

FIRST DIVISION

[G.R. No. 218804, August 06, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
LEONARDO QUIAPO @ "LANDO", ACCUSED-APPELLANT.**

DECISION

DEL CASTILLO, J.:

On appeal is the April 24, 2015 Decision^[1] of the Court of Appeals (CA) in CA-G.R CR HC No. 00669-MIN affirming with modification the September 5, 2008 Decision^[2] of the Regional Trial Court (RTC) of Liloy, Zamboanga del Norte, Branch 28 in Criminal Case Nos. L-0098 to L-00103 convicting Leonardo Quiapo @ "Lando" (appellant) of one count of attempted rape and five counts of consummated rape.

Antecedent Facts

Appellant was charged before the RTC of Liloy, Zamboanga del Norte, Branch 28 in six separate Informations with rape under Article 335 of the Revised Penal Code (RPC) and were docketed as Criminal Case Nos. L-0098 to L-00103, inclusive.

The accusatory portions of the Informations read, as follows:

Criminal Case No. L-0098

That, in the afternoon, on or about the 20th day of September, 1996, in x x Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused, moved by lewd and unchaste desire and by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously succeed in having sexual intercourse with one MMM,^[3] an 11 year old child, against her will and without her consent.

CONTRARY TO LAW (Viol. of Art. 335, Revised Penal Code).^[4]

Criminal Case No. L-0099

That, in the evening, on or about the 21st day of September, 1996, in x x Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused, moved by lewd and unchaste desire and by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously succeed in having sexual intercourse with one MMM, an 11 year old child, against her will and without her consent.

CONTRARY TO LAW (Viol. of Art. 335, Revised Penal Code).^[5]

Criminal Case No. L-00100

That, in the morning, on or about the 18th day of April, 1996, in x x x Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused, moved by lewd and unchaste desire and by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously succeed in having sexual intercourse with one AAA, a 12 year old child, against her will and without her consent.

CONTRARY TO LAW (Viol. of Art. 335, Revised Penal Code).^[6]

Criminal Case No. L-00101

That, at noon, on or about the 18th day of April, 1996, in x x x Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused, move by lewd and unchaste desire and by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously succeed in having sexual intercourse with one AAA, a 12 year old child, against her will and without her consent.

CONTRARY TO LAW (Viol. of Art. 335, Revised Penal Code).^[7]

Criminal Case No. L-00102

That, in the evening, on or about the 18th day of April, 1996, in x x x Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused, moved by lewd and unchaste desire and by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously succeed in having sexual intercourse with one AAA, a 12 year old child, against her will and without her consent.

CONTRARY TO LAW (Viol. of Art. 335, Revised Penal Code).^[8]

Criminal Case No. L-00103

That, in the evening, on or about the 13th day of May, 1996, in x x x Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused, moved by lewd and unchaste desire and by means of force, violence and intimidation, did then and there wilfully, unlawfully and feloniously succeed in having sexual intercourse with one AAA, a 12 year old child, against her will and without her consent.

CONTRARY TO LAW (Viol. of Art. 335, Revised Penal Code).^[9]

Appellant pleaded not guilty to the charges. Thereafter, trial on the merits ensued.

The CA and the Office of the Solicitor General (OSG) summarized the prosecution's version of the incidents in the following manner:

Criminal Case Nos. L-0100, L-0101, L-0102 and L-0103:
Rapes committed on AAA:

In the summer of 1996, AAA stayed with x x x appellant Leonardo Quiapo, and Aunt [BBB] Quiapo at their residence x x x, per request of AAA's Aunt [BBB]. While living with the spouses, AAA helped out in the daily household chores x x x. Everytime that [BBB] leaves the house, Leonardo would ask her to come to him.

In the afternoon of 18 April 1996, while AAA was fetching water, Leonardo followed and beckoned her to come to him x x x. At first, AAA did not respond to Leonardo's call. x x x Eventually, [AAA] succumbed to [appellant's] unrelenting request and came near him. Immediately thereafter, Leonardo x x x [undressed AAA and threatened her] not to shout.

Terrified by the bolo [hanging] at the side of Leonardo and the threat of killing her x x x, AAA yielded to [her] uncle's desire. Leonardo laid her on the grass and took out his penis x x x and positioned himself on top of AAA. However, Leonardo was not able to fully insert his penis into AAA's vagina.

Days after, Leonardo's second sexual attack on AAA took place at the Quiapos['J] house x x x. While AAA was sleeping together with her aunt and cousins in the same room - which was dark because the light[s] were off - Leonardo advanced towards AAA. Despite AAA's three (3) shouts for help, her aunt [and cousins] did not wake up[.]x x x Leonardo succeeded in penetrating her [causing her severe] pain and x x x vaginal bleeding. She was sure that it was Leonardo because she recognized x x x his voice.

The third rape incident was committed in the grassy portion surrounding the house of the Quiapos['] x x x while AAA was fetching water. Similarly, AAA felt severe pain and vaginal bleeding resulting from Leonardo's penetration of her.

For the fourth time, Leonardo raped AAA while she was sleeping together with all the members of the Quiapo family in the same room. Her shouting twice [at] the top of her voice did not wake her aunt or anybody in the room x x x. Leonardo covered her mouth to prevent her from shouting further. He succeeded in undressing and laying on top of AAA by threatening her that [he] would kill her. Again, Leonardo successfully penetrated AAA resulting in another episode of pain and vaginal bleeding on the part of AAA.

The fifth episode happened one morning while AAA was carrying palay from the rice mill. Moments after reaching the house, AAA was commanded by Leonardo to come close to him. When AAA did not accede, x x x Leonardo grabbed her hand. At this point, [BBB] saw what her husband was doing to her niece. [BBB] hurriedly went inside the house and a fight ensued thereafter. [BBB] inquired from AAA what her husband did to her and AAA confessed the sexual molestations made by appellant against her x x x. On the same day, AAA was brought to her house x x x. She was also brought to the doctor for medical examination

and to the police for investigation.

x x x x

Dr. Joshua G. Brillantes, Rural Health Physician of Labason, Zamboanga del Norte conducted the physical examination on AAA on May 29, 1997. During the examination, Dr. Brillantes observed that there was a complete laceration of hymenal membrane which [had] already healed[, which laceration was] possibly caused by a penis inserted through the hymen causing it to break.

On internal examination or manual examination, it was discovered that AAA's vaginal womb readily admit[ted] the tip of the little finger without any resistance[. This was] a result of the insertion of any object x x x to the vagina which [had] caused the elasticity of the vaginal muscles. He testified that the above mentioned findings indicated that a previous penetration occurred prior to the examination.

x x x x

Criminal Case Nos. L-0098 and L-0099:
Rapes committed on MMM

Sometime in September 1996, MMM was invited by her Aunt [BBB] to stay in the latter's house x x x to be a playmate to the latter's two children. MMM would [be] sleeping [in] a small room beside her Aunt [BBB] who was, in turn, lying beside Leonardo.

[In the evening] of 20 September 1996 [MMM] was sleeping inside her Aunt [BBB] and Leonardo's bedroom. At that time, her aunt was not around. While she was sleeping, appellant came to lie beside her, x x x. While MMM tried to move away[,] Leonardo pulled her towards him x x x. Leonardo held her hand, then shoulders, covered her mouth and undressed her. MMM attempted to shout but Leonardo managed to cover her mouth.

Eventually, after successfully pulling down MMM's panty, Leonardo removed his own clothes and [laid] on top of her. MMM suddenly felt much pain when Leonardo inserted his penis into her vagina. Maintaining such position, Leonardo continued with a series of 'push and pull' movements until MMM felt something x x x flowed inside her vagina.

After Leonardo was through, hex x x warned her that[,] if she [would] report x x x what [had] happened, he [would] kill her and her mother. Leonardo also promised to give MMM money. Driven by an overwhelming fear, MMM did as she was told. Leonardo was armed with an air gun beside him while he was committing these acts.

The following day, 21 September 1996 at around 4:00 PM, while MMM was [on a trail] through the nearby grassy portion, Leonardo shouted at [her] and instructed her to come near him because he had something to tell her. Thereat, Leonardo raped MMM for the second time [and] blood

oozed out of MMM's vagina after another painful sexual attack made by appellant.

MMM reported the sexual molestations caused to her by her uncle to the police x x x [in] May 1997 or approximately eight (8) months when her cousin AAA, who was also raped by her uncle, appellant Leonardo, reported the matter to MMM's mother.

Dr. Brillantes was also the one who conducted the physical examination on MMM on May 29, 1997. Dr. Brillantes observed that there was a complete laceration of hymenal membrane which [had] already healed. He testified that the above mentioned findings [indicated] that MMM was 'no longer a virgin' at the time of the examination [and] the same result as that of his examination with AAA.^[10]

On the other hand, appellant relied on denial and alibi. He denied ever having carnal knowledge of AAA and MMM as he was no longer a resident of the place where the occurrences transpired. He alleged that the accusations against him were fabricated and instigated by the complainants' grandmother who was driven by a grudge against him.

Ruling of the Regional Trial Court

The RTC gave more credence to the testimonies of AAA and MMM. It rejected appellant's defenses of denial and alibi applying the principle that these defenses cannot prevail over the positive testimony and identification of the accused. The RTC was not persuaded that the charges were just fabricated as it was not clearly established that the grandmother of the complainants really had a grudge on him. However, in Criminal Case No. L-0100, the RTC found appellant liable only for attempted rape since the prosecution failed to prove that appellant's penis was able to penetrate, however slight, AAA's vagina. Thus, on September 5, 2008, the RTC rendered its Decision, the decretal portion of which reads:

WHEREFORE, premises considered, the court finds accused *LEONARDO QUIAPO alias Lando*, guilty beyond reasonable doubt of the following:

1. For the crime of Attempted Rape in Criminal Case No. L-0100 and sentences [him] to an indeterminate penalty of imprisonment ranging from two (2) years, four (4) months and one (1) day of *prision correccional* as minimum, to eight (8) years and one (1) day of *prision mayor* as maximum and to pay Victim - AAA x x x the sum of Php30,000.00 as civil indemnity; Php25,000.00 as moral damages and Php10,000.00 as exemplary damages, and
2. For two (2) counts of Consummated Rape, in Criminal Case Nos. L-0098, L-0099, and sentences him to suffer the penalty of *Reclusion Perpetua* in two (2) counts, and to pay the Victim - MMM x x x the sum of Php75,000.00; Php25,000.00 as exemplary damages and Php75,000.00 as moral damages, for each case.
3. For three (3) counts of Consummated Rape in Criminal Case Nos. L-0101, L-0102, and L-0103 and sentences him to suffer the penalty of