

## FIRST DIVISION

[ G.R. No. 207943, September 11, 2017 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ROBERT BALANZA, ACCUSED-APPELLANT.**

### D E C I S I O N

#### **DEL CASTILLO, J.:**

This resolves the appeal filed by the appellant Robert Balanza (Balanza) assailing the March 29, 2012 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01087 which affirmed with modifications the September 25, 2009 Judgment<sup>[2]</sup> of Branch 14, Regional Trial Court (RTC) of Cebu City in Criminal Case No. CBU-81714, which found Balanza guilty beyond reasonable doubt of the crime of rape in relation to Republic Act No. 7610 (RA 7610) otherwise known as the Special Protection of Children Against Abuse, Exploitation and Discrimination Act, and imposing upon him the penalty of *reclusion perpetua*.

Balanza, together with "BBB," was charged with rape of a 14-year-old girl, allegedly committed as follows:

That on or about the 7<sup>th</sup> day of October, 2006, at around 8:00 P.M., in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused, conniving and confederating together and mutually helping each other, with the use of force and intimidation upon the person of [AAA], a minor, 14 years of age, with deliberate intent, did then and there willfully, unlawfully and feloniously take turns in having carnal knowledge [of] the latter, without her consent and against her will.

CONTRARY TO LAW.<sup>[3]</sup>

The other accused, "BBB," was dropped from the Information since he was a 13-year-old minor and thus exempt from criminal liability pursuant to Section 6, in relation to Section 20, of RA 9344<sup>[4]</sup> or the Juvenile Justice and Welfare Act of 2006, as amended by RA 10630. Instead of being arraigned, the minor was subjected to an intervention program under the Department of Social Welfare and Development. As such, only Balanza was arraigned wherein he pleaded not guilty.

#### ***Version of the Prosecution***

"AAA" testified that she knew Balanza since they were neighbors in Cebu. At about 8:00 p.m., on October 7, 2006, "AAA" was on her way home from work when Ronnel Fernandez (Ronnel) approached and told her that Balanza wanted to talk to her. Apparently, Balanza wanted to offer her the position of treasurer in their fraternity "Junior KKK," which stood for "Krist King Kappa." "AAA" refused Ronnel and Balanza's offer. Thereafter, Ronnel and another fraternity member, Rommel Inot

(Rommel) held her hands and forced her to go with them towards a nipa hut owned by Balanza.

Inside the nipa hut, "AAA" saw Balanza and several other fraternity members, namely Vernie Tinapay, Jemerico Inot, and John John Taborada. Balanza offered "AAA" the position of treasurer in their fraternity. "AAA" was surprised since she was not even a member of their fraternity. After refusing the offer, members of the Junior KKK forcibly brought "AAA" to a cornfield nearby. At the cornfield, Balanza forcibly removed "AAA's" pants and inserted his penis inside her vagina. "AAA" felt helpless and cried while Balanza was raping her. After Balanza consummated his bestial act, another fraternity member, "BBB," followed Balanza's example and raped "AAA" by inserting his penis into her vagina. After raping her, Balanza and "BBB" fled the cornfield leaving "AAA" by her miserable and helpless self. "AAA" went home thereafter feeling violated and ashamed.

### ***Version of the Defense***

For his defense, Balanza denied the charge of rape against him and claimed that on the night of the commission of the alleged crime, he was at his neighbor Joseph Antonio's (Joseph) house which is located 100 meters away from his house. Balanza insisted that at 7:00 p.m., he went straight to Joseph's house immediately after school and stayed there until 10:00 p.m. He claimed that the following persons were with him inside the house: Giovanne, Meve, and Joseph. Later that night, at around 9:00 p.m., Joseph's wife Rosa also joined them inside the house.

### ***Ruling of the Regional Trial Court***

On September 25, 2009, the RTC of Cebu City, Branch 14 rendered judgment finding Balanza guilty as charged.

The dispositive part of the RTC's Judgment reads:

WHEREFORE, in view of the foregoing premises, judgment is rendered finding the accused, ROBERTO BALANZA, GUILTY beyond reasonable doubt as principal of Rape in relation to RA. 7610 and imposes upon him the indivisible penalty of imprisonment of *reclusion perpetua*

Accused is also ordered to pay the minor the amount of FIFTY THOUSAND (Php50,000.00) PESOS as his civil liability to the minor.

SO ORDERED.<sup>[5]</sup>

Aggrieved by the RTC's Judgment, Balanza appealed to the CA.

### ***Ruling of the Court of Appeals***

On March 29, 2012, the CA affirmed with modification the RTC's Judgment and held as follows:

WHEREFORE, in view of all the foregoing, the 25 September 2009 Decision of the Regional Trial Court, Branch 14, Cebu City, is hereby AFFIRMED with MODIFICATIONS. ROBERT BALANZA is hereby found

GUILTY beyond reasonable doubt of RAPE and is hereby sentenced to suffer the penalty of *reclusion perpetua*. Also, the accused-appellant is ORDERED to pay AAA P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages.

No pronouncement as to costs.

SO ORDERED.<sup>[6]</sup>

On April 24, 2012, Balanza, through his counsel, filed a Notice of Appeal.<sup>[7]</sup> In its Resolution<sup>[8]</sup> dated May 21, 2013, the CA gave due course to Balanza's Notice of Appeal.

In a Resolution<sup>[9]</sup> dated September 23, 2013, this Court directed the parties to submit their respective supplemental briefs, if they so desired.

In its Manifestation<sup>[10]</sup> dated November 20, 2013, the Office of the Solicitor General informed this Court that it would no longer file a supplemental brief because it had already substantially and exhaustively responded to and refuted Balanza's arguments raised in his brief.

Likewise, Balanza filed a Manifestation<sup>[11]</sup> dated October 3, 2014, indicating that he had stated all his arguments in his Appellant's Brief and no longer intended to file a supplemental brief.

The lone issue raised in his Appellant's Brief is whether Balanza was positively identified by "AAA" as the culprit in the charge of rape. According to Balanza, his identity as the perpetrator of the crime was not sufficiently established by the prosecution through clear and convincing evidence. Balanza likewise maintained that the circumstances surrounding the commission of the crime cast doubt on the credibility of "AAA." Balanza thus prays for his acquittal.

### **Our Ruling**

The appeal is unmeritorious.

Article 266-A of the Revised Penal Code, as amended by RA 8353 provides that rape is committed by having carnal knowledge of a woman under any of the following circumstances:

- a) Through force, threat, or intimidation;
- b) When the offended party is deprived of reason or otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority; and
- d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

In the case at bar, both the RTC and CA found that the prosecution was able to sufficiently establish beyond a reasonable doubt all the elements of the crime of rape. This Court finds no compelling reason to depart from these findings.

Balanza contends that he was not positively identified by "AAA" as the perpetrator of the crime.

We disagree.

During trial, "AAA" clearly and positively identified Balanza as the person who ravaged her in the cornfield. The relevant portions of her testimony provide as follows:

Q: Now, Miss witness, how do you know Robert Balanza?

A: We are neighbors, Sir.

Q: How long have you been neighbors with Robert Balanza?

A: Long time already, Sir.

x x

x x

Q: Now, last October 7, 2006, Miss witness, at about 8:00 P.M., where were you, if you remember?

A: I came from my place of work on my way to my house, Sir.

Q: And on your way to your house, Miss Witness, how were you going towards your house, were you walking or riding a car?

A: By walking, sir.

Q: And while you were walking, Miss Witness, what untoward incident did any [sic] occur?

A: While walking towards our house x x x Ronel approached me and x x x told me that Robert Balanza wanted to see

Q: What is the full name of this Ronel Fernandez?

A: Ronel Fernandez, Sir.

Q: What was your reply when Ronel Ferna[n]dez told you that Robert Balanza would want to meet with you?

A: I refused, Sir, I told him I don't like.

Q: If you know, [Ms.] Witness, what was the purpose of Robert Balanza in wanting to meet with you at that time?

A: Ronel Fernandez told me that I would be given a rank.

Q: What rank, Miss witness, rank in what, Miss witness?

A: They wanted to appoint me as their treasurer.

Q: Do you know what group or organization would you be a treasurer of?

A: In Junior KKK.

Q: And what if you know, Miss witness, is this Junior KKK all