

THIRD DIVISION

[CA-G.R. CR No. 36055, February 25, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BENEDICT BARCELINO Y DAVID, ACCUSED-APPELLANT.**

D E C I S I O N

REYES-CARPIO, A., J.:

Accused-appellant BENEDICT BARCELINO y DAVID^[1] appeals from the Decision^[2] dated September 16, 2013 rendered by the Regional Trial Court of Valenzuela City, Branch 270, in Criminal Case No. 32-V-13, for the offense of Violation of Section 5(a) of Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004), committed as follows:

“That on [or] about November 21, 2012, in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, without any justifiable cause, did then and there willfully, unlawfully and feloniously maul her live-in partner SUSANA MENDOZA y CONCEPCION (complainant), hitting the latter at different part[s] of her body, thereby inflicting upon the latter physical injuries which required medical attendance for a period of two (2) weeks and incapacitated said victim from performing her habitual work for the same period of time.

CONTRARY TO LAW.”^[3]

When arraigned on February 22, 2013, accused-appellant pleaded not guilty.^[4] Thereafter, trial on the merits ensued. The summary made by the court *a quo* regarding the evidence of the opposing parties is as follows:

“THE VERSION OF THE PROSECUTION

Private complainant **Susana C. Mendoza** testified that on November 21, 2012 at around 10:00 o’clock in the evening, she was at home together with the accused. While cleaning her face, the accused called her but she did not accede. The accused got mad and started to curse her. He not only uttered invective words, but he laid his violent hand upon her by hitting the back of her head, pulling her hair, dragging her to their room, pushing her to bed, choking and boxing her forehead and shoulder. She sustained injuries as evidenced by her photographs marked as Exhibits ‘C’ to ‘C-3’. The accused was drunk at that time. Due to the blows she received from him, she passed out. The accused called her daughter Shiela to give her water. Shortly thereafter, the accused started consoling her. Before the subject incident, the accused have already hurt her many times every time he imbibes liquor.

She reported the mauling incident at the police station where she

executed an affidavit marked as Exhibit 'A'. She likewise sought medical help as evidenced by the Medico-Legal Slip marked as Exhibit 'B'. She wanted the accused to be incarcerated. She has been living with the accused for eighteen (18) years but it is an on and off relationship because of his attitude. The attitude of the accused affected her physically and emotionally.

The private complainant identified the accused in open court.

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THE VERSION OF THE DEFENSE

Benedict D. Barcelino testified that the private complainant is his live-in partner for eighteen (18) years with no children. They are no longer living together because of their irreconcilable differences.

In the evening of November 21, 2012, he drank one (1) bottle of Red Horse. When he got home, he called the private complainant to go inside their room but she refused. He approached the private complainant and an altercation ensued. He boxed her in the forehead. The person depicted in Exhibit 'C' is the private complainant. He denied having inflicted the depicted injuries sustained by the private complainant in Exhibits 'C-2' and 'C-3'. However, he likewise asserts that he is not certain whether he was the one who inflicted the injuries in Exhibit 'C-1'.

On the following day, he left the house to work. The private complainant was still mad at him. He was arrested in the evening of November 22, 2012. His witness is his sister, Marietta Calicdan, who would testify that the private complainant scratches him every time they fight.

No cross examination was conducted by the prosecution.

Marietta Calicdan testified that she is the sister of the accused. Whenever the accused and the private complainant would fight, the former would come to their house with injuries. She learned about the incident on November 21, 2012 after two (2) to three (3) days already.

During the cross-examination, she testified that she did not witness the subject incident. She learned about it when a relative informed her that the accused was put in jail. As far as she knows, the accused did not go to the doctor after the incident on November 21, 2012.

During the re-direct examination, she testified that she has no written proof that the accused sustained injuries because she merely relied on the information given by the latter."^[5]

On September 16, 2013, the court *a quo* rendered its assailed Decision, the decretal portion of which states:

"WHEREFORE, IN THE LIGHT OF THE FOREGOING, violation of Section 5(a) of RA 9262 having been proven by the prosecution beyond