

## THIRD DIVISION

[ G.R. No. 222497, June 27, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. PEDRO RUPAL, ACCUSED-APPELLANT.**

### D E C I S I O N

**MARTIRES, J.:**

Through this appeal, accused-appellant Pedro Rupal assails the 14 July 2015 Decision<sup>[1]</sup> of the Court of Appeals (CA), Twentieth Division, in CA-G.R. CR HC No. 01742 affirming, with modification as to the award of damages, the 5 September 2012 Decision<sup>[2]</sup> of the Regional Trial Court (RTC), ██████████ Bohol, finding him guilty of Rape as defined and penalized under Article (Art.) 266-A of the Revised Penal Code (RPC).

### THE FACTS

The accused-appellant was charged with Rape in an information<sup>[3]</sup> docketed as Crim. Case No. 06-1748, the accusatory portion of which reads:

That on or about the 15th day of December 2005, in the Municipality of ZZZ, Province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, acting as Family Court, the above-named accused with lewd designs, grab AAA, a minor, she being born on November 27, 1992, while she was about to walk away from the accused, did then and there wilfully, unlawfully, and feloniously drag the victim towards a nearby coconut plantation and with the use of force, threat, and intimidation and thereafter said accused inserted his erect penis into the vagina of said AAA, thus, the accused succeeded in having carnal knowledge with the said victim without her consent and against her will, to the damage and prejudice of the said offended party.

Acts committed contrary to the provisions of Article 335<sup>[4]</sup> of the Revised Penal Code as amended by R.A. No. 7659<sup>[5]</sup> and R.A. No. 8353.<sup>[6]</sup>

When arraigned, accused-appellant pleaded not guilty<sup>[7]</sup> thus, trial proceeded with the prosecution presenting AAA,<sup>[8]</sup> BBB who is the mother of AAA, and Dr. Analita N. Auza.

To prove his defense, the accused-appellant took the witness stand.

### ***The Version of the Prosecution***

At around 7:00 a.m. on 15 December 2005, AAA, a thirteen-year-old high school student, was at her school preparing decorations for her school's Christmas party when her classmate told her that somebody was looking for her at the waiting shed.

When she went there, AAA saw accused-appellant who told her that her mother sent her P100.00 for her exchange gift but that she needed to have the hundred-peso bill changed because he used the P50.00 for his fare. AAA got the money but because she still had classes, the accused appellant had to return later to get the P50.00.<sup>[9]</sup>

At about 1:00 p.m., accused-appellant returned to the waiting shed. AAA was handing him the P50.00, he pulled the handle of her bag, detaching it. Accused-appellant then pulled her towards the coconut plantation, pushed her to the ground, removed her underwear, raised her skirt, and mounted her. While AAA was crying, accused-appellant inserted his penis into her vagina and then made a push-and-pull movement, kissed her lips, and touched her breasts. After having carnal knowledge of AAA, accused-appellant told her not to tell BBB what happened, otherwise he would kill BBB and her siblings. Afraid that accused-appellant would make good his threat, AAA did not tell her mother what happened to her. <sup>[10]</sup>

In the afternoon of 2 January 2006, accused-appellant chased AAA as she alighted from a jeep on her way home to CCC, BBB's sister, with whom AAA was then staying as CCC's house was nearer her school. AAA ran when she noticed that accused-appellant was behind her and stopped only when she saw him take another direction. When the bystanders who saw accused-appellant chase AAA told CCC about it she, together with a barangay tanod, proceeded to BBB's house and informed her what accused-appellant had done.<sup>[11]</sup>

When BBB arrived at CCC's house, she inquired from AAA if she was raped. Because AAA refused to answer, the barangay tanod advised BBB to submit AAA to a medical examination. AAA agreed but requested that the examination be done the following day as it was already late. At around 11:00 p.m., AAA confided to BBB that she was raped twice by accused-appellant; once, when she was nine years old and the second, on 15 December 2005. AAA admitted that she never told her about it as she was afraid of his threat that he would kill her and AAA's siblings.<sup>[12]</sup>

On 4 January 2006, AAA<sup>[13]</sup> and BBB<sup>[14]</sup> went to the police station to submit their statements regarding the 15 December 2005 incident. In her statement, AAA narrated that accused-appellant started raping her since she was nine years old and that these had taken place more than ten times.<sup>[15]</sup>

On 9 January 2006, AAA was physically examined by Dr. Auza, the municipal health officer. AAA told Dr. Auza that she was raped several times since she was nine years old. Dr. Auza arrived at the following findings and remarks after a perineal examination of AAA:

Findings: Nulliparous, scanty pubic hair.  
Presence of healed lacerated wound at 2, 7 and 11 o'clock sites of the vaginal opening.  
Remarks: Hymen not intact  
Vaginal penetration is evident.<sup>[16]</sup>

In her analysis, Dr. Auza remarked that the laceration at the vaginal opening could have been caused by the forcible entry of a hard object, possibly, a male genitalia.  
<sup>[17]</sup>

### ***The Version of the Defense***

Accused-appellant is the husband of DDD, BBB's sister; thus, AAA calls him "manong." Sometime in 2005, DDD confirmed to accused-appellant that she had quarrelled with BBB when BBB called her daughter a prostitute. Accused-appellant was ashamed that BBB and DDD were quarrelling despite being siblings.<sup>[18]</sup>

One morning until 3:00 p.m. on 15 December 2005, the accused-appellant and his two children cleaned the garden outside their house, which was just across the house of AAA. Accused-appellant rested thereafter inside the house and, at about 4:00 p.m., fetched water from the barangay deepwell. After he was done, he stayed home until he went to sleep.<sup>[19]</sup>

Alleging he did not commit any offense, accused-appellant did not execute any counter-affidavit when arrested in 2006 by the police.<sup>[20]</sup>

### ***The Ruling of the RTC***

The RTC held that AAA's testimony was straightforward and believable, coming from a child who had neither reason to tell a lie nor motive to falsely charge accused-appellant. While the RTC took note of the fact that there were only the medical certificate and the testimony of the physician to corroborate AAA's testimony, these, however, did not weaken the case since she was able to sufficiently prove that accused-appellant raped her on 15 December 2005. The RTC stressed that jurisprudence provides that great weight is given to the testimony of a child who was a rape victim.<sup>[21]</sup>

On the one hand, the RTC found weak accused-appellant's defense of denial compared to AAA's positive testimony. Moreover, accused-appellant's alibi was not only unbelievable but was also uncorroborated.<sup>[22]</sup>

Finding that the elements of Art. 266-A of the RPC was successfully proven by the prosecution, the RTC rendered its decision the decretal portion of which reads as follows:

WHEREFORE, considering the foregoing, the court hereby finds accused Pedro Rupal GUILTY beyond reasonable doubt for the crime of Rape. In accordance with the penalty set forth under Article 266-A of the Revised Penal Code, this court hereby sentences him to suffer the penalty of RECLUSION PERPETUA. He is likewise sentenced to pay civil indemnity to the victim AAA in the amount of FIFTY THOUSAND PESOS (P50,000.00), Philippine Currency.

As it appears on record that the accused is under detention at the BJMP, ████████ Bohol, said accused shall be credited with the full period of his detention subject to an assessment by the jail warden on his demeanour while in said detention center.

SO ORDERED.<sup>[23]</sup>

Believing that the RTC erred in its decision, accused-appellant appealed to the CA.

### ***The Ruling of the CA***

The CA found no merit in the appeal. The CA sustained the RTC's evaluation as to AAA's credibility since the trial judge had the advantage of examining the real and

testimonial evidence before it as well as the demeanor of the witnesses. The CA ruled that AAA positively, candidly, and categorically narrated the gruesome and terrifying ordeal she experienced in the hands of accused-appellant.<sup>[24]</sup>

The CA did not find merit in accused-appellant's contention that there was inconsistency between AAA's testimony that she was raped by him since she was nine years old until she turned thirteen, with that of BBB who claimed that AAA admitted to her that she was raped only twice. The CA ruled that AAA's young and fragile mind, and with the accused-appellant's threat still existing, made her disclose that she was raped only twice. With the ongoing trial and knowing that she and her family could no longer be harmed by accused-appellant, she had the courage to reveal that the sexual assaults took place even before she was nine years old. Additionally, the CA held that the filing of only one criminal charge against accused-appellant does not in any way belie that she was raped by accused-appellant on 15 December 2005.<sup>[25]</sup>

Finding that all the elements of rape had been established by the prosecution, the CA affirmed the RTC decision convicting accused-appellant but modified the award of damages, viz:

**WHEREFORE**, the foregoing premises considered, the appeal is **DENIED**. The assailed *Decision* dated September 5, 2012 of the Regional Trial Court of ████████ Bohol, is **AFFIRMED with MODIFICATION**. Accused-appellant is ordered to pay AAA the following:

1. PhP75,000.00 as civil indemnity;
2. PhP75,000.00 as moral damages;
3. PhP30,000.00 as exemplary damages.

All damages awarded shall earn interest at the rate of six percent (6%) per annum from finality of this judgment until fully paid.

SO ORDERED.<sup>[26]</sup>

## **ISSUES**

I.

THE COURT A QUO GRAVELY ERRED IN GIVING MUCH WEIGHT AND CREDENCE TO THE INCONSISTENT, HIGHLY INCREDIBLE, AND IMPROBABLE TESTIMONY OF THE PRIVATE COMPLAINANT.

II.

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

## **OUR RULING**

The appeal is without merit.

***The elements of rape were proven by the prosecution.***

For a charge of rape under Art. 266-A(1)<sup>[27]</sup> of Republic Act (R.A.) No. 8353 to prosper, it must be proved that: (1) the offender had carnal knowledge of a woman, and (2) he accomplished such act through force or intimidation, or when she was deprived of reason or otherwise unconscious, or when she was under 12 years of age or was demented.<sup>[28]</sup> The gravamen of rape under Art. 266-A (1) is carnal knowledge of "a woman against her will or without her consent."<sup>[29]</sup> In this case where it was alleged to have been committed by force, threat or intimidation, "it is imperative for the prosecution to establish that the element of voluntariness on the part of the victim be absolutely lacking. The prosecution must prove that force or intimidation was actually employed by accused upon his victim to achieve his end. Failure to do so is fatal to its cause."<sup>[30]</sup>

Convincingly, AAA narrated that accused-appellant had carnal knowledge of her, against her will, on 15 December 2005, viz:

Q. Now, when you returned the P50.00 extra amount to Pedro Rupal, what happened next?

A. He pulled me.

Q. Who pulled you?

A. Pedro Rupal.

Q. What happened when he pulled you?

A. The handle of my bag was severed.

x x x

Q. And what happened after the handle of your bag was severed because it was pulled by Pedro?

A. He pulled me towards the coconut plantation.

Q. And what happened next?

A. He pushed me.

Q. So what happened to you when he pushed you?

A. I fell down and he held me.

Q. After he held you what happened next?

A. He abused me.

Q. When you said he abused you, what did he do at that time?

A. He made a push and pull movement on me.

Q. What was the position of both of you when he made that push and pull movement?

A. He was on top of me.

Q. Were you lying down or standing up?

A. Lying down.