

## THIRD DIVISION

[ G.R. No. 218942, June 05, 2017 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.  
ROLANDO BISORA Y LAGONOY, ACCUSED-APPELLANT.**

### DECISION

**TIJAM, J.:**

Accused-appellant Rolando Bisora y Lagonoy challenges in this appeal the October 10, 2014 Decision<sup>[1]</sup> promulgated by the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 06282, which affirmed the judgment<sup>[2]</sup> of conviction for Rape rendered against him on June 28, 2013 by Branch 172 of the Valenzuela City Regional Trial Court (RTC) in Criminal Case No. 552-V-12.

#### The Facts

Accused-appellant was charged under the following information:

That on or about May 23, 2012, in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of force and intimidation employed upon the person of one AAA, 16 years old, DOB: August 17, 1995 (complainant), did then and there wilfully, unlawfully and feloniously have sexual intercourse with the said minor complainant against her will and without her consent, thereby subjecting the said minor complainant to sexual abuse which debased, degraded and demeaned her intrinsic worth and dignity as a human being.<sup>[3]</sup>

Upon arraignment, accused-appellant pleaded not guilty.

AAA,<sup>[4]</sup> the complainant, testified that she was raped by accused-appellant twice: on September 9, 2011 and May 23, 2012. AAA declared that accused-appellant started courting her in September 2011, and they became sweethearts one month thereafter. AAA and accused-appellant's relationship remained a secret as AAA was afraid of her parents.

On September 9, 2011, AAA narrated that she was requested by her grandmother to call her uncle at the billiard hall. Accused-appellant, who was also at the same place, asked AAA if they could talk. Accused-appellant then brought AAA to the restroom where he forced her to have sexual intercourse with him. Fearing that her parents would know what happened between her and accused-appellant, AAA went away and stayed with her aunt in Cavite. Nevertheless, AAA's parents learned about the incident. AAA alleged that she wanted to file a complaint then but she did not know accused-appellant's surname.

Meanwhile, AAA was again raped on May 23, 2012, at around 2 o'clock in the afternoon. AAA was then at her house when accused-appellant invited her to talk. Accused-appellant brought AAA to the neighbor's comfort room. While inside, accused-appellant told AAA to remove her shorts. Fearing accused-appellant, AAA complied. Accused-appellant then inserted his penis inside AAA's vagina, while in a standing position. AAA pushed accused-appellant, but to no avail.

Through their neighbors, AAA's parents had learned what happened. AAA's parents then brought her to the police station where she executed a written statement regarding the incident. AAA declared in open court that she was a minor when she was raped by accused-appellant.

Aside from AAA, the prosecution also presented Police Senior Inspector (PSI) Jocelyn P. Cruz, the medico-legal officer of the Northern Police District Crime Laboratory who examined AAA. She testified that AAA's hymen showed clear signs of blunt penetration trauma, which could have been caused by an erect penis or finger.

Accused-appellant, on the other hand, denied that he raped AAA. He stated that he was merely introduced to AAA by a common friend, after which they became sweethearts. He admitted to being in the billiard hall and seeing AAA therein on May 23, 2012, when AAA was allegedly raped, but denied that he had a sexual encounter with her.

On June 28, 2013, the RTC rendered judgment, finding accused-appellant guilty of Rape under paragraph 1(a) of Art. 266-A of the Revised Penal Code (RPC), sentencing him to suffer the penalty of *reclusion perpetua*, and ordering him to pay the complainant moral damages of PhP50,000, civil indemnity of PhP50,000, and exemplary damages of PhP25,000.

Seeing merit on the RTC ruling, the CA, in its October 10, 2014 Decision, affirmed the RTC decision in its entirety. Accused-appellant then comes before this Court, maintaining that the prosecution failed to prove his guilt beyond reasonable doubt.

### **The Ruling of the Court**

We dismiss the appeal.

For conviction in the crime of rape, the following elements must be proved beyond reasonable doubt: (1) that the accused had carnal knowledge of the victim; and (2) that said act was accomplished (a) through the use of force or intimidation, or (b) when the victim is deprived of reason or otherwise unconscious, or (c) when the victim is under 12 years of age or is demented.<sup>[5]</sup>

In this case, We find no merit in accused-appellant's argument that the prosecution failed to establish force or intimidation.

AAA's failure to shout or to tenaciously resist accused-appellant should not be taken against her since such negative assertion would not *ipso facto* make voluntary her submission to accused-appellant's criminal act. In rape, the force and intimidation must be viewed in the light of the victim's perception and judgment at the time of the commission of the crime. As already settled in our jurisprudence, not all victims react the same way. Some people may cry out, some may faint, some may be shocked into insensibility, while others may appear to yield to the intrusion. Some