

## THIRD DIVISION

[ G.R. No. 218255, April 11, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JERRY  
BUGNA Y BRITANICO, ACCUSED-APPELLANT.**

### DECISION

**MARTIRES, J.:**

This is an appeal from the 17 December 2014 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01055-MIN, which affirmed with modification the 15 May 2012 Decision<sup>[2]</sup> of the Regional Trial Court, [REDACTED] South Cotabato (RTC), in Criminal Case Nos. 4613-S and 4614-S, finding accused-appellant Jerry Bugna y Britanico (*Bugna*) guilty beyond reasonable doubt of two counts of Qualified Rape defined and penalized under Article 266-B(1) of the Revised Penal Code (RPC).

### THE FACTS

In an Information dated 28 March 2008, Bugna was charged with the crime of Rape committed against [REDACTED] AAA.<sup>[3]</sup> The accusatory portion of the information reads:

That on or about the 7th day of April 2007 at around 8:00 o'clock in the evening, [REDACTED] in their own house situated at [REDACTED] Province of South Cotabato and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of one [AAA], 16 years old and [REDACTED] against her will and consent<sup>[4]</sup>

In a separate information of the same date, Bugna was charged with another count of rape against AAA. The accusatory portion of the information reads:

That on or about the 21st day of December 2007 at around 2:00 o'clock in the morning, [REDACTED] in their own house situated at [REDACTED], Province of South Cotabato and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge of one [AAA], 16 years old and [REDACTED] against her will and consent.<sup>[5]</sup>

During his arraignment on 16 July 2008, Bugna, with the assistance of his counsel, pleaded "Not Guilty" to both counts of rape.<sup>[6]</sup>

### ***Evidence for the Prosecution***

The prosecution presented AAA and Dr. Neil T. Crespo (*Dr. Crespo*) as witnesses. Their combined testimonies tended to establish the following:

Sometime in April 2007, AAA and her four siblings were about to go to sleep when Bugna arrived drunk from a drinking session. At around 8:00 P.M., while they were sleeping, she felt [REDACTED] removing her shorts. Bugna then inserted his fingers into AAA's vagina. Unsatisfied, he removed his finger and decided to mount AAA and inserted his penis into her vagina. Perturbed, AAA asked Bugna why he was doing this to her - to which the latter replied that if [REDACTED] was able to use her why not [REDACTED]. During the incident AAA felt pain in her genitals and was nervous and scared of [REDACTED]. Her mother was away during that time.<sup>[7]</sup>

Thereafter, on 21 December 2007, AAA and her siblings were again left alone in their house with their [REDACTED] because their mother went to General Santos City. At around 2:00 A.M. of the said date, she again felt her [REDACTED] pulling down her shorts. AAA attempted to run but Bugna was able to grab her and instructed her to lie down. While on the floor, he went on top of her scared [REDACTED] and inserted his penis into her vagina. Thereafter, Bugna went back to sleep and left AAA in pain, who felt a sticky watery substance come out of her vagina. AAA was able to report the incident to her mother only after some time because Bugna warned her that her mother might send him to jail if she found out.<sup>[8]</sup>

On 2 January 2008, Dr. Crespo conducted a physical examination on AAA, wherein he noted that AAA's genital area had healed lacerations.<sup>[9]</sup>

### ***Evidence for the Defense***

The defense presented Bugna as its lone witness whose testimony sought to prove the following:

On 4 April 2007, at around 8:30 A.M., Bugna travelled with his ducks to Tacurong, Sultan Kudarat, and stayed there until 1 May 2007. Thereafter, he went to Bayugan, Agusan del Sur, until 31 December 2007, and was never able to go back home.<sup>[10]</sup>

### ***The RTC Ruling***

In its 15 May 2012 decision, the RTC found Bugna guilty of two counts of rape. The trial court noted that AAA positively identified [REDACTED] as her assailant; as such, Bugna's defense of denial and alibi deserved scant consideration. The dispositive portion reads:

WHEREFORE, foregoing premises considered and discussed, the court finds the evidence of the prosecution sufficient to establish the guilt of the accused beyond reasonable doubt. Accused, Jerry B. Bugna, is therefore found GUILTY of the crime of two (2) counts of Rape against [REDACTED] as charged in the above informations.

ACCORDINGLY, he is hereby sentenced to suffer the penalty of reclusion perpetua in each of the cases.

He is further ordered to pay the private offended party the amount of

P50,000.00 in each case, as moral damages.<sup>[11]</sup>

Aggrieved, Bugna appealed before the CA.

### ***The CA Ruling***

In its assailed 17 December 2014 decision, the CA substantially affirmed the RTC judgment and modified only the damages awarded. The appellate court found AAA's testimony to be credible considering it was straightforward and consistent. It expounded that Bugna's [REDACTED] substituted the element of violence and intimidation. The CA explained that Bugna's unsubstantiated alibi has no leg to stand on in view of AAA's positive identification of him. It ruled:

WHEREFORE, the appeal is DENIED. The Decision dated May 15, 2012 of the Regional Trial Court, [REDACTED] South Cotabato, [REDACTED] in Criminal Cases Nos. 4613-S and 4614-S is hereby AFFIRMED, finding accused-appellant Jerry Bugna y Britanico GUILTY beyond reasonable doubt of two (2) counts of qualified rape, with MODIFICATION of the award of civil indemnity, ordering accused-appellant to pay [AAA], in each case, P75,000.00 as civil indemnity ex delicto, P75,000.00 as moral damages, and P30,000.00 as exemplary damages. The award of damages shall earn legal interest at the rate of 6% per annum from date of finality of this judgment until fully paid.<sup>[12]</sup>

Hence, this appeal.

### **ISSUE**

#### **WHETHER THE ACCUSED IS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE**

#### **THE COURT'S RULING**

The appeal has no merit.

There is qualified rape when a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree or the common-law spouse of the victim has carnal knowledge with a minor through force, threat or intimidation.

<sup>[13]</sup> In other words, the element of qualified rape is as follows: (a) there is sexual congress; (b) with a woman; (c) done by force and without consent; (d) the victim is a minor at the time of the rape; and (e) offender is a parent (whether legitimate, illegitimate or adopted) of the victim.<sup>[14]</sup>

In the case at bench, all the foregoing elements are present to convict Bugna for two counts of rape committed against AAA.

It is axiomatic that the evaluation of the RTC judge of the credibility of the witness, coupled by the fact that the CA affirmed the trial court's findings, is binding upon the Court,<sup>[15]</sup> unless it can be established that facts and circumstances have been overlooked or misinterpreted, which could materially affect the disposition of the case in a different manner.

After a careful scrutiny of the records, the Court finds no reason to depart from the findings of the courts *a quo*.

It is settled that an accused may be convicted based solely on the testimony of the witness, provided that it is credible, natural, convincing and consistent with human nature and the normal course of things.<sup>[16]</sup> In her testimony, AAA unflinchingly recalled her harrowing experience at the hands of [REDACTED] who was supposed to be her protector but was instead the monster lurking in her nightmares. In addition, AAA's testimony is rendered more credible and believable because Bugna neither alleged nor proved that AAA was motivated with ill will or malice in testifying against him.<sup>[17]</sup> She testified:

PROSECUTOR VALDEZ-DAMO:

Q: And you filed two (2) cases of rape against [REDACTED] right?

A: Yes, ma'am.

Q: Could you recall when was the first incident?

A: In April, 2007.

Q: What time when the alleged incident happened, if you could recall?

A: In the evening.

Q: Where were you then at that time?

A: I was at home.

Q: While you were at home, what were you doing?

A: We were about to go to sleep.

x x x x

Q: What happened on that night?

A: After they drank, he locked all the doors.

Q: And after he locked all the doors, what else did [REDACTED] do?

A: We fell asleep already and I just felt that he removed my shorts.

PROSECUTOR VALDEZ-DAMO:

May we put it on record, Your Honor, that the victim is already crying.

Q: You said that you felt that [REDACTED] was removing your shorts, right?

A: Yes, ma'am.

Q: What did you do then?

A: I did not move then he inserted his finger.

Q: Where did he insert his finger, will you tell the court?

A: Into my vagina.

Q: What did you feel at that time?

A: I was nervous.

Q: What did you do when your [REDACTED] inserted his finger into your vagina?

A: It was painful.

Q: And after that, what did [REDACTED] do?

A: He removed his finger then he put himself on top of me.

Q: What else did [REDACTED] do?

A: That was when he abused me.

Q: You said that [REDACTED] abused you. Will you tell the court what do you mean by that?

A: He placed himself on top of me then he inserted his penis into my vagina.

x x x x

Q: Was that the only incident that [REDACTED] sexually abused you?

A: There were other incidents. The last sexual abuse happened on December 21, 2007.

x x x x

Q: And what happened while you were at home on that date?

A: Early morning, around 2:00 o'clock, I felt that [REDACTED] was pulling my shorts.

Q: What did you do when you felt that [REDACTED] was pulling down your shorts?

A: I was trying to prevent his hand and I seated.

Q: And after that, what happened next?

A: I attempted to run but he pulled me.

Q: And after [REDACTED] pulled you, what happened next?

A: He held my hand, instructed me to lie down and then he put himself on top of me.

Q: What did you feel at that time when [REDACTED] instructed you to lie down and then he put himself on top of you?

A: I was scared.

Q: And after that, what did [REDACTED] do?

A: He inserted his penis into my vagina.

Q: For how long?

A: For only around one (1) minute.

Q: After that, what else did [REDACTED] do?

A: He left and went back to where he was sleeping.