

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO BALCUEVA Y BONDOCOY, ACCUSED-APPELLANT.

G.R. No. 214466. July 01, 2015

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal[1] filed by accused-appellant Antonio Balcueva y Bondocoy (Balcueva) assailing the Decision[2] dated April 30, 2014 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05791, which affirmed the Decision[3] dated September 11, 2012 of the Regional Trial Court of Quezon City, Branch 89 (RTC) in Crim. Case No. Q-07-145514 finding Balcueva guilty beyond reasonable doubt of the crime of Qualified Rape under the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 8353,[4] otherwise known as the "Anti-Rape Law of 1997."

The Facts

On February 20, 2007, a criminal information was filed before the RTC charging Balcueva of raping his biological daughter, AAA,[5] viz.:

That on or about the 15[th] day of February 2007, in Quezon City, Philippines, the said accused, did then and there, willfully, unlawfully and feloniously, with lewd design by means of force, threat and intimidation had carnal knowledge upon the person of [AAA], a minor fourteen (14) years of age, his daughter, against her will and without her consent, to her damage and prejudice.

Contrary to law.[6]

According to the prosecution, at around 2 o'clock in the afternoon of February 15, 2007, AAA just returned home from school and since Balcueva did not want her to leave the house, she decided to just take an afternoon nap. At that time, Balcueva asked AAA's siblings to leave the house and thereafter, approached AAA who was lying in bed, removed her shorts and underwear, and threatened to spank her if she told anybody about this incident. Balcueva then removed his shorts and underwear, mounted AAA, restrained her hands, and inserted his penis into her vagina. AAA resisted and even told Balcueva that she was having her menstruation, but Balcueva simply told her to keep quiet and that it was better as she will not get pregnant. While Balcueva was ravishing AAA, the latter's sister sought the help of their neighbor, who then peeped through a hole, interrupting Balcueva in his dastardly act. Thereafter, AAA's sister and their neighbor reported the incident to the barangay hall, which led to Balcueva's apprehension.[7]

For his part, Balcueva interposed the defense of denial and alibi. He averred that at around 12 and 1 o'clock in the afternoon of February 15, 2007, he was repairing appliances when AAA and a friend arrived from school and asked him if they can roam around. When he did not allow them to do so, AAA and her friend got angry. In retaliation, they went to the barangay hall and fabricated the story that he raped AAA.[8]

The RTC Ruling

In a Decision[9] dated September 11, 2012, the RTC found Balcueva guilty beyond reasonable doubt of the crime of Qualified Rape and accordingly, sentenced him to suffer the penalty of reclusion perpetua, without eligibility for parole, and ordered him to pay AAA the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages.[10]

It found that the prosecution was able to prove that Balcueva indeed raped AAA, pointing out that her failure to shout for help while she was being ravished by her father does not mean she was not raped; rather, it showed the moral ascendancy and influence Balcueva exerted over her, and that the absence of injuries on AAA's hymen did not negate a finding of rape. In this relation, the RTC observed that no woman would undergo the rigors of trial if she was not motivated to put her culprit behind bars.[11] Moreover, the RTC did not give any probative value to AAA's subsequent desistance from pursuing the case, considering that she had completed her testimony at that time, and that it found her desistance to be a mere afterthought. Finally, it declared that Balcueva's defense of denial and alibi could not prevail over AAA's positive identification.[12]

Aggrieved, Balcueva appealed[13] his conviction to the CA.

The CA Ruling

In a Decision[14] dated April 30, 2014, the CA affirmed the RTC's ruling in toto.[15] In upholding Balcueva's conviction, the CA relied on AAA's testimony, holding that it is unlikely for a young lass like AAA to concoct a story of her being raped by her own father and to go through the rigors of trial if she was not telling the truth.[16]

Hence, the instant appeal.

The Issue Before the Court

The issue for the Court's resolution is whether Balcueva's conviction for Qualified Rape should be upheld.

The Court's Ruling

The Court sustains Balcueva's conviction.

Article 266-A, in relation to Article 266-B, of the RPC reads:

Art. 266-A. Rape: When And How Committed. - Rape is committed -

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat or intimidation;

x x x x x x x x

Art. 266-B. Penalty. - x x x.

x x x x x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;

x x x x x x x x

(Emphases and underscoring supplied)

The elements of Qualified Rape under the foregoing provisions are as follows: (a) the victim is a female over 12 years but under 18 years of age; (b) the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim; and (c) the offender has carnal knowledge of the victim either through force, threat or intimidation; or when she is deprived of reason or is otherwise unconscious; or by means of fraudulent machinations or grave abuse of authority.[17]

A perusal of the records discloses the presence of the aforesaid elements in this case. Thus, the RTC and the CA committed no reversible error in convicting Balcueva of the crime of Qualified Rape.

As correctly ruled, AAA's clear, categorical, and unwavering testimony reveals that she was indeed raped by Balcueva, her own father. Suffice it to say that Balcueva's flimsy defense of denial and alibi cannot prevail over AAA's positive and categorical testimony and identification of him as the perpetrator of the crime.[18] Verily, a young girl would not concoct a sordid tale of a crime as serious as rape at the hands of her very own father, allow the examination of her private part, and subject herself to the stigma and embarrassment of a public trial, if her motive was other than a fervent desire to seek justice.[19] Hence, there is no plausible reason why AAA would testify against her own father, imputing to him the grave crime of rape, if this crime did not happen.[20]

Anent the penalty to be imposed on Balcueva, the RTC and the CA properly sentenced him to suffer the penalty of reclusion perpetua without eligibility for parole,[21] in accordance with Sections 2 and 3 of RA 9346.[22]

Finally, in view of prevailing jurisprudence, where the penalty for the crime committed is death which, however, cannot be imposed upon Balcueva because of the provisions of RA 9346, the Court hereby increases the damages awarded to AAA as follows: (a) P100,000.00 as civil indemnity; (b) P100,000.00 as moral damages; and (c) P100,000.00 as exemplary damages.[23] In addition, the Court imposes interest at the legal rate of six percent (6%) per annum on all monetary awards from the date of finality of this Resolution until fully paid.[24]

WHEREFORE, the appeal is DENIED. The Decision dated April 30, 2014 of the Court of Appeals in CA-G.R. CR-H.C. No. 05791 finding accused-appellant Antonio Balcueva y Bondocoy (accused-appellant) GUILTY beyond reasonable doubt of the crime of Qualified Rape as defined and punished under Article 266-A, in relation to Article 266-B, of the Revised Penal Code is hereby AFFIRMED sentencing accused-appellant to suffer the penalty of reclusion perpetua, without eligibility for parole, with MODIFICATION ordering him to pay AAA the amounts of P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages, all with interest at the legal rate of six percent (6%) per annum from the date of finality of this Resolution until fully paid.

SO ORDERED.

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

[1] See Notice of Appeal dated May 27, 2014; rollo, pp. 19-20.

[2] Id. at 2-18. Penned by Associate Justice Vicente S.E. Veloso with Associate Justices Jane Aurora C. Lantion and Nina G. Antonio-Valenzuela concurring.

[3] CA rollo, pp. 16-24. Penned by Presiding Judge Cecilyn E. Burgos-Villavert.

[4] Entitled "AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES"

(approved on September 30, 1997).

[5] The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to RA 7610, entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES," approved June 17, 1992; RA 9262, entitled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES," approved March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, known as the "Rule on Violence against Women and Their Children," effective November 15, 2004. (See footnote 4 in *People v. Cadano, Jr.*, G.R. No. 207819, March 12, 2014, 719 SCRA 234, 237; citations omitted.)

[6] CA rollo, p. 16.

[7] See *id.* at 17-18.

[8] See *id.* at 18.

[9] *Id.* at 16-24.

[10] See *id.* at 22-23.

[11] See *id.* at 19-20.

[12] *Id.* at 20-22.

[13] See Brief for the Accused-Appellant dated July 2, 2013; *id.* at 44-55.

[14] Rollo, pp. 2-18.

[15] *Id.* at 17.

[16] See *Id.* at 10-13.

[17] *People v. Arcillas*, 692 Phil. 40, 50 (2012).

[18] See *People v. Amistoso*, G.R. No. 201447, January 9, 2013, 688 SCRA 376, 394, citing *People v. Abulon*, 557 Phil. 428, 447-448 (2007).

[19] *People v. Rayon, Sr.*, G.R. No. 194236, January 30, 2013, 689 SCRA 745, 755, citing *People v. Pandapatan*, 549 Phil. 817, 838 (2007).

[20] *Id.*

[21] See *People v. Gani*, G.R. No. 195523, June 5, 2013, 697 SCRA 530, 540.

[22] Sections 2 and 3 of RA 9346, entitled "AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES," state:

SEC. 2. In lieu of the death penalty, the following shall be imposed.

(a) the penalty of reclusion perpetua, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code; x x x

x x x x x x x x

SEC. 3. Persons 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. 4103, otherwise known as the Indeterminate Sentence Law, as amended.

[23] See *People v. Cataytay*, G.R. No. 196315, October 22, 2014, citing *People v. Lumaho*, G.R. No. 208716, September 24, 2014, 736 SCRA 542, 555-556. See also *People v. Gambao*, G.R. No. 172707, October 1, 2013, 706 SCRA 508, 533.

[24] See *People v. Cataytay*, *id.*, citing *Roallos v. People*, G.R. No. 198389, December 11, 2013, 712 SCRA 593, 608.

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