crime. The medical certificate presented in court, together with the testimonies of the physicians, is consistent with the finding that she was sexually abused.

Rodrigo asserted that AAA's failure to cry out for help shows reasonable doubt. He noted that her house was just near his house where the incident happened.

This argument is so feeble that it could only have been put up out of desperation.

Rodrigo was referred to by the child-victim as "Uncle Rod." He admitted that AAA's family had known him for a long time. Rodrigo had the trust and respect that any elder in the family of AAA had. Instead of providing the moral guidance that his status allowed him, he took advantage of AAA's youthful innocence to satiate his illicit carnal desires. To cover this up and seemingly justify his actions, he gave his child-victim the measly sum of five pesos. Rodrigo knew that what he did was wrong; AAA would have probably doubted whether such act was normal among adults.

With his moral ascendancy, it would not be unreasonable to assume that even the child-victim's desire for help would be muffled by her fear of her "Uncle Rod." To a young 10-year-old, the ordinary world can be daunting. To be so young and silently aware that one is the victim of such callous depravation by Rodrigo, who she could have expected to take care of her, can create the kind of lasting fear that diminishes the development of her own person and her own convictions.

In any case, whether she cried for help is immaterial in a charge of statutory rape since "[t]he law presumes that such a victim, on account of her tender age, does not and cannot have a will of her own." [25]

Beyond reasonable doubt, Rodrigo Gutierrez raped AAA, a minor who was only 10 years of age, on November 29, 2005.

Article 266-B of the Revised Penal Code requires that the penalty of reclusion perpetua shall be imposed in cases

of rape stated in the first paragraph of Article 266-A where there are no aggravating or qualifying circumstances present. The lower courts correctly imposed this penalty.

Their award of damages, however, must be modified in light of recent jurisprudence.

It is settled that the award of civil indemnity is mandatory upon a finding that rape was committed, along with the award of moral and exemplary damages.[26] In *People v. Degay*,[27] the accused-appellant was found guilty of raping his nine-year-old neighbor. This court did not hesitate to increase the award of civil indemnity and moral damages from P50,000.00 to P75,000.00. In *People v. Gambao*,[28] we have also increased the award of civil indemnity, moral damages, and exemplary damages to P100,000.00 each.

Due to the utter heinousness of the crime involved in this case, we, therefore, exercise our judicial prerogative and increase the damages to P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages.

There are not enough words to condemn the depravity that one adult can do to a child-victim. The many years that Rodrigo Gutierrez will, by law, serve in prison will, of course, not make up for the wrong and the injury that he has so selfishly and callously caused and with utter disregard for what truly makes us human: that we care, nurture, and protect our children because we hope that they can make their world better than ours. All this was lost on Rodrigo Gutierrez. The five pesos that he gave on every occasion that he defiled his child-victim simply underscores the ignominy of his act.

WHEREFORE, the decision of the Court of Appeals finding the accused-appellant Rodrigo Gutierrez y Robles guilty beyond reasonable doubt of statutory rape is **AFFIRMED with MODIFICATION**. The accused-appellant is sentenced to reclusion perpetua and is ordered to pay AAA the amount of P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages, with an interest of 6% per annum from the finality of this decision until its full satisfaction.

SO ORDERED.

Velasco, Jr., (Chairperson), Abad, Reyes,[*] and Perlas-Bernabe,[**] JJ., concur.

May 2, 2014

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on ____April 2, 2014____ a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on May 2, 2014 at 10:30 a.m.

Very truly yours,

(SGD)

LUCITA ABJELINA SORIANO

Division Clerk of Court

[*] Justice Bienvenido L. Reyes was designated as Acting Member of the Third Division, vice Justice Diosdado M. Peralta per raffle dated August 5, 2013.

[**] Associate Justice Estela M. Perlas-Bernabe was designated as Acting Member of the Third Division, vice Associate Justice Jose Catral Mendoza, per Special Order No. 1656 dated March 27, 2014.

- [1] Rollo, pp. 2-14.
- [2] Rollo, Court of Appeals, p. 13.
- [3] Id. at 45-46.
- [4] Id. at 46.
- [5] Rollo, p. 3.
- [6] Rollo, Court of Appeals, p. 47.
- [7] Id. at 48.
- [8] Rollo, p. 4.
- [9] Rollo, Court of Appeals, p. 49.
- [10] Id. at 50.
- [11] Rollo, p. 6.
- [12] Id.
- [13] Id. at 7.
- [14] Rollo, Court of Appeals, pp. 44-57.
- [15] Id. at 83-94.
- [16] Per Tenth Division, penned by J. Gacutan, and concurred in by J. Lampas-Peralta and J. Acosta.
- [17] Rollo, Court of Appeals, p. 159.
- [18] Id. at 163.
- [19] Rollo, p. 20.
- [20] G.R. No. 175876, February 20, 2013, 691 SCRA 324 [Per J. Bersamin, First Division], also cited in *People v. Vergara*, G.R. No. 199226, January 15, 2014 [Per J. Leonardo-De Castro, First Division].
- [21] See Regional Trial Court judgment, p. 45.
- [22] TSN, June 22, 2006, pp. 9-11; rollo, pp. 9-11.
- [23] G.R. No. 188849, February 13, 2013, 690 SCRA 586 [Per J. Leonardo-De Castro, First Division].
- [24] Id. at 597, citing *People v. Salazar*, G.R. No. 181900, October 20, 2010, 634 SCRA 307, 318-319 [Per J. Velasco, Jr., First Division].
- [25] *People v. Bagos*, G.R. No. 177152, January 6, 2010, 610 SCRA 1, 15 [Per J. Leonardo-De Castro, First Division], citing *People v. Malones*, 469 Phil. 301, 325-326 (2004) [Per J. Callejo, Sr., Second Division].
- [26] See *People v. Teodoro*, G.R. No. 175876, February 20, 2013, 691 SCRA 324, 345-346 [Per J. Bersamin, First Division].
- [27] G.R. No. 182526, August 25, 2010, 629 SCRA 409 [Per J. Perez, First Division].
- [28] G.R. No. 172707, October 1, 2013 [Per J. Perez, En Banc].

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