

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO CLOSA Y LUALHATI, ACCUSED-APPELLANT,

G.R. No. 211049. August 06, 2014

Ponente: REYES, J.

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REYES, J.:

Appealed in this case is the Decision[1] dated August 15, 2013 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05103, affirming with modification the Joint Decision[2] dated April 26, 2011, rendered by the Regional Trial Court (RTC) of Calapan City, Oriental Mindoro, Branch 39, in Criminal Case Nos. CR-09-9684, CR-09-9685, CR-09-9686, for Rape. The dispositive portion of the CA Decision provides:

WHEREFORE, the Joint Decision dated April 26, 2011 of the Regional Trial Court of Calapan City, Oriental Mindoro, Branch 39, in Criminal Case Nos. CR-09-9684, CR-09-9685, CR-09-9686 is AFFIRMED WITH MODIFICATION.

Accused-appellant Romeo Closa y Lualhati is SENTENCED to suffer EIGHT (8) YEARS and ONE (1) DAY of PRISION MAYOR, as minimum, to SEVENTEEN (17) YEARS and FOUR (4) MONTHS of RECLUSION TEMPORAL, as maximum, IN CRIM. CASE NO. CR-09-9686. Also, accused-appellant is ORDERED to pay exemplary damages in the amount of P30,000.00 each in Criminal Case Nos. CR-09-9684, CR-09-9685, CR-09-9686.

IN ALL OTHER RESPECTS, the said Joint Decision is AFFIRMED.

SO ORDERED.[3]

Antecedent Facts

Accused-appellant Romeo Closa y Lualhati (accused-appellant) was charged with two (2) counts of rape and one (1) count of attempted rape of his minor daughter AAA.[4] The accusatory portions of the Informations, all dated November 6, 2009, read as follows:

CRIM. CASE NO. CR-09-9684

x x x

That in the year 2006, in Barangay xxx, City of xxx, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of the tender age of the complainant and his moral ascendancy over her, he being her father and by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously had carnal knowledge of AAA, his ten (10) year-old daughter, and therefore a relative within the first civil degree and living with him in the same house, against her will and without her consent, act/s which debase, degrade and demean the intrinsic worth and dignity of the said AAA, as a minor, to her damage and prejudice.

x x x

CRIM. CASE NO. CR-09-9685

x x x

That in the evening of the 26th day of October 2009 in Barangay xxx, City of xxx Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of the tender age of the complainant and his moral ascendancy over her, he being her father and by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously had carnal knowledge of AAA, his thirteen (13) year-old daughter, and therefore a relative within the first civil degree and living with him in the same house, against her will and without her consent, act/s which debase, degrade and demean the intrinsic worth and dignity of the said AAA, as a minor, to her damage and prejudice.

x x x.

CRIM. CASE NO. CR-09-9686

x x x

That on or about the 4th day of November 2009, at around 7:00 o'clock in the morning, more or less, in Barangay xxx, City of xxx, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully, feloniously commence the commission of the crime of rape [against] AAA, his thirteen (13) year-old daughter, and therefore a relative within the first civil degree and living with him in the same house, directly by overt acts by removing her garments and going on top of her, but said accused was not able to perform all the acts by removing her garments and going on top of her, but said accused was not able to perform all the acts of execution that would consummate the crime of rape due to some cause other than his own spontaneous desistance; act/s of child abuse which degrade, debase and demean the intrinsic worth and dignity of the said AAA to her damage and prejudice.[5]

When arraigned on November 11, 2009, the accused-appellant pleaded “not guilty.” During the pre-trial, the parties reached no stipulation of facts.[6] Trial followed, and private complainant AAA testified. Born on February 13, 1996 and the eldest of six (6) children of the accused-appellant, AAA was only ten (10) years old and in Grade 2 when the first rape allegedly took place in Barangay x x x, x x x City, one night in 2006. Her mother was in Batangas to attend an occasion, and she was asleep with four (4) of her siblings when the accused-appellant, who slept in the sala, entered her room, moved aside her baby sister who slept beside her, pulled down her shorts and underwear, mounted her and inserted his penis into her vagina. For 10 minutes he did a pumping motion, causing AAA much pain. Being only ten (10) years old, AAA did not understand the full meaning of what her father did to her. In her fear of her father, she kept silent about it.[7]

The accused-appellant continued to rape AAA during the next three years—too many times that she could not recall the dates when they happened. But on October 26, 2009, when she was 13 years old, her mother took one of her sisters to Batangas City for medical check-up. That night, the accused-appellant again entered her room, moved aside the child beside her, removed her undergarments, mounted her and inserted his penis inside her vagina. He pumped for 10 minutes and after he ejaculated inside her he stood up. Afraid of what the accused-appellant might do to her and her mother, AAA chose to keep quiet about the incident.[8] AAA became pregnant and eventually pointed to the accused-appellant as the father. She also admitted that she had come to hate her father.

The last incident occurred in the morning of November 4, 2009, while AAA’s mother and an aunt were away on a visit. The accused-appellant ordered her to lie down on the bed, removed her undergarments, opened her legs and was about to insert his penis inside her when the dog suddenly barked. Startled, the accused-appellant desisted, got up and left. AAA’s mother returned and saw her crying, and AAA told her what happened. AAA’s aunt then reported to the police, who came and arrested the accused-appellant.[9]

For his defense, the accused-appellant called AAA herself to the witness stand on January 17, 2011. She affirmed that she executed an affidavit of desistance and that she was recanting her previous testimony, saying this time that it was her boyfriend who had impregnated her.[10]

On April 26, 2011, the trial court rendered its decision finding the accused-appellant guilty beyond reasonable doubt of two (2) counts of rape and one (1) count of attempted rape. It found that the original testimony of AAA was substantiated by the medical examination conducted on her, whereas her recantation did not show that her previous testimony was vitiated. The trial court also noted that she recanted due to pressures exerted upon her by her family.[11] The trial court thus disposed, to wit:

ACCORDINGLY, in view of the foregoing, judgment is hereby rendered as follows:

1. In Criminal Case No. CR-09-9684, this Court finds the accused ROMEO CLOSA y LUALHATI GUILTY beyond reasonable doubt of the crime charged against him in the aforequoted information and hereby sentences him to suffer the penalty of RECLUSION PERPETUA, WITHOUT ELIGIBILITY FOR PAROLE, and to pay private complainant AAA the amount of [P]75,000.00 as civil indemnity, [P]75,000.00 as moral damages, [P]25,000.00 as exemplary damages and to pay the costs;

2. In Criminal Case No. CR-09-9685, this Court finds the accused ROMEO CLOSA y LUALHATI GUILTY beyond reasonable doubt of the crime charged against him in the aforequoted information and hereby sentences him to suffer the penalty of RECLUSION PERPETUA, WITHOUT ELIGIBILITY FOR PAROLE, and to pay private complainant AAA the amount of [P]75,000.00 as civil indemnity, [P]75,000.00 as moral damages, [P]25,000.00 as exemplary damages and to pay the costs;

3. In Criminal Case No. CR-09-9686, this Court finds the accused ROMEO CLOSA y LUALHATI GUILTY beyond reasonable doubt of the crime charged against him in the aforequoted information and hereby sentences him to suffer an indeterminate penalty of TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY OF PRISION CORRECCIONAL as minimum, to EIGHT (8) YEARS and ONE (1) DAY OF PRISION MAYOR as maximum and to pay private complainant AAA the amount of [P]30,000.00 as civil indemnity, [P]25,000.00 as moral damages and [P]10,000.00 as exemplary damages.[12]

On appeal to the CA, the accused-appellant assigned a lone error, that the prosecution failed to prove his guilt beyond reasonable doubt, claiming that AAA's testimony was riddled with inconsistencies and that, more importantly, she had retracted her testimony.[13] In particular, he claimed that AAA's testimony was attended with numerous misgivings, inconsistencies and contradictions, i.e. she could not recall the dates when she was allegedly raped in the years 2007, 2008 and 2009; she said her birth was not registered but later she identified her birth certificate. Also, he claims that AAA was coached or led by the prosecutor as to the date of the second rape, October 26, 2009.[14]

The appellate court upheld the RTC's finding of guilt, and rejected the objections of the accused-appellant. In this automatic review before us, both the accused-appellant and the Office of Solicitor General (OSG) waived the submission of a supplemental brief.

Our Ruling

The appeal is bereft of merit.

Only ten (10) years old when she was first raped by her father, and thirteen (13) years old when she testified in court, AAA knew that something shameful had happened to her; yet, she willingly subjected herself to the rigors and humiliation of a public trial, by publicly reliving the outrageous deed done to her by her own father. Her testimony of the remorseless and unrelenting sexual abuse, committed by a person who should have protected her from such a harrowing ordeal, is straightforward and forthright. In *People v. Pangilinan*,^[15] we stated that:

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. A rape victim's testimony against her parent is entitled to great weight since Filipino children have a natural reverence and respect for their elders. These values are so deeply ingrained in Filipino families and it is unthinkable for a daughter to brazenly concoct a story of rape against her, if such were not true.[16]

Rape is committed in secrecy, and often it is only the victim who can testify as to the fact of the forced coitus.[17] AAA's sole testimony is sufficient to produce conviction.[18] When a woman says she was raped, she says in effect all that is necessary to show that a rape was committed, and if her testimony meets the test of credibility, conviction may issue on the basis thereof.[19] This holds true with greater force when the woman is the minor daughter of the accused-appellant, and no motive has been shown why she would concoct such a sordid charge against her own father, unless it is true.[20]

Since a charge of rape by its very nature often must be resolved by giving primordial consideration to the credibility of the victim's testimony,[21] because conviction may rest solely thereon, it is required that the victim's testimony be credible, natural, convincing, and consistent with human nature and the normal course of things.[22] The testimony of the victim must be scrutinized with utmost caution; and unavoidably, her own credibility as well must be put on trial.[23] Equally important is the settled rule that the findings of fact of the trial court are accorded the highest degree of respect by this Court considering that the trial judge is able to personally observe the demeanor of the victim and other witnesses.[24] Thus, the findings may be disturbed only when: (1) the conclusion is a finding grounded entirely on speculations, surmises and conjectures; (2) the inferences made are manifestly mistaken; (3) there is grave abuse of discretion; and (4) the judgment is based on misapprehension of facts or premised on the absence of evidence on record.[25] In *People v. Guanson*,[26] the Court held that:

Well-entrenched in our jurisprudence is the doctrine that assessment of the credibility of witnesses lies within the province and competence of trial courts. The matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge who, unlike appellate magistrates, could weigh such testimony in light of the declarant's demeanor, conduct and attitude at the trial and is thereby placed in a more competent position to discriminate the truth against falsehood. Thus, appellate courts will not disturb the credence, or lack of it, accorded by the trial court to the testimonies of witnesses, unless it be clearly shown that the latter court had overlooked or disregarded arbitrarily the facts and circumstance of significance.[27]

In the instant case, both the RTC and the appellate court conducted a painstaking review of the charges against the accused-appellant, and both affirmed that indeed the accused-appellant raped his daughter, AAA, twice and attempted to rape her once. But the accused-appellant insists that AAA's testimony is flawed due to numerous misgivings, inconsistencies and contradictions. He points out that AAA could not recall the dates when he allegedly raped her in the years 2007, 2008 and 2009. Also, she first said that her birth was not registered, but later she identified her birth certificate. The accused-appellant also claims that AAA was coached as to the date of the second rape, October 26, 2009.

The accused-appellant's contentions are untenable. Except for the three dates mentioned in the Informations, the accused-appellant is not being charged with the "many" other rapes he committed between 2006 and 2009. Considering AAA's very tender youth and the internal turmoil the accused-appellant caused her by his unrelenting abuses, it would not be fair to expect AAA to remember the exact dates when each of these other rapes occurred. Nonetheless, the precise date or time of the commission of the rape is not an essential element of

the crime of rape.[28] Contrary to the accused-appellant's allegation, the appellate court noted from the transcript that it was AAA herself and not the prosecutor who supplied the date of the second reported rape, October 26, 2009.

Concerning AAA's affidavit of desistance, it is important to note that it was executed only after AAA had completed her testimony, boldly and candidly accusing her father of rape.[29] The RTC and the appellate court are correct to disregard AAA's said affidavit.

The Court agrees with the appellate court that the accused-appellant was correctly convicted by the RTC of the crimes charged. The death penalty having been suspended, the Court affirms the sentence of reclusion perpetua in Crim. Case Nos. CR-09-9684 and CR-09-9685, but as to Crim. Case No. CR-09-9686, for attempted rape, the Court agrees with the appellate court that the RTC incorrectly imposed an indeterminate sentence of two (2) years, four (4) months and one (1) day of prision correccional, as minimum, to eight (8) years and one (1) day of prision mayor, as maximum.

Under Article 51 of the Revised Penal Code, the penalty lower by two degrees than that prescribed for the consummated felony shall be imposed in the attempted stage. Death being the statutory penalty for rape committed by a person against his own child, pursuant to Article 266-B of the Revised Penal Code, the penalty lower by two degrees is reclusion temporal, which has a range of twelve (12) years and one (1) day to twenty (20) years. Applying Section 1 of the Indeterminate Sentence Law, which provides that the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Revised Penal Code, and the minimum which shall be within the range of the penalty next lower to that prescribed, the accused-appellant should be sentenced to eight (8) years and one (1) day of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum.

Finally, pursuant to *People v. Laog*,[30] the award of exemplary damages is increased to P30,000.00 per crime in view of the aggravating circumstances of minority and relationship.

WHEREFORE, premises considered, the Decision of the Court of Appeals dated August 15, 2013 in CA-G.R. CR-HC No. 05103 is AFFIRMED.

SO ORDERED.

Sereno, C.J., (Chairperson), Bersamin,[*] Villarama, Jr., and Mendoza,[**] 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 Ramon M. Bato, Jr., with Presiding Justice Andres B. Reyes, Jr. and Associate Justice Rodil V. Zalameda, concurring; CA rollo, pp. 109-124.

[2] Issued by Judge Manuel C. Luna, Jr.; *id.* at 12-19.

[3] *Id.* at 123.

[4] 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.

[5] Id. at 110-111.

[6] Id. at 111-112.

[7] Id. at 112.

[8] Id.

[9] Id. at 112-113.

[10] Id. at 113.

[11] Id.

[12] Id. at 18-19.

[13] Id. at 114.

[14] Id. at 120-121.

[15] 547 Phil. 260 (2007).

[16] Id. at 285-286.

[17] *People v. Quijada*, 377 Phil. 202, 209 (1999).

[18] *People v. Ciria*, 193 Phil. 550, 559 (1981).

[19] *People v. Paculba*, G.R. No. 183453, March 9, 2010, 614 SCRA 755, 763-764, citing *People v. Mingming*, 594 Phil. 170 (2008); *People v. Capareda*, 473 Phil. 301, 330 (2004); *People v. Galido*, G.R. Nos. 148689-92, March 30, 2004, 426 SCRA 502, 516.

[20] *People v. Capareda*, 473 Phil. 301, 330 (2004).

[21] *People v. Noveras*, 550 Phil. 871, 881 (2007).

[22] *People v. Nazareno*, 574 Phil. 175, 191-192 (2008).

[23] *People v. Jalosjos*, 421 Phil. 43, 54 (2001).

[24] *Dela Cruz v. Court of Appeals*, 333 Phil. 126, 136 (1996).

[25] *Dela Cruz v. People*, 503 Phil. 170, 184 (2005).

[26] 423 Phil 452 (2001).

[27] Id. at 461.

[28] CA rollo, p. 121.

[29] Id. at 122.

[30] G.R. No. 178321, October 05, 2011, 658 SCRA 654.

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