

THIRD DIVISION

[G.R. No. 179714, October 02, 2009]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RODOLFO LOPEZ,
APPELLANT.**

D E C I S I O N

PERALTA, J.:

Rape is particularly odious, one which figuratively scrapes the bottom of the barrel of moral depravity, when committed against a minor.^[1] This present case is no less reviling and vilifying, for yet another life of an innocent child is forever shattered.

This is an appeal from the Decision^[2] dated January 26, 2007 of the Court of Appeals (CA) in CA-G.R. C.R.-H.C. No. 00650, affirming the Decision^[3] dated October 13, 2004 of the Regional Trial Court (RTC) of Labo, Camarines Norte, Branch 64, in Criminal Case No. 98-0296, finding appellant Rodolfo Lopez guilty beyond reasonable doubt of the crime of Statutory Rape, as defined in and penalized by Article 335 of the Revised Penal Code, as amended by Republic Act (RA) 8353.

The facts, as culled from the records, are the following:

On June 11, 1998, around 5 o'clock in the afternoon, AAA^[4] left her house to collect credit, leaving behind her daughter BBB, who was then four years old^[5] and appellant Rodolfo Lopez, an employee of her husband.^[6] The following day, or on June 12, 1998, AAA brought her daughter BBB to a *manghihilot* because the latter had a fever and complained of stomachache.^[7] Thereafter, BBB requested her mother to wash her vagina. While AAA was washing her daughter's vagina, she noticed that the latter's private organ was swollen and had a small quantity of blood, to which she assumed that her daughter might have accidentally bumped into an object.^[8] The next morning, or on June 13, 1998, although still down with a fever, BBB persistently asked her mother to give her a bath. BBB let her daughter sit on a basin and noticed that the latter's vagina was still reddish or swollen, which prompted her to ask the daughter what happened. BBB pointed at appellant Lopez, who was there at that time, and said, "*It was Kuya Aswang,*" referring to the same appellant.^[9] AAA then asked her daughter if appellant Lopez inserted his penis in her vagina. BBB replied in the affirmative. Later on, BBB narrated that appellant Lopez removed her underwear and placed himself on top of her and proceeded to insert his penis in her vagina.^[10] When AAA's husband arrived home, she narrated what happened and afterwards, they proceeded to the police station where they were advised to have their daughter medically examined.^[11]

BBB, on June 15, 1998, was brought to the provincial hospital where a genital examination was conducted on her by Dr. Marcelito B. Abas, findings of which are

the following: superficial hymenal laceration at nine o'clock position, which could have been caused by an erected penis and with no signs of physical injuries.^[12]

Subsequently, an Information dated July 17, 1998 was filed against appellant Lopez for the crime of Statutory Rape as defined in and penalized by Article 335 of the Revised Penal Code, as amended by RA 8353. The Information reads as follows:

That on or about 5:00 o'clock in the afternoon of June 11, 1998 at Barangay XXX, XXX, Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and motivated by bestial lust and by means of force and intimidation, did then and there, wilfully, unlawfully and feloniously had carnal knowledge of one BBB, a four (4)-year-old girl, against her will to her damage and prejudice.

CONTRARY TO LAW.

Upon arraignment on August 31, 1998, appellant Lopez, assisted by counsel *de officio*, pleaded *Not Guilty*. After the pre-trial, which was held on October 14, 1998, trial on the merits ensued.

The prosecution presented the testimonies of AAA, BBB and Dr. Marcelito B. Abas, who testified as to the facts earlier narrated. The testimonies of Carlos Ibasco, the principal of Rizal High School, Camarines Norte, who assisted during the police investigation, and Rosemarie Loremia, the assigned stenographer during the preliminary investigation, were also presented.

On the other hand, the defense presented the sole testimony of appellant Lopez, who denied raping BBB and further stated that on the day that the alleged incident happened, he saw the six-year-old brother of BBB inside the room where the latter slept. He claimed that the said brother inserted his finger in the vagina of his sister.^[13] He added that after the parents of BBB arrived home at around 5 o'clock in the afternoon of the same date, he left the place and went to XXX, XXX, Camarines Norte to construct a well.^[14]

Thereafter, the trial court found appellant guilty beyond reasonable doubt of the crime charged, the dispositive portion of which reads:

WHEREFORE, premises considered, accused RODOLFO LOPEZ is hereby sentenced to suffer the supreme penalty of DEATH. He is also ordered to pay the victim, BBB, civil indemnity in the amount of Seventy- Five Thousand Pesos (P75,000.00), moral damages in the amount of Fifty Thousand Pesos (P50,000.00) and exemplary damages in the amount of Fifty Thousand Pesos (P50,000.00).

SO ORDERED.

The case was appealed to this Court due to the imposition of the death penalty.

However, on September 21, 2004, in conformity with the decision promulgated on July 7, 2004 in G.R. Nos. 147678-87, entitled *The People of the Philippines v. Efren Mateo y Garcia*, modifying the pertinent provisions of the Revised Rules of Criminal Procedure, more particularly Sections 3 and 10 of Rule 125 and any other rule insofar as they provide for direct appeals from the RTCs to this Court in cases where the penalty imposed is death, *reclusion perpetua* or life imprisonment, as well as the resolution of this Court *en banc* dated September 19, 1995, in "Internal Rules of the Supreme Court" in cases similarly involving the death penalty, pursuant to the Court's power to promulgate rules of procedure in all courts under Section 5, Article VII of the Constitution, and allowing an intermediate review by the CA before such cases are elevated to this Court, this Court transferred the case to the CA for appropriate action and disposition.

On January 26, 2007, the CA affirmed with modification, the decision of the trial court, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the appealed decision dated 13 October 2004 of the Regional Trial Court, Branch 64, Labo, Camarines Norte, finding accused-appellant RODOLFO LOPEZ, GUILTY beyond reasonable doubt of the crime of STATUTORY RAPE, is hereby AFFIRMED. However, pursuant to RA 9346, (An Act Prohibiting the Imposition of Death Penalty in the Philippines), the penalty of DEATH imposed by the lower court is reduced to *reclusion perpetua*.

Costs de officio.

SO ORDERED.

Hence, this appeal.

Appellant Lopez filed a Manifestation^[15] dated January 30, 2008 stating that he will no longer file a Supplemental Brief and will be adopting the arguments contained in his Appellant's Brief.^[16] Likewise, appellee also filed a Manifestation and Motion^[17] stating that it will adopt its Brief^[18] previously filed on September 15, 2005.

According to appellant Lopez, the sole error committed by the trial court was:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT NOT ON THE BASIS OF THE STRENGTH OF THE PROSECUTION'S EVIDENCE, BUT RATHER ON THE WEAKNESS OF THE DEFENSE'S EVIDENCE.

To support the above argument, appellant claims that, instead of scrutinizing with utmost care and diligence the testimonies of the prosecution witnesses, the trial court assailed the testimony of the appellant and looked at the same with disfavor. He further stated that a great portion of the appealed decision dwelt on the rationalization of the trial court in discrediting the evidence of the defense and not much was said why it gave credence to the testimonies of the prosecution

witnesses.

The appellee countered the above argument of appellant by asserting that the prosecution was able to establish the guilt of the same appellant beyond reasonable doubt. It also added that the trial court did not rely on the weakness of the defense evidence, but rather on the strength of the prosecution in coming up with a verdict of conviction.

The appeal is unmeritorious.

Statutory rape is defined in and penalized by Article 335 of the Revised Penal Code, as amended by RA 8353, which was in effect at the time of the commission of the crime in this particular case:

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:

x x x x

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.

Appellant focuses his argument on the manner in which the decision of the RTC was written. According to him, a fastidious reading of the appealed decision by an impartial and prudent mind will easily have the impression that his conviction was based not on the strength of the prosecution's evidence but rather on the weakness of the defense. A careful reading of the assailed decision, however, shows the contrary.

Although the assailed decision discussed thoroughly the weakness of the evidence of the defense, it was also clear in its appreciation of the evidence presented by the prosecution and in finding that the appellant was guilty beyond reasonable doubt of the crime charged. Thus, as ruled by the RTC:

The testimony of the victim herself was direct and straightforward after she was warned that if she tells a lie, God will punish her. When asked if Rodolfo Lopez was inside the courtroom, her reply was "Yes, ma'am" and since there was no other man in the courtroom, his lawyer admitted that while the victim pointed to Rodolfo Lopez and when the Prosecutor asked her:

Pros. Velarde: What did your "kuya" do to you?

A: He raped me, ma'am.

Q: When you say you were raped, the penis of "Kuya" was

placed in your vagina?

A: Yes, ma'am.

Q: Where is your *pipi* (vagina)?

Interpreter: The victim pointed to her sexual organ.^[19]

Even during the cross-examination and clarificatory questions from the court, the victim was consistent in her testimony, thus:

Atty. Dizon

Q: Do you still recall when did Rodolfo Lopez place his penis in your vagina?

Witness

A: No, sir.

Q: Where did the accused place his -

Where in your house, in particular, did the accused place his penis inside your vagina?

A: In our house, sir.

Q: How did the accused place his penis inside your vagina?

A: He removed my panty, sir.

Q: After the accused removed your panty, it was his finger that was inserted in your vagina, is that correct?

A: No, sir.

Q: What was placed by the accused in your vagina after he removed your panty?

A: His penis, sir.

Q: When you say, the accused placed his penis in your vagina, you are telling us that the accused just placed his penis just on top of your vagina?

A: Yes, sir.

x x x x

Court

Q: Where is here your "*Kuya*"?

Interpreter: The witness pointed to the accused.

Court

Q: What was placed inside your vagina?

A: His penis, sir.