

SECOND DIVISION

[G.R. No. 224631, August 23, 2017]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RUPERTO RUBILLAR, JR. Y GABERON, ACCUSED-APPELLANT.**

D E C I S I O N

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal^[1] filed by accused-appellant Ruperto Rubillar, Jr. y Gaberon (Rubillar) assailing the Decision^[2] dated August 24, 2015 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01219-MIN, which affirmed the Judgment^[3] dated June 22, 2012 of the Regional Trial Court of Davao City, Branch 11 (RTC) in Crim. Case No. 61,680-07 finding Rubillar guilty beyond reasonable doubt of Rape under the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 8353,^[4] otherwise known as the "Anti-Rape Law of 1997."

The Facts

The instant case stemmed from an Information^[5] filed before the RTC charging Rubillar of Rape, the accusatory portion of which states:

That on or about October 12, 2006, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, with force and intimidation, [willfully], unlawfully and feloniously had carnal knowledge of [AAA^[6]] against her will, to her damage and prejudice.

CONTRARY TO LAW.^[7]

The parties presented conflicting versions of facts.

Based on AAA's testimony, the prosecution alleged that at around one (1) o'clock in the afternoon of October 12, 2006, AAA was waiting for a jeepney to go to the public market when Rubillar, her father's *kumpare*, arrived and offered her a ride, to which AAA assented.^[8] About four (4) kilometers from where they left, Rubillar stopped the motorcycle and made AAA wear a helmet supposedly to avoid apprehension by the traffic police. However, said helmet had a heavily-tinted face shield, thereby making it difficult for AAA to see. Thereafter, Rubillar drove at a fast speed without stopping at traffic lights. This prompted AAA to tell Rubillar to already drop her off, but the latter drove faster and told her to shut up. They eventually reached a place unfamiliar to AAA - later ascertained as Davao Motel - where Rubillar then drove his motorcycle inside and thereupon, was assisted by a man. AAA wanted to ask for help from the man but he immediately left. When they were left alone, Rubillar dragged her upstairs and pushed her to the bed. Despite AAA's

resistance, Rubillar placed himself on top of her, forcibly held her hands, undressed her, and kissed her. He then inserted his penis into AAA's vagina and made a push and pull motion. Afterwards, Rubillar told her to wash herself in the comfort room and, subsequently, to put on the helmet. Rubillar allegedly threatened to kill her should she tell anyone about what happened. They then rode the motorcycle and Rubillar dropped her off at the public market. AAA proceeded to buy groceries and rode a jeepney going home. Thereafter, AAA ran away from home due to fear and embarrassment. Her sister took her home in January 2007 and only then did AAA tell her parents what happened. They reported the incident to the police.^[9]

The prosecution presented other witnesses to testify on subsequent events. Senior Police Officer 1 Annabelle Dacudao testified that she accompanied AAA to the motel to conduct an ocular inspection. It was then that AAA found out the name of the motel and the room where she was brought, *i.e.*, Room 6. Further, Dr. Margarita Isabel Amoroso Artes stated that she examined AAA and found a "definitive penetrating injury" on her hymen.^[10]

For his part, Rubillar admitted having carnal knowledge of AAA, but maintained that they were sweethearts since August 2006^[11] and their sexual act was consensual. He narrated that per AAA's request, they met at ten (10) o'clock in the morning on the day of the incident to go to AAA's on-the-job training office^[12] in Calinan. Rubillar noted that AAA brought her own helmet and that he stopped at the red traffic lights on their way there. After AAA's errand at the office, they proceeded to the machine shop in Cabaguio Street where Rubillar paid for the repairs of a jeepney. As it was about noontime already, he asked AAA to lunch. However, AAA invited him to go to the motel in front of the machine shop instead, to which he agreed. Thus, they checked in at the motel where a room boy met them and led them to a room. In his counter-affidavit,^[13] Rubillar alleged that AAA paid for the motel^[14] but in his testimony, he claimed to have paid the room boy while AAA went up to the second floor.^[15] After receiving the payment, the room boy closed the door and left them. Rubillar then followed AAA upstairs where they talked, kissed, and later on engaged in sexual intercourse twice. He emphasized that the sexual acts were done without force. They left soon thereafter because that day was his daughter's birthday.^[16]

Rubillar's claim that he had a relationship with AAA was thereafter corroborated by numerous witnesses.^[17] *First*, Dioter Odiongan (Odiongan), AAA's ex-boyfriend, testified that on September 30, 2006, he attended the festivities in Tagakpan where he saw AAA with Rubillar. AAA then introduced Rubillar to him as her boyfriend and that he saw them hugging each other.^[18] *Second*, Wilson Laguardia (Laguardia), Rubillar's neighbor, stated that in a disco event on October 4, 2006, Rubillar introduced AAA to him as his girlfriend and thereafter borrowed his motorcycle for them to use.^[19] *Third*, Maria Jeneza Kalan (Kalan), who is allegedly AAA's best friend since elementary, narrated that in September 2006, AAA confided to her and Yvonne Calo (Calo) that she was Rubillar's girlfriend. Kalan added that in January 2007, AAA stayed at her house for two days when the latter ran away from home. When Kalan asked why she ran away, AAA replied that "she cannot take any more her mother" and that she is going to elope with Rubillar to Bukidnon.^[20] On cross-examination, Kalan clarified that AAA showed no letter, token, or any gift from the

accused^[21] and that she never saw them together in public either before or after the alleged rape incident.^[22] Lastly, Calo, who was allegedly AAA's best friend in high school and half-sister of Rubillar's wife, rebutted AAA's statement that she never talked (had no encounter) with Rubillar prior to the incident and that she was unfamiliar with the places where the motorcycle passed by going to the motel in Davao City, such as the GSIS building, considering that they used to pass by it whenever they went to the main branch of their school during special school activities. According to Calo, Rubillar used to fetch her and AAA several times from their on-the-job training office in Calinan in July 2006, and she noticed that AAA was "very close" to Rubillar and always sat beside him in the jeepney.^[23]

Another witness, Pastor Minn Baon (Baon) testified that at around 1:30 in the afternoon of October 12, 2006, along Cabaguio Street, she saw AAA and Rubillar aboard a motorcycle, which passed by quickly about ten meters away from her. She noticed that AAA was embracing Rubillar, with her head on his right shoulder and her eyes looking directly ahead. Baon added that AAA wore a pink blouse underneath a black jacket and a blue helmet with a transparent cover/face shield.^[24]

Finally, the defense presented the motel manager and the cashier on duty at the time of the incident. The motel manager explained that the motel has a policy that whenever one of the customers appears forced to enter a room, the room boy must first ask for payment before the customers are led to an assigned room to give enough time to verify and alert the guard or call the Sta. Ana Police. The cashier on duty testified that there was no unusual incident reported to her on that day.^[25] The cashier added that the room boy assigned to Room No. 6 on the day of the incident had passed away.^[26]

The RTC Ruling

In a Judgment^[27] dated June 22, 2012, the RTC found Rubillar guilty beyond reasonable doubt of Rape and, accordingly, imposed the penalty of *reclusion perpetua* and ordered him to pay P75,000.00 as civil indemnity and P50,000.00 as moral damages.^[28]

The RTC found AAA's testimony straightforward and credible as she positively recounted the incidents that led to the commission of the crime against her. On the other hand, it did not give credence to Rubillar's defense of sweetheart theory, opining that he was not able to satisfactorily prove their relationship through love letters, photos, or even saved text messages between them. The RTC added that even if it were true that they were clandestine lovers, conviction is still warranted as long as the element of force or intimidation attended the sexual act. In this relation, it disagreed with Rubillar's claim that AAA's lack of resistance amounted to consent, pointing out that while testifying, the latter recounted several times how she attempted to resist Rubillar's advances. The RTC further noted that Rubillar had moral ascendancy over AAA considering the former's advanced age and relationship with her father.^[29]

Aggrieved, Rubillar appealed^[30] to the CA.

The CA Ruling

In a Decision^[31] dated August 24, 2015, the CA upheld Rubillar's conviction, finding the prosecution to have established all the elements of the crime charged. More particularly, the CA held that Rubillar employed force and intimidation from the moment he drove the motorcycle at a high speed, frightened her that he would bump the motorcycle if she would not shut up, dragged her to the room, pushed her to the bed, and pinned her down to insert his penis. The CA also gave credence to the medical examination conducted on AAA showing attenuation of hymen. Further, it ruled that even assuming that Rubillar and AAA were lovers, it would not exculpate Rubillar from the crime of rape, explaining that in rape cases, the complainant's testimony is credible where no strong motive for falsely testifying against the accused is shown, as in this case.^[32]

Hence, the instant appeal.

The Issue Before the Court

The main issue for the Court's resolution is whether or not Rubillar's conviction for Rape should be upheld.

The Court's Ruling

The appeal is meritorious.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.^[33] "The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law."^[34]

In deciding Rape cases, it is well to emphasize that such crime is a serious transgression with grave considerations and consequences both to the accused and the complainant. On the one hand, the accused is presumed innocent and shall not be convicted unless his guilt is proven beyond reasonable doubt, in which case, he shall be meted with a severe penalty. On the other hand, the Court is ever mindful that a young woman would not publicly announce that she was raped if it were not true. No woman would want to expose herself to the process, the trouble, and the humiliation of a rape trial unless she actually has been a victim of abuse and her motive is but to seek atonement for her abuse. In these lights, a painstaking review of the judgment of conviction is required.^[35]

Relatedly, three (3) principles guide the Court in reviewing rape cases: (a) an accusation of rape can be made with facility, and while the accusation is difficult to prove, it is even more difficult for the person accused, although innocent, to disprove; (b) considering the intrinsic nature of the crime, only two persons being usually involved, the testimony of the complainant should be scrutinized with great caution; and (c) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence

for the defense.^[36] Following these legal precepts, the victim's sole testimony must stand the test of credibility.

Guided by the foregoing principles and after meticulously evaluating the entire case records, the Court holds that the victim's sole testimony examined in light of the other evidence presented in court, failed to establish Rubillar's guilt beyond reasonable doubt, as will be explained hereunder.

Rape under Article 226-A (1) (a) of the RPC, as amended, provides:

Article 266-A. Rape: When And How Committed. - Rape is committed -

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat or intimidation;

x x x x

To be convicted of Rape under this provision, the prosecution must prove the following elements beyond reasonable doubt: (a) offender had carnal knowledge of the victim; and (b) such act was accomplished through force, threat, or intimidation.^[37]

In the present case, Rubillar's invocation of the "sweetheart theory" is essentially an admission of him having carnal knowledge with AAA, albeit maintaining that the same was consensual. Thus, it is crucial to determine whether or not AAA indeed consented to the sexual act, considering that the gravamen of Rape is sexual congress with a woman without her consent.^[38] Stated differently, the only question left for the Court to resolve is whether the prosecution has proven the second element beyond reasonable doubt.^[39]

The "sweetheart theory" is an affirmative defense often raised to prove the non-attendance of force or intimidation. As afore-stated, it is "effectively an admission of carnal knowledge of the victim and consequently places on accused-appellant the burden of proving the alleged relationship by substantial evidence."^[40] In *People v. Patentes (Patentes)*^[41] the Court discussed the evidence required in order to support such defense, to wit:

We are mindful that appellant's bare invocation of the sweetheart theory cannot alone stand. It must be corroborated by documentary, testimonial, or other evidence. Usually, these are letters, notes, photos, mementos, or **credible testimonies of those who know the lovers.**

^[42] (Emphasis and underscoring supplied)

The "sweetheart theory" operates to impair the victim's testimony or create doubt on her version of the facts when the defense presents sufficient evidence of a relationship between the accused and the victim but the latter simply denies it. Notably, a woman who was sexually abused by a lover has no practicable reason to deny her relationship with the accused in a rape trial because admitting such relationship would not negate her allegation of rape, as the Court has consistently