

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NOLASCO MENDOZA, ACCUSED-APPELLANT.*G.R. No. 250003. June 22, 2020*

Ponente: PERLAS-BERNABE, J.

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Before the Court is an ordinary appeal[1] assailing the Decision[2] dated April 25, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10643, which upheld with modification the Judgment[3] dated May 17, 2017 of the Regional Trial Court of x x x xx x x xxxx, Quezon, Branch 61 (RTC) in Criminal Case Nos. 10978-G and 10979-G finding accused-appellant Nolasco Mendoza (Mendoza) guilty beyond reasonable doubt of two (2) counts of Qualified Rape, defined and penalized under Article 266-A (1) in relation to Article 266-B of the Revised Penal Code (RPC).

The Facts

The instant case stemmed from two (2) Informations each charging Mendoza of Rape committed against AAA,[4] a mentally-disabled woman, the accusatory portions of which state:

Criminal Case No. 10978-G[5]

That on or about the 18[th] day of October 2009, at Barangay x x x xx x x xxxx, Municipality of x x x xx x x xxxx, Province of x x x xx x x xxxx, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one [AAA], a mentally disabled young woman, against her will, causing her impregnation, to her great damage and prejudice.

Contrary to law. (Underscoring supplied)

Criminal Case No. 10979-G[6]

That on or about the 4[th] day of April 2010, at Barangay x x x xx x x xxxx, Municipality of x x x xx x x xxxx, Province of x x x xx x x xxxx, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one [AAA], a mentally disabled young woman, against her will to her great damage and prejudice.

Contrary to law. (Underscoring supplied)

The prosecution alleged that at around one (1) o'clock in the afternoon of October 18, 2009, Mendoza forced AAA to go with him inside his kubo. Thereat, Mendoza removed AAA's shorts and underwear, laid on top of her, inserted his penis inside AAA's vagina, and thereafter, threatened her not to say anything about the incident. Several months later, or on April 4, 2010, a similar incident happened between Mendoza and AAA. AAA's mother, BBB, noticed that AAA's menstruation had stopped sometime in October 2009. However, she only discovered her daughter's ordeal under the hands of Mendoza on April 5, 2010 when she saw AAA crying; thereafter, the latter confided in her. AAA was then brought to a rural health center for examination where the

medico-legal not only found her to be pregnant, but also found evidence that she had been sexually abused.[7]

In his defense, Mendoza mainly offered the defense of denial, averring that he is just a mere habal-habal driver who knew AAA only because she is a resident at the area and that he never had any dealings or interactions with her.[8]

The RTC Ruling

In a Judgment[9] dated May 17, 2017, the RTC found Mendoza guilty beyond reasonable doubt of two (2) counts of Qualified Rape and accordingly, sentenced him to suffer the penalty of reclusion perpetua for each count, and ordered him to pay AAA the amounts of P75,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages, for each count.[10]

The RTC found that the prosecution, through the very candid and consistent testimony of AAA, had established beyond reasonable doubt that Mendoza indeed had carnal knowledge of her on two (2) separate occasions. In light of such positive identification, not to mention the findings of the medico-legal officer, the RTC found untenable Mendoza's defense of denial, especially considering that he did not even present evidence supporting such defense. Finally, the RTC opined that the crimes of rape committed by Mendoza should be qualified considering that the prosecution had also established the fact that he knew of AAA's mental disability, and the fact that she was already pregnant when the second rape incident happened.[11]

Aggrieved, Mendoza appealed[12] to the CA.

The CA Ruling

In a Decision[13] dated April 25, 2019, the CA affirmed the RTC ruling with modification, sentencing Mendoza with the penalty of reclusion perpetua without eligibility for parole for each count, increasing the monetary awards due to AAA to P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages, and imposing legal interest on all monetary awards at the rate of six percent (6%) per annum from finality of judgment until full payment.[14] It held that Mendoza's bare and unsubstantiated denials must necessarily crumble in light of AAA's clear and positive testimony that he had carnal knowledge of her through force and intimidation on two (2) separate instances. On this note, the CA also upheld the RTC's ruling that Mendoza should be guilty of Qualified Rape considering that he knew of AAA's mental disability at the time he committed the said crimes.[15]

Hence, this appeal.

The Issue Before the Court

The issue for the Court's resolution is whether or not Mendoza is guilty beyond reasonable doubt of two (2) counts of Qualified Rape.

The Court's Ruling

Time and again, it has been held that an appeal in criminal cases opens the entire case for review, and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.[16]

Guided by this consideration, the Court finds it proper to modify Mendoza's convictions to two (2) counts of Simple Rape only, instead of Qualified Rape, as will be explained hereunder.

Article 266-A (1), in relation to Article 266-B of the RPC, respectively read:

Article 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;
- b. When the offended party is deprived of reason or is otherwise unconscious;
- c. By means of fraudulent machination or grave abuse of authority.
- d. 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

Article 266-B. Penalties. – Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

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:

x x x x

10. When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

x x x x

Under Article 266-A (1) of the RPC, the elements of Rape are: (a) the offender had carnal knowledge of the victim; and (b) such act was accomplished through force or intimidation; or when the victim is deprived of reason or otherwise unconscious; or by means of fraudulent machination or grave abuse of authority; or when the victim is under twelve (12) years of age, or is demented. Furthermore, these acts of Rape shall be qualified pursuant to Article 266-B (10) of the RPC if at the time of the commission of the offense, the accused knew of the mental disability, emotional disorder, and/or physical handicap of the victim.

Here, the Court agrees with the findings of the courts a quo that the prosecution was able to prove beyond reasonable doubt that Mendoza had carnal knowledge of AAA on two (2) separate occasions through force and intimidation. In this regard, case law states that no woman would concoct a story of defloration, allow examination of her private parts, and subject herself to public trial or ridicule if she has not, in truth, been a victim of rape and impelled to seek justice for the wrong done to her being,[17] as in this case. Thus, the Court finds no reason to deviate from the factual findings of the trial court, as affirmed by the CA, as there is no indication that it overlooked, misunderstood or misapplied the surrounding facts and circumstances of the case. In fact, the trial court was in the best position to assess and determine the credibility of the witnesses presented by both parties, and hence, due deference should be accorded to the same.[18] In view of the foregoing, the Court finds that Mendoza indeed committed the crime of Rape against AAA twice, and must be held criminally responsible therefor.

However, the Court cannot convict Mendoza of the crimes of Qualified Rape despite the courts a quo's uniform finding that he knew of AAA's mental disability at the time he committed the crimes against her, considering that his knowledge of said mental disability was not alleged in the Informations against him.[19] In *People v. Lapore*,[20] the Court reiterated the importance of alleging the presence of qualifying and aggravating circumstances in the complaint or information against an accused, and discussed the effect of the failure to do so,

to wit:

Sections 8 and 9 of Rule 110 of the [Revised] Rules on Criminal Procedure provide that for qualifying and aggravating circumstances to be appreciated, it must be alleged in the complaint or information. This is in line with the constitutional right of an accused to be informed of the nature and cause of the accusation against him. Even if the prosecution has duly proven the presence of the circumstances, the Court cannot appreciate the same if they were not alleged in the Information. Hence, although the prosecution has duly established the presence of the aforesaid circumstances, which, however, were not alleged in the Information, this Court cannot appreciate the same. x x x[21] (Emphasis and underscoring supplied)

In view of the foregoing, Mendoza may only be found guilty of two (2) counts of Simple Rape, and accordingly, sentenced to suffer the penalty of reclusion perpetua for each count. Finally, and in light of prevailing jurisprudence,[22] Mendoza should pay AAA the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages for each count of Simple Rape, all with legal interest at the rate of six percent (6%) per annum from finality of this decision until fully paid.

WHEREFORE, the appeal is DISMISSED. Accordingly, the Decision dated April 25, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 10643 is hereby AFFIRMED with MODIFICATION, finding accused-appellant Nolasco Mendoza GUILTY beyond reasonable doubt of two (2) counts of Simple Rape, as defined and penalized under Article 266-A (1) of the Revised Penal Code. Accordingly, he is sentenced to suffer the penalty of reclusion perpetua for each count, and ORDERED to pay AAA the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages for each count, all with legal interest at the rate of six percent (6%) per annum from finality of this Decision until full payment.

SO ORDERED.

Hernando, Inting, and Delos Santos, JJ., concur.
Gaerlan,[*] J., on leave.

[*] Designated Additional Member per Special Order No. 2780 dated May 11, 2020. On leave.

[1] See Notice of Appeal dated May 21, 2019; rollo, pp. 14-15.

[2] Id. at 3-13. Penned by Associate Justice Mario V. Lopez (now a member of the Court) with Associate Justices Zenaida T. Galapate-Laguilles and Tita Marilyn B. Payoyo-Villordon, concurring.

[3] CA rollo, pp. 55-68. Penned by Judge Maria Chona E. Pulgar-Navarro.

[4] 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 on June 17, 1992; RA 9262, entitled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES," approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the "RULE ON VIOLENCE AGAINST WOMEN AND THEIR CHILDREN" (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. See also Amended Administrative Circular No. 83-2015, entitled "PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL

RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES," dated September 5, 2017.) See further *People v. Ejercito*, G.R. No. 229861, July 2, 2018.

[5] Rollo, p. 4.

[6] *Id.* at 4-5.

[7] See *id.* at 3-4.

[8] See *id.* at 5.

[9] CA rollo, pp. 55-68.

[10] *Id.* at 68.

[11] See *id.* at 63-68.

[12] Dated December 19, 2017. *Id.* at 11-12.

[13] Rollo, pp. 3-13.

[14] *Id.* at 12.

[15] See *id.* at 6-12.

[16] See *People v. De Guzman*, G.R. No. 234190, October 1, 2018; citations omitted.

[17] See *People v. Tubillo*, 811 Phil. 525, 533 (2017), citing *People v. Pareja*, 724 Phil. 759, 780 (2014).

[18] See *Arambulo v. People*, G.R. No. 241834, July 24, 2019, citing *Peralta v. People*, 817 Phil. 554, 563 (2017).

[19] See rollo, pp. 4-5.

[20] 761 Phil. 196 (2015).

[21] *Id.* at 203; citations omitted.

[22] See *People v. Jugueta*, 783 Phil. 806 (2016).

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