

## THIRD DIVISION

[ G.R. No. 224295, March 22, 2017 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARIEL S. MENDOZA, ACCUSED-APPELLANT.**

### RESOLUTION

**REYES, J.:**

This is an appeal from the Decision<sup>[1]</sup> dated March 13, 2015 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04919, which affirmed with modification the Decision<sup>[2]</sup> dated December 9, 2010 of the Regional Trial Court (RTC) of Iba, Zambales, Branch 69, in Criminal Case No. RTC 5785-I finding Ariel S. Mendoza (accused-appellant) guilty beyond reasonable doubt of Qualified Rape.

#### **Factual Antecedents**

On February 10, 2010,<sup>[3]</sup> the accused-appellant was charged with the crime of Rape, as defined and penalized under Article 266-A and 266-B of the Revised Penal Code (RPC), in an Information, the accusatory portion of which reads as follows:

That sometime in between 2008 and 2009, in Brgy. Luna, Municipality of San Antonio, Province of Zambales, Philippines and within the jurisdiction of this Honorable Court, the [accused-appellant], with lewd design, through intimidation, did then and there willfully, unlawfully and feloniously inserted his penis into the vagina and buttocks of his own daughter, five (5) year old [AAA],<sup>[4]</sup> against her will and consent, and which degraded and demeaned the latter of her intrinsic worth and dignity, to the damage and prejudice of said minor [AAA].

CONTRARY TO LAW.<sup>[5]</sup>

Upon arraignment on April 13, 2010, the accused-appellant pleaded not guilty to the charge. During the preliminary conference held on May 5, 2010, he admitted that AAA is his daughter, as well as the existence and due execution of AAA's certificate of live birth.<sup>[6]</sup>

During the trial, AAA recalled that the incident transpired at her grandfather's house, around the same time when their own house was being demolished. She claimed that while her grandfather was away, the accused-appellant stripped her naked and asked her to lie facing downwards. The accused-appellant then inserted his penis into her vagina and anus. The harrowing incident was interrupted by the arrival of her grandfather, after which she dressed up, went out of the house and played with her dog, while the accused-appellant stayed inside the house.<sup>[7]</sup>

AAA's testimony during the trial was a reiteration of her narration of the incident in her sworn statement executed on April 16, 2009 which reads as follows:

TANONG - AAA, marunong ka bang magsalita at bumasa ng salita o wikang Tagalog?

SAGOT - Marunong lang pong magsalita ng Tagalog.

T - AAA, bakit nandito kayo ni mama mo sa opisina ng pulis?

S - Isusumbong ko po si Ninong Rolex at Papa ko.

T - Bakit mo isusumbong si Papa mo?

S - Kasi pinasok po niya yong 'TOTOY' niya sa 'PEPE' ko at saka sa 'PUWET' ko.

T - Papaano ipinasok ng PAPA mo ang 'TOTOY' niya sa pepe mo?

S - Diba ito yong 'TOTOY' niya, ito yung 'PEPE' ko, yun ipinasok nya? (Victim demonstrate thru her hands how [her] father sexually abused her)

T - Maalala mo ba kong ano ang itsura ng 'TOTOY' ni PAPA mo?

S - May balbas saka medyo mahaba.

T - Anung kulay ng balbas ng 'TOTOY' ni PAPA mo?

S - Kulay itim, katulad ng buhok. (Victim hold her hair)

T - Anung naramdaman mo noong pinasok ni PAPA mo ang 'TOTOY' niya sa pepe mo?

S - Masakit po at saka mahapdi.

T - Pagkatapos ipinasok ng PAPA mo ang 'TOTOY' niya sa 'PEPE' mo, anung ginawa mo?

S - Nagsumbong po ako kay BBB, ninang at tita.

T - Maalala mo ba kung kailan ipinasok ni PAPA mo ang kanyang 'TOTOY' sa 'PEPE' mo?

S - Noong giniba yong bahay namin, umaga po sa loob ng bahay ni Lolo [DDD].

T - Alam mo ba kung anung pangalan ni PAPA?

S - Opo, ARIEL MENDOZA, pero ang palayaw po niya ay "DAGA" [.]

T - Maari mo bang ikuwento sa amin kong anu ang ginawa ni PAPA mo sa iyo?

S - Hinubad po ni PAPA ko ang short ko at panty ko at saka damit ko, tapos pinadapa niya ako, tapos ipinasok nila ang 'TOTOY' niya sa 'PEPE' at saka sa 'PUWET' ko tapos po dumating si LOLO ko, nagbihis na po ako tapos lumabas na po ako, at si papa ay naiwan sa loob ng bahay ni LOLO, tapos naglaro po ako kasama ko ang aso ko po.<sup>[8]</sup> (Citation omitted)

EEE, the mother of AAA and live-in partner of the accused-appellant, testified that she was in Meycauayan, Bulacan when the incident happened. She claimed that she had a fight with the accused-appellant which prompted her to leave their place for a while but she left her children under the care of their grandfather and not with the

accused-appellant.<sup>[9]</sup>

To further establish its case, the prosecution presented the following evidence: (1) *Sinumpaang Salaysay* of AAA; (2) *Sinumpaang Salaysay* of EEE; (3) Joint Affidavit of Arrest of Police Officer (PO) 1 Walter Primero and PO3 John Lazaro; (4) Certificate of live birth of AAA; and (5) Initial Medico-Legal Report.<sup>[10]</sup>

For his defense, the accused-appellant claimed innocence and denied the charge. He testified that it was his *compadre* Rolex Labre who committed the crime when the latter was still living with them in 2008. He asseverated that the filing of the case against him was instigated by his live-in partner, EEE, who wanted him jailed so that she could freely cohabit with her new flame who lives in Bulacan.<sup>[11]</sup>

On December 9, 2010, the RTC rendered a Decision,<sup>[12]</sup> finding the accused-appellant guilty beyond reasonable doubt of the crime charged, the dispositive portion of which reads as follows:

IN VIEW THEREOF, [the accused-appellant] is found GUILTY beyond reasonable doubt of the crime of qualified incestuous rape and is hereby sentenced to suffer the penalty of *reclusion perpetua* without eligibility of parole pursuant to R.A. [No.] 9346. [The accused-appellant] is likewise ordered to pay [AAA] the amount of P75,000.00 as civil indemnity, P75,000.00 as and by way of moral damages and P25,000.00 as exemplary damages.<sup>[13]</sup>

The RTC held that it is fully convinced that the crime was committed and that the accused-appellant was responsible for the same. It found the testimony of AAA clear and straightforward and gave credence to the categorical identification of AAA of her own father as the author of the crime.<sup>[14]</sup>

On appeal, the CA affirmed with modification the decision of the RTC in its Decision<sup>[15]</sup> dated March 13, 2015, the dispositive portion of which reads as follows:

**WHEREFORE**, the appeal is DENIED. The decision dated December 9, 2010 issued by the [RTC] of Iba, Zambales[,], Branch 69, finding [the accused-appellant] guilty of qualified rape under Articles 266-A and 266-B of the [RPC] in further relation of [sic] Art. III, Section 5(B) of Republic Act [No.] 7610 with [sic] AFFIRMED with MODIFICATION. The award of civil indemnity of P75,000[.00] and moral damages of P75,000[.00] is AFFIRMED. The award for exemplary damages is increased to P30,000.00. All damages awarded by this Court shall earn legal interest at the rate of 6% per annum from the date of finality of this decision until fully paid.

**SO ORDERED.**<sup>[16]</sup>

The CA found no reason to doubt AAA's credibility and accorded great weight and respect to the observation of the RTC that her testimony was consistent, candid and straightforward throughout the proceedings. It likewise dismissed the accused-