

SECOND DIVISION

[G.R. NO. 176060, October 05, 2007]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ARNULFO
FERNANDEZ, APPELLANT.**

RESOLUTION

CARPIO, J.:

This is an appeal from the 22 September 2006 Decision^[1] of the Court of Appeals in CA-G.R. CEB-CR-HC No. 00296, affirming the trial court's decision finding appellant Arnulfo Fernandez guilty beyond reasonable doubt of rape.

Appellant was charged with raping AAA, his first degree cousin, who was then alleged to be 14 years old. During the trial, the trial court found that AAA was only 13 years old while appellant was 20 years old at the time of the incident. It was established that on the night of 7 July 1997, appellant and AAA's father were drinking wine. Appellant gave money to AAA's father to buy more wine. When AAA's father left, appellant went upstairs where AAA and her younger siblings were sleeping. Appellant covered AAA's mouth and then raped her. When AAA woke up, she noticed appellant lying on top of her and she felt pain in her vagina. She could not overpower appellant who was heavier and stronger than her. Appellant thereafter went down and had another drinking bout with AAA's father. When appellant left, AAA's father went upstairs and noticed that AAA's panty was on her knees and that there were bloodstains on her blanket. When asked what happened, AAA told him that appellant raped her. The following morning, AAA's father reported the incident to the Barangay Captain and the police. AAA's blanket with some bloodstains and male discharge was submitted to the police as evidence. The Barangay Captain summoned appellant but he could not be located. Appellant surrendered to a certain Kagawad Putian one week later.

Appellant alleged that AAA was his girlfriend. He admitted during cross-examination that AAA is mentally slow and shy. He alleged that they had sexual intercourse from 1995 until 1997, although it was only in 1997 that AAA became his girlfriend. He accused AAA of initiating their sexual intercourse and claimed that AAA is a sex maniac. He admitted that on the night of 7 July 1997, he had a drinking spree with AAA's father. When AAA's father left to buy more wine, he went upstairs and saw that AAA's siblings were asleep. Appellant claimed that AAA enticed him to have sexual intercourse and AAA then removed her panty down to her knees. Appellant admitted that he had sexual intercourse with AAA that night. The following day, appellant went to Banban to work at a hollow block factory. It was only when appellant went back to their house a few days later that his mother informed him that he was accused of raping AAA. Appellant then surrendered to Kagawad Putian.

The trial court did not believe appellant's "sweetheart theory." The trial court likewise found incredible appellant's claim that AAA is a sex maniac who initiated all

their sexual encounters.

On 12 October 2000, the trial court rendered a decision, the dispositive portion of which reads:

PREMISES CONSIDERED, the Court finds accused Arnulfo Fernandez GUILTY beyond reasonable doubt of the crime of rape which is punished under Art. 335, paragraph 2 of the Revised Penal Code as amended by R.A. 7659 otherwise known as the "Heinous Crimes Law." This specific provision refers to the situation wherein the woman is deprived of reason or otherwise unconscious, as in this case wherein the offended party was sleeping and therefore deprived of her free will.

Although it has been held that in crimes against chastity such as rape, relationship is aggravating (People v. Matrimonio, 215 SCRA 613), the said circumstance is offset by the voluntary (albeit one week late) surrender of the accused. Accordingly, the court hereby sentences the accused to the penalty of RECLUSION PERPETUA. Based on latest jurisprudence, the accused is further ordered to indemnify the victim, who is a minor, the amount of P50,000 as moral damages.

SO ORDERED.^[2]

On appeal, appellant contended that the prosecution failed to prove his guilt beyond reasonable doubt.

In its 22 September 2006 Decision, the Court of Appeals affirmed the trial court's decision with the modification that an additional P50,000 as civil indemnity be awarded to the victim. The Court of Appeals held that factual findings of the trial court are accorded the highest respect unless some important facts have been clearly overlooked which if considered would affect the result of the case. The Court of Appeals ruled that the trial court was correct in relying on AAA's positive and straightforward testimony rather than on appellant's bare denial of the charge.

Hence, this appeal.

We find the appeal without merit. The Court of Appeals was correct in affirming the ruling of the trial court that rape was clearly established by the witnesses and the evidence of the prosecution. The trial court, having the opportunity to observe the witnesses and their demeanor during the trial, can best assess the credibility of the witnesses and their testimonies.^[3] Thus, the trial court's findings are accorded great respect unless the trial court has overlooked or misconstrued some substantial facts, which if considered might affect the result of the case.^[4]

In this case, appellant admits that he had sexual intercourse with AAA on the night of 7 July 1997 but alleges that it was consensual and that AAA initiated the sexual act. We agree with the trial court and the appellate court that appellant's version of the incident is unbelievable. Appellant himself testified that he went upstairs where he knew AAA was sleeping with her siblings. AAA could not have initiated their sexual intercourse considering that she was already asleep when appellant went upstairs. Under Article 335(2) of the Revised Penal Code, rape is committed by having carnal knowledge of a woman who is deprived of reason or otherwise