

THIRD DIVISION

[G.R. No. 223678, July 05, 2017]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALFREDO GUNSAY Y TOLENTINO, ACCUSED-APPELLANT.**

DECISION

TIJAM, J.:

Accused-appellant Alfredo Gunsay y Tolentino assails the Decision^[1] dated May 20, 2015 of the Court of Appeals (CA) in CA-G.R. CR-HC. No. 06325, which affirmed with modification the Judgment dated April 18, 2013 of the Regional Trial Court (RTC) of Urdaneta City, Pangasinan, Branch 49, in Criminal Case No. 13643. Accused-appellant was convicted of Rape and sentenced to suffer the penalty of *reclusion perpetua*. The CA ordered him to pay the private offended party the amounts of PhP 75,000 as civil indemnity, PhP 75,000 as moral damages, and P30,000.00 as exemplary damages. Accused-appellant was also ordered to pay legal interest on all damages awarded at the rate of six percent (6%) *per annum* from the date of finality of the decision until the same shall have been fully paid.

The Facts

The Information charging accused-appellant is cited herein, to wit:

That on or about 8:00 o'clock in the morning of March 21, 2005 at Brgy. Santiago, Binalonan, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and intimidation, did then and there, willfully, unlawfully and feloniously have sexual intercourse with **AAA**,^[2] minor, 17 years old, against her will and consent, to her damage and prejudice.

CONTRARY to Art. 266-A, par. 1, in rel. to Art. 266-B, 1st par., as amended by R.A. 8353.^[3]

Accused-appellant pleaded not guilty when arraigned. A pre-trial was conducted, and thereafter, trial on the merits ensued.

The prosecution adduced the testimonies of the following: (1) AAA, the private complainant herein; (2) Dr. Brenda M. Tumacder (Dr. Tumacder), the physician from the Department of Pediatrics at the Region 1 Medical Center, Dagupan, Pangasinan, who examined AAA and issued a medicolegal certificate thereto; (3) BBB, the mother of AAA; and (4) PO3 Luzviminda Pablico (PO3 Pablico), a member of the Philippine National Police (PNP) assigned at PNP-Binalonan Police Station, who is the custodian of PNP-Binalonan.

The corroborative testimonies of the prosecution witnesses showed that, on March

21, 2005, at around 8:00a.m., AAA, who was then 17 years old, together with her neighbor CCC, went to the field in Barangay Santiago, Binalonan, Pangasinan to get "*saluyot*." On their way home, the two girls met the accused-appellant, who punched AAA on her abdomen and put grass in her mouth, then dragged her to the com plantation. Accused-appellant held a knife to AAA as he removed her pants and panties, then he inserted his penis into her vagina. Accused-appellant threatened AAA that he will kill her if she will report the incident to anyone. Thereafter, AAA went home and, despite accused-appellant's threat on her, she told the incident to her mother, BBB.

BBB testified that, on March 21, 2005, at around 9:00 a.m., she saw her daughter crying as she was surrounded by a number of people. When she confronted her, AAA confessed that she was forced by a man from Barangay Santiago, Binalonan, Pangasinan to have sexual intercourse with him. BBB reported the incident to Barangay *Kagawad* Mauricio Dispo, who accompanied her and AAA to the Police Station in Binalonan, Pangasinan, where the incident was entered in the police blotter. BBB further testified that she brought AAA to Dr. Tumacder of the Medical Center for physical examination.

Dr. Tumacder testified that AAA sustained fresh hymenal lacerations at 3 o'clock and 6 o'clock positions, hematoma measuring 3x2 centimeters at the right anterior area, abrasion over the uretha and periurethal area, and erythema over the labia minor, right inner area.

The testimony of SPO1 Cipriano Culiao, Jr. (SPO1 Culiao), who investigated the incident was dispensed with upon stipulation by the parties.

PO3 Pablico identified the white face towel, *maong* pants, and blue shirt, which were submitted by AAA to SPO1 Culiao when the rape incident was first reported to him.

For his part, accused-appellant denied having raped AAA on the date, time, and place indicated. According to him, the police officers who testified in court were the ones who came over to his place at Camangaan, Binalonan, Pangasinan and invited him to the police station for questioning with respect to a rape incident. He said he did not know of any reason for AAA to fabricate a story against him as he never had any prior misunderstanding with her or her family.^[4]

After trial, the trial court found the accused-appellant guilty beyond reasonable doubt of the crime of Rape, thus:

WHEREFORE, the Court finds the accused **ALFREDO GUNSAY y TOLENTINO, GUILTY** beyond reasonable doubt of the crime of Rape.

Accordingly, he is sentenced to suffer the penalty of Reclusion Perpetua. All the time during which he is under preventive imprisonment shall be credited in his favor.

Accused is ordered to pay the offended party civil indemnity of Fifty Thousand Pesos (Php50,000.00) and moral damages of Fifty Thousand Pesos (Php50,000.00).

Without unnecessary delay, the accused is ordered committed to the

Bureau of Corrections, Muntinlupa City for the service of his sentence.

SO ORDERED.^[5]

On appeal, the CA affirmed accused-appellant's conviction and penalty of imprisonment of *reclusion perpetua*. The appellate court, however, modified the award of damages against accused-appellant:

WHEREFORE, in view of the foregoing premises, the instant appeal is hereby ordered **DENIED** and, consequently, **DISMISSED**. The appealed Decision rendered by Branch 49 of the Regional Trial Court of the First Judicial Region in Urdaneta City, Pangasinan in Criminal Case No. 13643 which was dated April 18, 2013 is hereby **AFFIRMED** with the **MODIFICATION** that the accused-appellant Alfredo Gunsay y Tolentino is ordered to pay the private offended party "AAA" the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P30,000.00 as exemplary damages. He is further ordered to pay legal interest on all damages awarded in this case at the rate of six percent (6%) per annum from the date of finality of this decision until the same shall have been fully paid.

SO ORDERED.^[6]

Accused-appellant now filed this instant appeal to this Court.

The Issue

Whether or not the guilt of accused-appellant for the crime charged has been proven beyond reasonable doubt.

The Court's Ruling

The appeal lacks merit.

In *People v. Navarro, et al.*,^[7] the Court held that:

The gravamen of the offense of rape is sexual intercourse with a woman against her will or without her consent. Thus, the prosecution must prove that (1) the offender had carnal knowledge of a woman; and (2) such act was accomplished through the use of force or intimidation; or when the victim is deprived of reason or otherwise unconscious; or when the victim is under twelve (12) years of age, or is demented.^[8]

By AAA's own testimony, accused-appellant punched her on the abdomen, pulled her to the cornfield, and placed grass in her mouth. Holding a knife and pointing it to AAA, accused-appellant removed her pants and panty, and succeeded in having sexual intercourse with her. He also threatened AAA not to report to anyone that she was raped.

The Court believes in the testimony of AAA, which was corroborated by the result of the medical examination. As observed by the trial court, "[t]he physician who attended to her found the following injuries, thus: (+) abrasion over urethra and