

THIRD DIVISION

[G.R. No. 176633, September 05, 2007]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ARMANDO SAN ANTONIO, JR., ACCUSED-APPELLANT.**

D E C I S I O N

CHICO-NAZARIO, J.:

For review is the Decision^[1] dated 31 October 2006 of the Court of Appeals in CA-G.R. CR-H.C. No. 01212, which affirmed the Decision^[2] dated 19 January 1999 of the Regional Trial Court (RTC) of Makati City, Branch 138, in Criminal Case No. 98-024, finding herein appellant Armando San Antonio, Jr., guilty beyond reasonable doubt of the crime of rape committed against AAA.^[3]

Appellant Armando San Antonio, Jr. was charged with raping AAA in an Information^[4] which reads:

The undersigned Prosecutor, based on the sworn statement/complaint of AAA, **a 14-year old^[5] minor**, duly assisted by her mother BBB, x x x, accuses ARMANDO SAN ANTONIO, JR. y DELA CRUZ of the crime of RAPE, committed as follows:

That on or about the 12th day of December 1997, in the City of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with complainant AAA, against her will and consent. [Emphasis supplied].

Upon arraignment, the appellant, assisted by counsel *de parte*, pleaded NOT GUILTY to the crime charged. Thereafter, trial ensued.

The prosecution presented the following witnesses: AAA, the victim; Anabel Lopez-Medrano (Ana), the victim's cousin; BBB, the victim's mother; and Dr. Antonio S. Vertido (Dr. Vertido), Medico-Legal Officer of the National Bureau of Investigation. As rebuttal witness, the prosecution offered the testimony of Lydia Sarte (Lydia), AAA's class adviser at Makati High School.

AAA testified that at around 11:00 o'clock in the morning of 12 December 1997, she was in her friend's house located at XXX Street, XXX City^[6] as they were discussing the things to be done in school the following day. She stayed there for less than three minutes. Thereafter, she went to the house of her friend's auntie, which was only beside the house of her friend, and stayed there for about three minutes. She then returned to her friend's house where she stayed for only two minutes because

she heard a sudden call (a *sutsot*) coming from the house of her cousin, Ana. She peeped inside and tried to find out who made the said call. But since the lights were off, she went inside the house without knowing that the appellant was there. The appellant was at Ana's house because he was a friend of Ana's husband and he constantly slept there. At such instance, she saw the appellant lying on the wooden bed (*papag*) remorselessly staring at her. When she was about to leave the said house, appellant pulled her right hand. She tried to remove appellant's grip on her using her left hand,^[7] but she failed. Subsequently, appellant dragged her and pushed her to the wooden bed where she fell on her back. Appellant also threatened to punch her if she will not accede to his desire. Then, while on a kneeling position, appellant pinned her right arm at the back of her head and squeezed her legs with his thighs. He pulled down his "maong" shorts, released her legs and pulled down her cycling shorts and underwear. She banged the wall of the house using her left elbow to get some help, but nobody came.^[8] Appellant then placed himself on top of her and succeeded in inserting his penis into her vagina, causing her so much pain. Afterward, she felt something wet came out from appellant's penis. **And while the appellant was still on top of her**, Ana arrived and saw them in that position. The appellant stood up and left. She likewise stood up and went home.

Ana corroborated AAA's testimony that when she went home, coming from the house of her mother, on 12 December 1997, about 10 minutes after 11:00 o'clock in the morning, **she saw the appellant lying on top of AAA** in the wooden bed. When the appellant saw her, he stood up, wore his shorts and left. AAA also stood up and went out. Ana noticed that AAA was so afraid and teary eyed. She then went out of the house to report the incident to the mother of AAA.

BBB, the mother of AAA, confirmed the testimony of Ana that at about 11:00 o'clock in the morning of 12 December 1997, Ana came to her house and told her that she saw the appellant on top of her daughter, AAA. She immediately asked AAA about it who told her about her horrible experience in the hands of the appellant. AAA was so afraid and in tears when she told her that she was raped by the appellant. She likewise told her mother that she wanted to report the same to the police authorities. Thus, BBB, as well as Ana, accompanied AAA to Precinct 1 of the Makati City Police Station^[9] to report the incident.

Dr. Vertido testified that he was the one who conducted the medical examination on AAA with the conclusions, contained in AAA's Living Case No. MG-97-1691,^[10] as follows:

CONCLUSIONS:

1. No evident sign of extragenital physical injuries noted on the body of the subject at the time of examination.
2. Hymen, intact, **distensible** and its orifice wide (2.5 cms. in diameter) **as to allow complete penetration by an average-sized, adult, Filipino male organ in full erection without producing any hymenal injury.**^[11] [Emphasis supplied].

Dr. Vertido explained that AAA has a **distensible hymen**, which means that AAA's hymen is **incapable of being ruptured even if penetrated by the male organ.**

On the other hand, the defense presented the testimonies of the following witnesses: the appellant, Francisco Portugal (Francisco), Wendy Cilomen (Wendy), Jacqueline dela Cruz (Jacqueline) and BBB, the victim's mother, as hostile witness, to testify on the condition of AAA seven or nine months after the rape incident.^[12]

Appellant invoked the "**sweetheart defense.**" He admitted having sexual intercourse with AAA on 12 December 1997, but claimed that the same was consensual as they were sweethearts. He stated that he had known AAA for 10 years because they were neighbors. He started courting her in January 1997, and AAA accepted his offer of love in August 1997. He likewise asserted that AAA gave him a love letter; however, it was lost when his wallet was stolen. He further averred that the sexual intercourse between him and AAA on 12 December 1997 was actually their third time to engage in the sexual act. He professed that the first sexual encounter between him and AAA happened on 27 August 1997, between 8:00-8:30 in the evening in a jeepney parked at the garage of Danarra Condominium, while the second time was on his birthday, 4 September 1997, at around 9:00 p.m., as the same was AAA's gift to him.^[13] He then alleged that on 12 December 1997, at noontime, while he was sleeping at the house of Ana, AAA went inside the house, but, he asked her to leave as he was tired and was about to sleep. AAA left, but she came back. Again, he ordered her to leave. AAA came back for the third time at about 2:00 p.m., and upon her initiative, **they engaged in sexual intercourse, with AAA on top of him.** He claimed that AAA was wearing jogging pants at that time.^[14] Suddenly, Ana barged in and saw them. He stood up and left.

Wendy Cilomen was presented by the defense to corroborate the testimony of the appellant. She stated that at around 11:00 o'clock in the morning, on 12 December 1997, she saw neither the appellant nor AAA. It was at around 2:00 o'clock in the afternoon, while she was washing clothes in front of the house of her mother, that she saw AAA go inside the house of Ana. **When she peeped inside the house, she saw the appellant on top of AAA**^[15] "as if they were making a baby." However, when she was asked if she knew whether the appellant and AAA were in a relationship, she answered in the negative. The same answer was given by Francisco, one of the witnesses for the defense, when asked if he knew whether AAA was appellant's girlfriend. However, Jacqueline, the other defense witness, testified that the relationship of the appellant and AAA as lovers was a matter of general knowledge in their neighborhood.

To refute the testimony given by the appellant that prior to 12 December 1997, he and AAA had already engaged in sexual intercourse on two occasions, *i.e.*, 27 August 1997 and 4 September 1997, the prosecution presented Lydia, the class adviser of AAA. She testified that on those dates, AAA was still in school because her class schedule^[16] was until 8:20 p.m. as shown by the class register.^[17] Hence, it was impossible that the appellant had sexual intercourse with AAA on the aforesaid dates. This testimony of Lydia was strengthened by the testimony of AAA when she was called again to the witness stand and declared that she was never courted by the appellant. She further confirmed that she never had sexual intercourse with the appellant on 27 August 1997 and 4 September 1997 for she was in school on those dates. **And from her school, it usually took her an hour before she can reach their house.**^[18]

As a result of the sexual assault, AAA got pregnant and on 1 August 1998^[19] or after seven months, she gave birth to a baby boy. According to AAA, the father of her baby was the appellant because of what the appellant did to her.

After trial, the RTC rendered a Decision dated 19 January 1999, finding the appellant guilty beyond reasonable doubt of the crime of rape. The trial court giving credence to the testimonies of the prosecution witnesses, ratiocinated as follows:

The issue in this case is credibility.

x x x x

The testimony of [AAA] is clear and categorical. x x x.

[AAA] was ^[14] years old when she testified in Court. Her testimony was given in a credible manner, sometimes haltingly but consistent and without gross inaccuracies. It has not been shown that she was motivated by ill-will or bad intention in charging the [appellant]. Her deportment during the time her testimony was being taken still shows traces of youthful innocence but with obvious sadness about her predicament. The Court has observed that during the direct and cross-examination when scandalous matters (sic) or matters which induce pain if remembered were asked, there was marked expression of embarrassment and noticeable anguish on the face of [AAA], which deportment, the Court considered as indication that she was telling the truth. The spontaneity (sic) with which she proceeded to lodge her complaint against the [appellant] with the police barely hours after the commission was also considered by the Court and taken as another indication of truthful narration. On the other hand no fact or circumstance in the narration of [AAA] or in her conduct was observed or made of record which could lead the Court to doubt her testimony.

Given the foregoing findings, the burden to prove his innocence was shifted to the [appellant]. Unfortunately[,] his evidence failed to overturn the facts established by the evidence for the prosecution.

On the claim that he and [AAA] are sweethearts and that they have an understanding (*nagkakaunawaan*), the only evidence to support this claim is his word which is self-serving and has little or of no value at all. No letter, picture or other article which indicate amorous relationship was presented in Court. x x x.

x x x x

WHEREFORE, the Court finds the [appellant] Armando San Antonio, Jr. y dela Cruz guilty beyond reasonable doubt of the crime of rape. Applying the scale of penalties provided in Republic Act No. 8353,^[20] in relation to Article 63(2) of the Revised Penal Code, there being no mitigating or aggravating circumstance attending the commission of the offense charged, the Court hereby impose upon the [appellant] the penalty of

reclusion perpetua. Further following the provisions of Article 345 of the Revised Penal Code, [appellant] is ordered to indemnify [AAA] of the amount of ₱50,000.00 as and for moral damages. [Appellant] is unmarried, hence he should be further directed to acknowledge the minor child [CCC], and to provide him support which the Court initially set at ₱1,000.00 per month. Cost *de officio*.^[21] [Emphases supplied].

The records of this case were originally transmitted to this Court on appeal.

In his brief, appellant's lone assignment of error was: *the trial court erred in convicting the accused-appellant of rape*.^[22]

Pursuant to *People v. Mateo*,^[23] the records of the present case were transferred to the Court of Appeals for appropriate action and disposition.

The Court of Appeals rendered its Decision on 31 October 2006 affirming the Decision of the RTC.

Feeling aggrieved, appellant filed a Notice of Appeal^[24] before this Court.

This Court required the parties to simultaneously submit their respective supplemental briefs. Both the Office of the Solicitor General and the appellant manifested that they were adopting their respective briefs filed before the Court of Appeals as their supplemental briefs.

After a careful review of the records of this case, this Court affirms appellant's conviction.

A rape charge is a serious matter with pernicious consequences both for the appellant and the complainant; hence, utmost care must be taken in the review of a decision involving conviction of rape.^[25] Thus, in the disposition and review of rape cases, the Court is guided by these principles: *First*, the prosecution has to show the guilt of the accused by proof beyond reasonable doubt or that degree of proof that, to an unprejudiced mind, produces conviction. *Second*, the evidence for the prosecution must stand or fall on its own merits and cannot draw strength from the weakness of the evidence of the defense. *Third*, unless there are special reasons, the findings of trial courts, especially regarding the credibility of witnesses, are entitled to great respect and will not be disturbed on appeal. *Fourth*, an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; and *Fifth*, in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution.^[26]

Right off, it is clear that appellant does not deny the sexual intercourse between him and AAA. By way of exculpation, appellant argues that the trial court erred in convicting him of the crime of rape because the complainant has not been raped as the sexual intercourse between him and the complainant was consensual as they were sweethearts. This is specious.

The "sweetheart defense" is a much-abused defense that rashly derides the intelligence of the Court and sorely tests its patience.^[27] Being an affirmative