

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SSS, ACCUSED-APPELLANT.

G.R. No. 238206. September 29, 2021

Ponente: INTING, J.

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INTING, J.:

This is an appeal[1] from the Decision[2] of the Court of Appeals (CA) dated August 25, 2017 in CA-G.R. CR-HC No. 08248, which affirmed with modification the Decision[3] dated December 28, 2015 of Branch 30, Regional Trial Court (RTC), xxxxxxxxxxxx, Nueva Vizcaya in Criminal Case No. 2944 finding SSS (accused-appellant) guilty beyond reasonable doubt of the crime of Rape, defined and penalized under Article 266-A and Article 266-B of the Revised Penal Code (RPC), as amended by Republic Act No. 8353.[4]

The Antecedents

On January 31, 2011, an Information[5] for Rape was filed against accused-appellant, the accusatory portion of which reads:

That sometime in October 2005, in xxxxxxxxxxxx Province of Nueva Vizcaya, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, while pulling the hand of [AAA], a fourteen (14) year old minor, said "come with me or else I will punch you" and thereafter brought said [AAA] to the kitchen and did then and there, by means of force and intimidation, willfully, unlawfully and feloniously, with lewd design, have carnal knowledge of said [AAA] by inserting his penis inside the vagina of said [AAA], against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.[6]

When arraigned, accused-appellant pleaded not guilty to the charge.[7]

Thereafter, the case, upon motion of the public prosecutor, was consolidated with Criminal Case No. 2433 for Unjust Vexation which was then pending before the RTC. However, Criminal Case No. 2433 was dismissed by the RTC for being filed beyond the prescriptive period.[8]

During trial, the prosecution presented the victim, AAA, her grandmother, BBB, and Dra. Elizabeth M. Joaquin (Dra. Joaquin), the Municipal Health Officer who examined AAA on May 31, 2010.[9]

AAA was nine years old at the time of the incident on October 15, 2005.[10] At around 3:00 p.m. that day, AAA was playing with her siblings at BBB's house when accused-appellant (BBB's husband) came. Accused-appellant pulled AAA, who was then carrying her younger sibling on her back, and pulled her pajamas down. When AAA resisted, accused-appellant exclaimed, "Ukinnam danugin kan tu pay! (Come with me or else I will punch you!)." Accused-appellant then lowered his pants and made AAA sit on his lap with her sibling still on her back. Thereafter, accused-appellant inserted his penis inside AAA's vagina several times while holding her forearms. AAA felt pain and tried to break free from accused-appellant's grasp but failed.[11]

After a while, BBB arrived and saw accused-appellant having sexual intercourse with AAA, who was sitting on

his lap. Immediately, accused-appellant pushed AAA away. It was then that BBB saw accused-appellant's erect penis, while his semen squirted into his abdomen. Accused-appellant raised his pants, dared BBB to kill him, and then left. Upon regaining her bearings, BBB immediately examined AAA. She noticed the reddening of AAA's vagina where she saw the presence of semen.[12] Later, BBB confronted accused-appellant who asked for forgiveness and promised not to do his dastardly act again. BBB forgave accused-appellant and they continued to live their lives as if nothing happened. Around five years later, when AAA was already 14 years old, she revealed the incident to her aunt. Thus, BBB decided to help AAA undergo a medical examination and file the case.[13]

For his part, accused-appellant denied the accusations against him. He alleged that AAA and her parents were subservient to BBB as they were dependent on her for support. Accused-appellant then implied that AAA filed the case at the behest of BBB, seemingly as a leverage because BBB desperately wanted accused-appellant to return to her after their separation.[14]

Accused-appellant narrated that he and BBB were working in the ricefield in the morning when the alleged incident transpired. In the afternoon, he went home to drink water and BBB followed. As soon as BBB reached home, she brought AAA to a corner and slapped her face out of jealousy, suspecting that accused-appellant and AAA were having an affair.[15] This notwithstanding, they remained as husband and wife until April 2020 when he left their home after BBB brandished a kitchen knife, narrowly missing him. He alleged that BBB tried to convince him to go home from time to time, but he was afraid of her.[16]

The Ruling of the RTC

After trial, the RTC found accused-appellant guilty beyond reasonable doubt of the crime of Rape. The dispositive portion thereof reads:[17]

WHEREFORE, premises considered, finding accused [SSS] GUILTY beyond reasonable doubt of the crime [of] rape, he is hereby sentenced to suffer the penalty of reclusion perpetua and to indemnify victim [AAA] in the amount of P50,000.00 as civil indemnity; P50,000.00 as moral damages; and P30,000.00 as exemplary damages.

x x x x.

SO ORDERED.[18]

The RTC found AAA's straightforward and candid narration of her traumatic ordeal more than sufficient to support a conviction for Rape. It added that the failure of AAA to immediately report the rape incident to the authorities did not detract from the fact that rape was committed.[19]

Aggrieved, accused-appellant appealed[20] to the CA arguing that his guilt was not proved beyond reasonable doubt as the prosecution witnesses' testimonies were replete with significant inconsistencies and should not have been given full weight and credence.[21]

On the other hand, the Office of the Solicitor General (OSG), for the State, contended that accused-appellant was rightly convicted of Statutory Rape.[22]

The Ruling of the CA

In the assailed Decision[23] dated August 25, 2017, the CA affirmed the RTC's ruling with modification, viz.:

WHEREFORE, premises considered, the Appeal is hereby DENIED. Accordingly, the Decision of the court a quo is AFFIRMED with MODIFICATION, in that the damages awarded shall earn interest of six percent (6) per annum from the date of finality of the Decision until fully paid.

SO ORDERED.[24]

The CA held that the alleged inconsistencies pointed out by accused-appellant were minor and trivial and do not affect the credibility of AAA or necessarily cast doubt on her positive identification of accused-appellant as the person who raped her so as to tilt the scales of justice in accused-appellant's favor.[25] Nonetheless, the CA did not subscribe to the OSG's position that accused-appellant was correctly convicted of Statutory Rape considering that the RTC never convicted accused-appellant of Statutory Rape in the first place.[26]

Discontented, accused-appellant appealed to the Court through this appeal invoking the same arguments he raised before the CA in assailing his conviction. Essentially, accused-appellant denied the rape charge leveled against him and maintained that "[t]he instant case was only filed because [BBB] failed to convince [accused-appellant] to go home." [27]

Issue

Whether accused-appellant is guilty beyond reasonable doubt of the crime of Rape.

Our Ruling

The Court upholds the conviction of accused-appellant.

At the outset, the Court notes that the factual findings of trial courts, as regards the assessment of the credibility of witnesses, are accorded weight and the highest respect on appeal. This is because "trial courts have the opportunity to observe first hand the demeanor and conduct of witnesses and examine other proofs as well, thus they are better situated to form accurate impressions and conclusions." [28] As such, in the absence of any evidence showing that the trial judge acted arbitrarily or overlooked a material fact or circumstance which would affect the result of the case, the Court is bound by the lower courts' factual findings. [29]

For a successful conviction of Rape under Article 266-A, as amended, it must be shown that a man had carnal knowledge with a woman, or a person sexually assaulted another, under any of the following circumstances: [30]

- a) Through force, threat or intimidation;
- b) The victim is deprived of reason;
- c) The victim is unconscious;
- d) By means of fraudulent machination;
- e) By means of grave abuse of authority;
- f) When the victim is under 12 years of age; or
- g) When the victim is demented.

Here, both the RTC and the CA found AAA's testimony, positively identifying accused-appellant as her assailant, to be clear, convincing, and credible. It was likewise established that AAA was only nine years old when accused-appellant had carnal knowledge with her through force. Her testimony reads:

PROS. DULNUAN:

Q

Madam Witness, do you recall where were you at around 3 o'clock in the afternoon of October 15, 2005?

A

Yes sir.

Q

Where were you at that time?

A

I was at the house of my grandmother, sir.

xxx

Q

While you were in the house of your grandmother playing with these people particularly at the yard, do you recall any particular incident that happened?

A

Yes sir.

Q

What was the incident?

A

While we were playing, my other brothers except the one I was carrying, [accused-appellant] came, sir.

Q

What happened when [accused-appellant] came?

A

When he arrived, he pulled me and brought me in the kitchen.

COURT:

Q

How did he pull you inside the kitchen?

A

He held my right hand.

Q

And where the baby then you were carrying?

A

At my back, sir.

Q

Meaning to say, your 2 hands were free while the baby was riding at your back?

A

Yes, sir.

Q

Were you able to enter the kitchen?

A

Yes sir. He pulled me at the kitchen and while already at the kitchen, he lowered my pajama. I was resisting but he said "ukinam danugin kantu pay!"

Q

How did you react when he lowered your pajama?

A

I was resisting but he was forcing and he was able to lowered my pajama up to my knee.

Q

Where was the baby?

A

Still at my back, sir.

PROS. DULNUAN:

Q

What happened after he lowered your pajama?

A

After that, he also lowered his pants?

Q

After he lowered his pants, what happened next?

A

He made me sit on his lap.

Q

What was the position when he made you sit on his lap?

A

He was seated.

Q

So, while you were sitting at his lap, what was your position in relation to [accused-appellant]?

A

My back was towards him.

Q

What happened while you were sitting at the lap of [accused-appellant]?

A

After that, he made me "paipit" of his penis and later on he inserted his penis inside my vagina.

Q

How many times did he insert his penis in your vagina?

A

Several times.

COURT:

Q

After inserting his penis into your vagina, what was your position in relation to him?

A

Still my back was towards him.

Q

After inserting his penis into your vagina, what happened next?

A

(Witness demonstrating using her two hands as if grasping something in front of her was making a motion by moving upward and downward)[31] (*Italics supplied.*)

This was further corroborated by the testimony of BBB, thus:[32]

Q

What if your grand daughter is in your house and your husband is going there to drink, what makes you restless and apprehensive madam witness?

A

I do not know sir, that is my feeling so, I went home, sir.

Q

When you went home to follow your husband, were you able to follow him?

A

Yes, sir.

Q

While at your house, what did you observe?

A

I saw my grand daughter sitting on the lap of my husband and having sexual intercourse with my grand daughter (witness demonstrating with her two hands as if holding somebody above her lap sitting and making forward and backward motions.)([33] (*Italics supplied.*)

Undoubtedly, the foregoing testimonies, coupled with the medical findings of Dra. Joaquin that AAA had healed

lacerations at the 10 o'clock, 2 o'clock and 7 o'clock positions of her hymen,[34] prove beyond reasonable doubt that accused-appellant had carnal knowledge with AAA who was only nine years old at the time the acts were committed.

Accused-appellant's bare denial and self-serving imputation of ill motive on the part of AAA and BBB cannot extricate himself from liability. As between the prosecution witnesses' direct, positive, and categorical testimonies that have the earmarks of truth on the one hand, and bare denial, on the other hand, the former is generally held to prevail.[35] Moreover, even assuming for the sake of argument that BBB is an "overly jealous wife" who always suspected accused-appellant of having affairs with other women,[36] such assumption alone does not negate the fact of rape or cast doubt on the testimonies of the prosecution witnesses. Considering her tender age, AAA could not have invented a horrible story of defloration and expose herself to the humiliation of a public trial if she was not motivated solely by a desire to vindicate her honor.[37]

In an effort to exculpate himself, accused-appellant questioned the credibility of the prosecution witnesses by pointing out the inconsistency between their testimonies in open court and their sworn statements. He argued that the respective sworn statements of AAA and BBB merely claimed that accused-appellant's penis was inserted between AAA's legs but not her vagina.[38]

Accused-appellant is mistaken.

To begin with, the sworn statement of AAA clearly stated that accused-appellant raped her, viz.:

04.

Q

Why are you going to file a formal complaint against [accused-appellant]?

A

Because he raped me, sir.

xxx

06.

Q.

Please narrate in brief what had really happened?

A.

I was playing with my younger brother at the balcony of [accused-appellant's] house when he came and hold my left hand saying "come with me or else I will punch you" and, at the same time pulled me inside their kitchen then and there pulled down my jogging pants and inserted his penis between my legs that touched my vagina in which he rubbed in there until he secreted his sperm cells.[39] (*Italics supplied.*)

More importantly, the RTC found AAA's testimony to be clear and convincing. Accordingly, the Court sees no cogent reason to disturb the factual findings of the RTC, as affirmed by the CA, that accused-appellant forced AAA to engage in sexual intercourse with him. It is noteworthy that in resolving rape cases, the primary consideration is almost always given to the credibility of the victim's testimony. When the latter's testimony is credible, it may be the sole basis for the accused-appellant's conviction since, due 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.[40]

Finally, the CA correctly held that accused-appellant cannot be convicted of Statutory Rape, contrary to the

OSG's contention.[41]

Although the prosecution was able to establish that AAA was barely nine years of age when the rape was committed against her, the Information erroneously stated that she was 14 years old. Accused--appellant, thus, cannot be held liable for Statutory Rape because the Information alleged that AAA was not under 12 years of age at the time.[42] A contrary ruling would result in denial of the right of the accused to be informed of the charges against him, and hence, a denial of due process.[43] Nevertheless, accused-appellant should still suffer the penalty of reclusion perpetua for Simple Rape. Moreover, the awards for damages should be modified to conform to recent jurisprudence. Thus, the proper amount of civil indemnity, moral damages, and exemplary damages should all be increased to P75,000.00 each.[44] In addition, the amounts of damages shall earn legal interest of 6% per annum from the date of the finality of this Decision until full payment.

WHEREFORE, the appeal is DENIED. The Decision dated August 25, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08248 is hereby AFFIRMED with MODIFICATION in that the awards for civil indemnity, moral damages, and exemplary damages shall each be increased to P75,000.00. All amounts due shall earn legal interest of 6% per annum from the date of the finality of this Decision until full payment.

SO ORDERED.

Perlas-Bernabe, S.A.J., (Chairperson), Hernando, Gaerlan, and Dimaampao, JJ., concur.

[*] The identity of the victim or any information to establish or compromise their identity, as well as those of their immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, "An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation and For Other Purposes;" RA 9262, "An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and For Other Purposes;" Section 40 of Administrative Matter No. 04-10-11-SC, known as the "Rule on Violence against Women and Their Children," effective November 15, 2004; *People v. Cabalquinto*, 533 Phil. 703 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

[1] See Notice of Appeal dated September 13, 2017, rollo, pp. 14-15.

[2] *Id.* at 2-13; penned by Associate Justice Rodil V. Zalameda (now a Member of the Court) with Associate Justices Mariflor P. Punzalan Castillo and Ma. Luisa Quijano-Padilla, concurring.

[3] CA rollo, pp. 9-19; penned by Presiding Judge Paul R. Attolba, Jr.

[4] The Anti-Rape Law of 1997, approved on September 30, 1997.

[5] CA rollo, pp. 9-10.

[6] *Id.* at 10.

[7] Rollo, p. 4.

[8] *Id.*

[9] *Id.*

[10] CA rollo, p. 10.

- [11] Rollo, pp. 4-5.
- [12] Id. at 5.
- [13] Id.
- [14] Id.
- [15] Id. at 6.
- [16] Id.
- [17] CA rollo, pp. 9-19.
- [18] Id. at 19.
- [19] Id. at 17-18.
- [20] See Notice of Appeal dated March 16, 2016, id. at 20-21.
- [21] Id. at 63.
- [22] See Brief for the Appellee dated May 15, 2017, id. at 132.
- [23] Rollo, pp. 2-13.
- [24] Id. at 12.
- [25] Id. at 10.
- [26] Id. at 10-11.
- [27] CA rollo, p. 63.
- [28] *People v. Ramos*, 371 Phil. 66, 76 (1999). Citations omitted.
- [29] *People v. Traigo*, 734 Phil. 726, 730 (2014).
- [30] *People v. Quintos*, 746 Phil. 809, 821-822 (2014).
- [31] CA rollo, pp. 134-136.
- [32] Id. at 137-141.
- [33] Id. at 139.
- [34] Rollo, pp. 7-8.
- [35] *People v. Piosang*, 710 Phil. 510, 527 (2013).
- [36] CA rollo, p. 63.
- [37] See *People v. Piosang*, *supra*.
- [38] CA rollo, pp. 64-65.
- [39] Id. at 142.
- [40] See *People v. XXX*, G.R. No. 230981, July 15, 2020
- [41] Rollo, p. 10.

[42] The elements necessary in every prosecution for statutory rape are: (1) the offended party is under 12 years of age; and (2) the accused had carnal knowledge of the victim, regardless of whether there was force, threat, or intimidation or grave abuse of authority; See *People v. Cariño y Tizon*, G.R. No. 230550 (Notice), January 13, 2020. *Italics supplied.*

[43] *People v. Urmaza*, 829 Phil. 324, 340 (2018), citing *People v. Dela Paz*, 569 Phil. 684, 705-706 (2008).

[44] *People v. Jugueta*, 783 Phil. 806, 849 (2016).

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