

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REYNALDO SIMBULAN ARCEO, ACCUSED-APPELLANT.

G.R. No. 208842. November 10, 2015

Ponente: PEREZ, J.

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PEREZ, J.:

Before us for review is the Decision[1] dated 12 March 2013 of the Court of Appeals in CA-G.R. CR-H.C. No. 04544 which affirmed the Judgment[2] of the Regional Trial Court (RTC) of Angeles City, Pampanga, Branch 60, in Criminal Case No. 00-871, finding accused-appellant Reynaldo Simbulan Arceo guilty beyond reasonable doubt of the crime of rape.

Accused-appellant was charged with rape in an Information, the accusatory portion of which reads:

That on or about the 22[nd] day of July 2000, in the [M]unicipality of Magalang, [P]rovince of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Reynaldo Simbulan Arceo, with lewd design, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with [MMM],[3] twelve (12) years old, a minor, against her will and without her consent.[4]

On arraignment, accused-appellant pleaded not guilty. Trial then proceeded with the prosecution seeking to establish the following facts:

MMM lived with her parents and her siblings in a house in Pampanga. At around 2:30 a.m. on 22 July 2000, MMM was sleeping beside her siblings when she was awakened by a pain in her vagina.[5] She then saw accused-appellant who covered her mouth, lay on top of her and straddled her with his feet. MMM fought back by kicking accused-appellant on the stomach,[6] causing the latter to run out of the house.[7] MMM thereafter noticed that her shorts were unbuttoned and her underwear was already pulled down to her thighs.[8] By that time, her siblings were already awake. MMM's brother was awakened by MMM's shout for help and he saw accused-appellant lying on top of MMM.[9]

MMM, together with her siblings, got out of the house and sought help from her neighbor, a certain Vangie. Upon learning that MMM was raped by accused-appellant, Vangie went to MMM's house but she did not find accused-appellant thereat.[10]

When MMM's father came home on that same day, his wife told him that someone entered their house. He came to know the following day, directly from his daughter MMM, that she was raped by accused-appellant.[11]

Thereafter, they reported the incident to the barangay and to the police station where sworn statements from MMM and her brother were executed.[12] MMM was also subjected to a physical examination by Dr. Jocelyn F. Toledano (Dr. Toledano) who revealed the following finding in her medical report:

GENITALIA: With abrasion at the left upper & middle quadrant of the labia minora.[13]

Accused-appellant denied raping MMM. For his defense, he claimed that he was in his house located about four houses away from the house of MMM, and he was sleeping when he was awakened by Vangie.[14] Vangie was allegedly asking for accused-appellant's help because someone entered MMM's house. Accused-appellant's sister prevented him from leaving the house because he might be implicated of a wrongdoing.[15] On the following day, accused-appellant was surprised to know that he was being implicated in the rape of MMM.[16]

On 20 January 2010, the RTC rendered a judgment finding accused-appellant guilty of rape and sentencing him to suffer the penalty of reclusion perpetua. Accused-appellant was further ordered to indemnify MMM the sum of P70,000.00 plus moral damages in the amount of P75,000.00.

The trial court found the testimony of the victim credible and convincing, while it disfavored accused-appellant's bare denial. It accordingly decided that:

WHEREFORE, finding the accused Reynaldo Simbulan Arceo guilty beyond reasonable doubt of the crime of Rape and considering the presence of aggravating circumstance of minority, he is hereby sentenced to suffer the penalty of reclusion perpetua in this case.

Accused is likewise ordered to indemnify the victim [MMM] the amount of P75,000.00 and another amount of P75,000.00 as moral damages.

With cost against the accused.[17]

Accused-appellant appealed his conviction to the Court of Appeals on 7 June 2010,[18] arguing that:

I.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF RAPE UNDER PARAGRAPH 1(A), ARTICLE 266-A OF THE REVISED PENAL CODE AS AMENDED BY R.A. NO. 8353, DESPITE THE PROSECUTION'S FAILURE TO PROVE THE ESSENTIAL ELEMENT OF INTIMIDATION;

II.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT; AND

III.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF RAPE UNDER PARAGRAPH 1(D), ARTICLE 266-A OF THE REVISED PENAL CODE, AS AMENDED BY R.A. NO. 8353, DESPITE THE CLEAR EVIDENCE THAT THE PRIVATE COMPLAINANT WAS OVER TWELVE (12) YEARS OLD AT THE TIME OF THE ALLEGED RAPE ON JULY 22, 2000.[19]

On 12 March 2013, the Court of Appeals rendered the assailed decision affirming in toto the trial court's judgment.

Accused-appellant filed the instant appeal. In a Resolution[20] dated 13 November 2013, the parties were required to simultaneously submit their respective supplemental briefs if they so desired. Both parties manifested that they were adopting their respective briefs filed before the appellate court.[21] Thereafter, the case was deemed submitted for decision.

In his Brief,[22] accused-appellant contends that the element of intimidation is lacking in this case to prove his guilt to the crime of rape. Accused-appellant asserts that based on MMM's testimony, he did not employ

intimidation as to have cowed her into submission. His alleged acts of covering MMM's mouth and straddling her with his legs were performed only after MMM woke up and were never used to compel MMM into having sexual intercourse with him. Accused-appellant also assails the lack of medical basis to prove that there was sexual contact between him and MMM. The medical report does not corroborate MMM's testimony, as the abrasion could have been brought about by other causes. Accused-appellant avers that the prosecution failed to prove that MMM was below twelve (12) years of age at the time of the commission of the crime resulting in the absence of one element lacking of the crime of rape. Based on MMM's birth certificate, she was born on 21 November 1987 thus she was 12 years and 8 months old on 22 July 2000, the date of the alleged rape.

On the other hand, the Office of the Solicitor General (OSG) maintains that the rape was committed through force because accused-appellant "forced" himself on MMM while the latter was sleeping. The OSG argues that the medical certificate is not necessary to prove the crime of rape and that the credible testimony of the victim is sufficient to sustain a conviction. The OSG stresses that accused-appellant was correctly found guilty of simple rape with the aggravating circumstance of minority.[23]

The core issue is whether accused-appellant is guilty of rape beyond reasonable doubt.

In *People v. Ocdol*,[24] the Court ruled that -

[D]ue to its intimate nature, rape is usually a crime bereft of witnesses, and, more often than not, the victim is left to testify for herself. Thus, in the resolution of rape cases, the victim's credibility becomes the primordial consideration. It is settled that when the 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.[25]

It is an established doctrine that "factual findings of the trial court [which are supported by evidence], especially on the credibility of the rape victim, are accorded great weight and respect and will not be disturbed on appeal." [26]

The trial court convicted accused-appellant on the basis of MMM's testimony which it found to be "unwavering, forthright and consistent with the medical findings." [27] The Court of Appeals observed that MMM's testimony was "straightforward, categorical and honest." [28]

After a careful scrutiny of the evidence on record, we uphold the credibility of MMM.

Accused-appellant is charged with rape under Article 266-A of the Revised Penal Code. For conviction to be had in the crime of rape, the following elements must be proven beyond reasonable doubt: (1) that the accused had carnal knowledge of the victim; and (2) that said act was accomplished (a) through the use of force or intimidation, or (b) when the victim is deprived of reason or otherwise unconscious, or (c) when the victim is under 12 years of age or is demented.[29]

MMM recounted her harrowing experience as she testified that accused-appellant had carnal knowledge of her through the employment of force, as follows:

Q:

x x x

x x x x

When you were then sleeping on July 22, 2001 at around 2:30 o'clock (sic) in the morning, do you remember having unusual incident that happened?

A:

There is.

Q:

What was the unusual incident that happened?

Court:

That was already asked last time.

Pros. Pangilinan: Not yet, Your Honor.

Court:

Okay, may answer.

A:

Someone entered our house, sir.

Pros. Pangilinan: And did you come to know the person who entered your house?

A:

Yes sir.

Q:

Who was this person?

A:

Reynaldo Simbulan Arceo, sir.

Q:

Are you referring to the accused in this case?

A:

Yes sir.

Q:

How did you come to know that accused entered your house on the said date and time?

A:

Because I was able to see him and I was able to recognize him, sir.

Q:

How were you able to recognize him?

A:

Because the florescent lamp (sic) of our neighbor who is a tailor reflects through the window which has no covering.

Q:

Where was the accused when you saw his face?

Atty. Yao:

Objection. That will be very leading.

Pros. Pangilinan: Where was the accused when you recognized him?

A:

He was [in front] of me sir.

Q:

What was his position when he was [in front] of you?

A:

I could not exactly tell his position but I know he was [in front] of me, sir.

Q:

What about you, what was your position then?

A:

I was [lying] down, sir.

Q:

What was he doing when you noticed him?

A:

That is it sir, he covered my mouth.

Court:

You did not see his position the first time you saw him facing you?

A:

No ma'am because he covered my mouth.

Court:

Where was his body in relation to you when you were [lying] down?

A:

On a leaning position and covering my mouth, ma'am.

Court:

Where was he, to your left or to your right?

A:

He was in front of me, ma'am.

Pros. Pangilinan: What happened to you when he covered your mouth?

A:

I fought back, sir.

Q:

What did he do when you fought back?

Court:

The Court would like to determine the position of the accused.

You said that the accused was leaning towards you. Do you know if his feet were straddle[d] on top of you?

A:

He is in a straddle position.

Q:

How did you fight him?

A:

I kicked him, sir.

Q:

On what part of his body did you kick him?

A:

On his stomach (witness pointing to her stomach).

Q:

What prompted you to kick him?

A:

Because I am afraid that he might harm us.

Q:

Why are you afraid that he might harm you?

A:

I am afraid that he might rape me and might do something bad against me.

Pros. Pangilinan: By the way, what were you wearing at that time?

A:

I was wearing a sweater and shorts sir.

Q:

Do you have any underwear at that time?

A:

Yes sir.

Q:

When you were awaken[ed] by that person who was in front of you[,] did you notice the relative position of your short pants and underwear?

A:

The shorts was already unzipped together with the buttons and my panty was already pulled down up to my thighs, sir.[30]

It must be noted that even during the cross-examination, MMM did not waver and remained consistent all throughout, viz.:

[Q: And all of you were sleeping in one room? A: Yes, sir, we were sleeping beside each other. Q: In relation to this Aaron and other siblings, where were you situated? A: I was in the middle between my youngest and second to the youngest siblings, sir. Q: During that time where were your parents? A: They were in Manila, sir. Q: Do you know why they were in Manila? A: They were working, sir. Q: In particular, who is working, your father or your mother or both of them? A: Both of them, sir. Q: Who is left to take care of you while your father and your mother were working in Manila? A: The mother of Aaron, ate Vangie, was the one taking care of us but she is not sleeping with us, sir. Court: Q: Where does she sleep? A: In their house, ma'am Atty. Yao: Q: How far is their house in relation to your house where you were staying madam witness? A: Five (5) houses away from our house, sir. Q: You said that you were suddenly awakened by someone whom you thought was your father and you stated that this person suddenly covered your mouth with his hand and you fought back when he tried to cover your mouth, were you still lying on the floor? A: Yes, sir. Q: When you fought back did you notice if Aaron and other siblings were awakened? A: I did not notice, sir. Q: Did you not try to ask or try to get hold of them while you were fighting back during that time madam witness? A: No sir. Q: Thereafter, you stated you shouted for help, during that time that you shouted for help was this person who covered your mouth still in your room? A: When I shouted for help he already left because I kicked him and he readily ran outside, sir. Q: You said that you kicked him, what part of his body did you kick him? A: On his stomach, sir. Q: And then you stated that [you] stood up to ask for help, is that correct? A: Yes, sir. Q: And it was during that time when you stood up and your short pants [fell] down, is that correct madam witness? A: Yes, sir.[31]]

MMM vividly recounted her ordeal in the hands of accused-appellant. Her testimony was corroborated by her brother who merely reiterated what he had earlier executed in his sworn statement to the police officer that he was awakened by his sister shouting for help and fighting off accused-appellant's sexual advances.[32]

The medical findings of Dr. Toledano show that MMM suffered abrasion at the left upper and middle quadrant of the labia minora. Accused-appellant, however, finds the medical report wanting as proof of sexual contact between him and MMM. He capitalizes on the alleged absence of any finding of penetration in MMM's female organ.

On this submission, the Court of Appeals correctly observed that:

Premised on MM[M]'s narration that she was awakened by pain on her vagina and shocked to find her short[s] and panty lowered and accused-appellant on top of her who promptly covered her mouth to silence her, there is indubitable proof that accused-appellant had sexual intercourse with her. As heretofore stated, full penetration is not necessary to prove rape, as the slightest penetration or mere touching of the labia consummates the crime. In this case, the fact of forceful sexual intercourse is even bolstered and confirmed by the physical examination on the private part of MM[M] which revealed that she sustained abrasions on the left upper and middle quadrant of her labia minora. Indeed, as jurisprudence tell [u]s, when a victim's testimony of her violation is corroborated by physical finding of penetration, there is sufficient foundation for concluding that

there was carnal knowledge.[33]

Having established the elements of carnal knowledge accompanied by force, the crime of rape was successfully proven by the prosecution.

The trial court properly appreciated minority, which was pleaded in the Information, as an aggravating circumstance. According to MMM's birth certificate, she was 12 years and 8 months old at the time of the rape. Said document was offered and presented in evidence by the prosecution.

Nevertheless, "the presence of an aggravating circumstance cannot serve to raise the penalty to be imposed [because] simple rape is punishable by the single indivisible penalty of reclusion perpetua, that penalty shall, pursuant to the first paragraph of Article 63 of the Revised Penal Code, be imposed regardless of any modifying circumstance that might have attended the commission of the crime." [34]

Pursuant to prevailing jurisprudence, a modification on the award of damages is in order. In line with our ruling in *People of the Philippines v. Domingo Gallano y Jaranilla*, [35] we reduce the amount of civil indemnity and moral damages to P50,000.00 each. However, we award exemplary damages in the amount of P30,000.00. When a crime is committed with an aggravating circumstance either as qualifying or generic, an award of exemplary damages is justified under Article 2230 of the New Civil Code. In addition, interest at the rate of 6% per annum shall be imposed on all damages awarded from the date of the finality of this judgment until fully paid. [36]

WHEREFORE, the Decision of the Court of Appeals dated 12 March 2013, finding accused-appellant Reynaldo Simbulan Arceo guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua, is **AFFIRMED with MODIFICATION**. The civil indemnity awarded is reduced to P50,000.00 and the amount of moral damages is reduced to P50,000.00. In addition, exemplary damages in the amount of P30,000.00 is awarded. The amounts of damages shall earn interest at the rate of 6% per annum from the date of finality of this judgment until fully paid.

SO ORDERED.

Sereno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, Perez, and Perlas-Bernabe, JJ., concur.

[1] Rollo, pp. 2-10; Penned by Associate Justice Manuel M. Barrios with Associate Justices Remedios Salazar-Fernando and Normandie B. Pizarro concurring.

[2] CA rollo, pp. 13-32; Presided by Judge Ofelia Tuazon Pinto.

[3] 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).

[4] Records, p. 2.

[5] Id. at 13.

[6] TSN, 23 March 2001, pp. 2-4

[7] TSN, 7 September 2001, p. 4.

[8] TSN, 23 March 2001, p. 4.

[9] TSN, 6 February 2002, p. 6.

- [10] TSN, 6 July 2001, pp. 4-5.
- [11] TSN, 13 September 2002, pp. 4-5.
- [12] Records, pp. 11-12.
- [13] Id. at 14.
- [14] TSN, 13 January 2006, p. 5.
- [15] TSN, 18 January 2008, pp. 2-3.
- [16] Rollo, p. 5.
- [17] CA rollo, p. 32.
- [18] Id. at 33.
- [19] Rollo, pp. 5-6.
- [20] Id. at 16.
- [21] Id. at 18-19 and 22-23.
- [22] CA rollo, pp. 47-63.
- [23] Id. at 107-123.
- [24] G.R. No. 200645, 20 August 2014, 733 SCRA 561.
- [25] Id. at 574.
- [26] People v. Lumaho, G.R. No. 208716, 24 September 2014, 736 SCRA 542, 553.
- [27] CA rollo, p. 85.
- [28] Rollo, p. 9.
- [29] People v. Baldo, 599 Phil. 382, 388 (2009).
- [30] TSN, 23 March 2001, pp. 2-4.
- [31] TSN, 7 September 2001, pp. 3-4.
- [32] Records, p. 12.
- [33] Rollo, p. 8.
- [34] People v. Esperanza, 453 Phil. 54, 77 (2003).
- [35] G.R. No. 184762, 25 February 2015.
- [35] People v. Cabungan, G.R. No. 189355, 23 January 2013, 689 SCRA 236, 248-249.

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