

FIRST DIVISION

[G.R. No. 218913, February 07, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROMULO BANDOQUILLO Y OPALDA, ACCUSED-APPELLANT.**

R E S O L U T I O N

DEL CASTILLO, J.:

Assailed in this appeal is the July 21, 2014 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05891 which affirmed with modification the August 31, 2012 Decision^[2] of the Regional Trial Court (RTC), Branch 55, Irosin, Sorsogon, finding appellant Romulo Bandoquillo y Opalda guilty beyond reasonable doubt of the crime of rape.

The Antecedent Facts

Appellant was charged for the crime of rape in an Information^[3] dated March 10, 2004 which reads:

That on or about early in the morning of December 27, 2003, x x x Province of Sorsogon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife and by the use of force, threat and intimidation whilst inside their residence, with lewd designs, did then and there willfully, unlawfully and feloniously, have carnal knowledge with his own daughter, "AAA,"^[4] 14 years of age, a minor below 18 years of age and a child who cannot protect herself from abuse, against her will and consent, where acts and deeds by the accused degrades, demeans and debases her dignity as a child and as a human being, to her damage and prejudice.

The commission of the offense is further aggravated by the fact that the offender is her own father and armed with a knife.

During his arraignment on July 7, 2004, appellant entered a plea of not guilty.^[5] Trial thereafter ensued.

Version of the Prosecution

The prosecution's version of the incident as summarized by the Office of the Solicitor General is as follows:

In the early morning of December 27, 2003, "AAA," then only 14 years of age, was sleeping inside her room in their house when she was suddenly awakened by her father, herein appellant, who forcibly undressed her, touched her breasts and kissed her neck. "AAA" begged appellant not to continue with what he was doing, saying:

"Papa, do not do this to me, [take] pity [on] my siblings and my honor." Appellant, however, disregarded his daughter's pleas and succeeded in having carnal knowledge of "AAA," against her will.^[6]

Immediately thereafter, "AAA" contacted her mother, "ZZZ," who was then residing in Manila, and disclosed what had happened to her. "ZZZ" quickly travelled back to Sorsogon, and on December 29, 2003, "AAA" and "ZZZ" reported the incident to the Department of Social Welfare and Development and to the local authorities.^[7]

"AAA" was then physically examined by Dr. Runnel John L. Rebustillo at the Irosin District Hospital.^[8] Based on her Medical Certificate^[9] dated February 16, 2004, "AAA" had healed lacerations at 1, 3, 5 & 6 o'clock positions, as well as hematoma on the outer part of her vaginal canal.

Version of the Defense

The defense presented appellant as its lone witness who testified that:

On December 26, 2003, appellant instructed "AAA," who was then at their house tending to their store, that if he was not yet home by 8:30 p.m. that evening, she should close the store with the lights turned on, close the gate and go to her aunt's house across the street. But when he arrived home at 9:30 p.m., he noticed that the lights were turned off and the gate was closed. As he opened the gate, a man ran out. He asked "AAA" who the man was but the latter answered that he was just a friend. After asking for the man's identity for the fourth time, he slapped her on the left cheek which made her cry.^[10]

Ruling of the Regional Trial Court

In its Decision dated August 31, 2012, the RTC found appellant guilty beyond reasonable doubt of the crime of rape under Article 266-A of the Revised Penal Code. It held that:

A reading and a thorough review of the pertinent transcript of stenographic notes disclosed that [AAA] was in fact firm and consistent on the fact of rape committed on her by her father Romulo Bandoquillo. Her answers to the questions on direct examination, as well [as] on the grueling cross-examination of [the] defense counsel was clear, simple and natural words typical of children her age, that the accused performed on her sexual intercourse, identifying him properly and positively as the perpetrator of the act complained of.^[11]

Accordingly, the RTC sentenced appellant to suffer the penalty of *reclusion perpetua* and likewise ordered appellant to pay "AAA" P75,000.00 as civil indemnity and P75,000.00 as moral damages.^[12]

Appellant thereafter appealed the RTC Decision before the CA.

Ruling of the Court of Appeals

In its Decision dated July 21, 2014, the CA affirmed the assailed RTC Decision with

the following modifications: a) it convicted appellant of the crime of *qualified* rape; [13] b) it declared appellant ineligible for parole; c) it awarded P30,000.00 as exemplary damages in favor of "AAA;" and d) it imposed interest at six percent (6%) per annum on all awarded damages, reckoned from the date of finality of the Decision until fully paid.[14]

The CA agreed with the RTC's findings that AAA had testified in a firm, consistent, credible and believable manner in recounting how appellant had carnal knowledge of her in the early morning of December 27, 2003.[15] It explained that:

Significantly, AAA never wavered in her direct testimonies on 07 December 2005 and 07 March 2007 that appellant succeeded in having carnal knowledge of her on the date of the incident. In her 07 December 2005 testimony, AAA confirmed the entry of appellant's penis into 'the labia of [her sexual] organ...' For rape to be consummated, full penetration is not necessary, as proof of the entrance of the male organ into the labia of the pudendum of the female organ suffices to consummate the crime of rape. During her direct testimony on 07 March 2007, and her testimony on cross-examination on 13 June 2007, AAA also remained consistent in her assertion that appellant 'inserted [his] penis into [her] vagina...' Contrary to the assertion of appellant, AAA consistently declared that the tape perpetrated by appellant in the early morning of 27 December [2003] was consummated.[16]

On this point, the CA noted that appellant had failed to adduce evidence "to convincingly show any dubious reason or ill-motive on the part of "AAA" to falsely accuse him of such serious offense as rape." [17] It thus concluded that "[i]n the absence of ill motive on the part of "AAA," appellant's denial cannot prevail over her categorical and positive testimony." [18]

The CA also rejected appellant's claim that his alleged act of spanking "AAA" on the eve of the rape incident had prompted her to make such false accusations. It ruled that "[m]ere disciplinary chastisement is not strong enough to make daughters in a Filipino family invent a charge that would only bring shame and humiliation upon them and their own family and make them the object of gossip." [19]

Finally, the CA held that the crime committed by appellant against "AAA" is *qualified* rape under Article 266-B of the Revised Penal Code, given that "AAA" is under 18 years of age and the offender is a parent. [20]

Aggrieved, appellant filed the present appeal.

The Issues

Appellant raises the following issues for the Court's resolution:

First, whether "AAA's" testimony is credible, given the inconsistency in her testimony as regards the consummation of the crime; [21]

And second, whether "AAA's" failure to significantly resist appellant's sexual

advances casts doubt on the veracity of her assertions.^[22]

The Court's Ruling

It is settled that "**when the decision hinges on the credibility of witnesses and their respective testimonies, the trial court's observations and conclusions deserve great respect and are often accorded finality**"^[23] unless it is shown that the lower court had *overlooked*, *misunderstood* or *misappreciated* some fact or circumstance of weight which, if properly considered, would have altered the result of the case.^[24] "**[This] rule finds an even more stringent application where said findings are sustained by the Court of Appeals.**"^[25]

In this case, we find no compelling reason to overturn the factual findings of the trial court, given that: a) it has *not* been shown that the RTC had overlooked, misunderstood or misappreciated facts or circumstances which would have resulted in appellant's acquittal; and b) said findings were upheld by the CA.

The records reveal that when "AAA" testified in court as regards her ordeal, she described how she was sexually abused by appellant in her own room on that fateful day of December 27, 2003, *viz.*:

Direct Testimony on December 7, 2005

[PROS. TITO DIAZ:]

Q: Madam witness, if this is the penis of your father, (*Prosecutor showing his finger*), was he able to enter the labia of your [sexual] organ?

A: Yes, sir.^[26]

Direct Testimony on March 7, 2007

[PROS. TITO DIAZ:]

Q: And what happened after your father removed his short and brief?

A: He inserted his penis into my vagina.

Q: Did you not resist your father['s] advances when he already removed your panty and inserted his private organ to your private organ?

A: I resisted and told him not to do that to me because I am his daughter.^[27]

The alleged inconsistency in "AAA's" testimony, *i.e.*, that "AAA" had earlier testified that appellant's penis was only able to enter the labia of her sexual organ but later stated that appellant was able to insert his penis into her vagina, is more apparent than real.

A thorough review of "AAA's" direct testimony as well as her cross examination