

THIRD DIVISION

[G.R. No. 208071, March 09, 2016]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDGARDO PEREZ Y ALAVADO, ACCUSED-APPELLANT.**

D E C I S I O N

PERALTA, J.:

Before the Court is an appeal from the Decision^[1] dated February 27, 2013 of the Court Appeals (CA) in CA-G.R. CR-HC No. 00176-MIN which affirmed the Decision^[2] dated May 15, 2002 of the Regional Trial Court (RTC), 9th Judicial Region, Branch 15, Zamboanga City, in Criminal Case No. 17071 for rape.

The antecedent facts are as follows:

In an Information^[3] dated June 23, 2000, accused-appellant Eduardo was charged with the crime of rape, committed by having carnal knowledge of his niece, AAA,^[4] a 13-year-old girl, against her will and to her damage and prejudice, the accusatory portions of which read:

That on or about January 3, 2000, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused, by means of force and intimidation, did then and there wilfully, unlawfully, and feloniously, have carnal knowledge of one AAA, a girl, 13 years old, against her will; furthermore, there being present an aggravating circumstance in that the victim is under eighteen (18) years old and the accused is an uncle by affinity of the latter.

CONTRARY TO LAW.^[5]

Upon arraignment on September 6, 2000, appellant pleaded not guilty to the offense charged.^[6] Thereafter, during trial, the prosecution presented the testimonies of the victim AAA, police investigator PO2 Maria Enriquez, Dr. Marian Calaycay, the examining physician, and BBB; the father of the victim.^[7]

AAA testified that she was born on August 18, 1986 to her parents who, at that time, were already separated from each other. She stayed with her father in his house in Tugbungan, Zamboanga City. On December 24, 1999, however, she spent Christmas with her mother who was in the house of her uncle, appellant herein, also situated in Tugbungan, Zamboanga. AAA stated that appellant is the husband of her mother's sister.^[8] According to AAA, when she woke up at about 4:00 a.m. on January 3, 2000, she was already on the cement floor inside the room of appellant, who was wearing only a white towel wrapped around his waist. She tried to get out of the room but appellant pushed her to the floor and shut the door with a kick. He

then pulled out her skirt, raised her shirt, and removed her underwear, baring her breasts and vagina, which he kissed. Thereafter, he removed his towel, mounted her, and inserted his penis, into her vagina, thereby causing her pain. While doing this, he continued on kissing her lips and breast. She cried and kicked him, but he did not stop.^[9] Afterwards, he removed his penis and cleaned her vagina with a shirt. He wore his towel again and told her to put on her underwear. He then gave her P10.00 which she used to buy "chippy."^[10]

On January 5, 2000, she went home to her father. She did not tell him about the incident until confronted by him. BBB testified that at about 2:00 p.m. on February 10, 2000, his son, AAA's brother, told him that he saw appellant holding the hair of AAA and kissing her. Consequently, BBB confronted AAA about what he had heard from her brother. She then told him what transpired on the alleged incident. Thereafter, he brought her to the barangay officials who advised them to have her examined by a doctor and obtain a Medico-Legal Certificate.^[11]

Said testimonies were corroborated by Dr. Marian Calaycay who conducted a medical examination on AAA and issued a Medico-Legal Certificate thereon. Dr. Calaycay testified that the certificate states that AAA's hymen had complete healed lacerations at 4 o'clock and 8 o'clock positions, that her labia majora and labia minora were apposed, that the introitus admits one finger with ease, that her pubic hair were sparsely distributed, her breasts were not yet fully developed and that she tested negative for spermatozoa.^[12] Dr. Calaycay further gave many possible agents that may have caused AAA's lacerations, one of which is an erect penis.^[13]

Thereafter, PO3 Maria Enriquez, who was assigned at the Women and Children's Desk of the Tetuan Police Station, Zamboanga City, testified that she received a complaint assignment sheet registering the complaint of BBB that his daughter had been raped, together with the medico-legal certificate and birth certificate of AAA. After taking the statements of AAA and BBB, she was convinced that rape was, indeed, committed. Thus, she prepared a case report, and submitted the same to the Office of the City Prosecutor for the filing of the appropriate charge.^[14]

In contrast, appellant essentially interposed a defense of denial and alibi. He testified that at the time of the alleged rape, he did not sleep in his room that he shared with his wife because he was out driving his passenger tricycle. He added that during those times, they had many relatives from Curuan, Zamboanga City, composed of the families of his in-laws, visiting them who all slept in the living room of their house, together with the other members of their household. They all stayed in his house because they came to know that the sister of his mother-in-law had just died. Thus, it was highly unlikely for him to transport AAA to his room without waking anybody up. Appellant further testified that the only reason why AAA and her father filed the rape charge against him was because BBB had a personal grudge against him. This was because occasionally, appellant would scold AAA and BBB's other children. Moreover, appellant testified that he also incurred the ire of BBB because he made it known that he did not like the presence of BBB's children in his house due to their "itchy hands."^[15]

Aside from appellant's testimony, the defense also presented six (6) other witnesses to corroborate his defense of alibi, namely, Anabel Perez, daughter of appellant;

Khoki Uwano Perez, nephew of appellant who lived with him; Clarita Perez, wife of appellant; Abigail Perez, another daughter of appellant; Edwin Andico, brother-in-law of appellant; and Mercedita Marquez, sister of appellant.^[16]

On May 15, 2002, the RTC found appellant guilty beyond reasonable doubt of the crime of rape and rendered its Decision, the dispositive portion of which reads:

WHEREFORE, having weighed the evidence on both sides, the Court finds Eduardo Perez y Alavado GUILTY beyond reasonable doubt of the crime of RAPE, defined and penalized under Article 266-A of Republic Act No. 8353, The Anti-Rape Law of 1997, as principal and as charged, and in the absence of any aggravating or mitigating circumstance attendant in the commission of the offense, does hereby sentence him to suffer the penalty of RECLUSION PERPETUA, to indemnify the offended party the sum of P100,000.00, Philippine Currency, and to pay the costs.

SO ORDERED.^[17]

The RTC found that the prosecution sufficiently proved, beyond reasonable doubt, that appellant had carnal knowledge of AAA. Even though AAA was subject to a stringent cross-examination, she remained steadfast, committing no material inconsistency which may adversely affect her credibility. She clearly and convincingly described the manner by which she was deflowered against her will. The fact that it took AAA more than one month to report the incident to her father does not affect her credibility. Jurisprudence is replete with rulings stating that delay in reporting the rape incident in the face of threats of physical violence cannot be taken against the accused. As to the theory that it is highly improbable for the accused to commit the crime of rape because there were several other persons present in the house at that time, the trial court rejected the same in view of multiple case law finding it possible for one to rape another even in the presence of third persons. The RTC also rejected appellant's imputation of ill motive on the part of BBB due to his personal grudges against him in ruling that it is unthinkable that a high school student would endure the shame and humiliation of being publicly known that she has been ravished, allow an examination of her private parts and undergo the trouble and expense of a court proceeding if the motive was not to bring justice to the person who had grievously wronged her.^[18]

Furthermore, while the RTC took notice of the fact that the defense presented numerous testimonies to support appellant's allegations of denial and alibi, it refused to give credence to the same. According to the trial court, the defense's witnesses were all appellant's direct relatives, either by consanguinity or affinity, who depend on appellant and reside in his house, save for his sister. As such, it is possible that their loyalty to appellant may have some influence on their testimonies. The court ruled that it would have made a difference had two or three of the visitors from Curuan come to court to testify for the defense as they were the ones who supposedly occupied the living room at the time of the alleged incident. Their presence could have easily been requested considering that Curuan is very near the City proper.^[19]

In the end, the RTC ruled that the defense of absolute denial interposed by the accused, which can easily be fabricated, does not hold water in view of the positive identification of the accused by the offended party and the lack of clear and

convincing evidence to back it up.

On appeal, the CA affirmed the RTC Decision finding appellant guilty beyond reasonable doubt of having carnal knowledge of AAA. According to the appellate court, the trial court did not err in granting full weight and credence to the uncorroborated testimony of AAA for she positively identified appellant as the perpetrator of the crime in a straightforward and clear manner. It is unlikely that she would accuse appellant, her uncle, of so serious a crime as rape if this was not the plain truth as youth and immaturity are generally badges of sincerity. As to appellant's asseverations that AAA's testimony contained significant inconsistencies, the CA ruled that the same only pertained to minor details of the case.^[20] A victim of a savage crime cannot be expected to mechanically retain and then give an accurate account of every lucid detail of a frightening experience. Thus, the appellate court found no reason to disturb the factual findings of the trial court, which are entitled to the highest degree of respect.

It, however, modified the trial court's award of damages from the sum of P100,000.00, to P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages in the following wise:

The award of civil indemnity to the rape victim is mandatory upon the finding that rape took place. Moral damages, on the other hand, are awarded to rape victims without need of proof other than the fact of rape, under the assumption that the victim suffered moral injuries from the experience she underwent. In line with current jurisprudence, appellant Edgardo Perez should be ordered to indemnify the victim in the amount of Php75,000.00 as civil indemnity and Php75,000.00 as moral damages.

We also deem it proper to award exemplary damages to the victim. It finds support in *People v. Dalisay*. Art. 2229 of the Civil Code serves as the basis for the award of exemplary damages as it pertinently provides, "Exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages." Being corrective in nature, exemplary damages, therefore, can be awarded, not only in the presence of an aggravating circumstance, but also where the circumstances of the case show the highly reprehensible or outrageous conduct of the offender. Consistent with the cited jurisprudence, it is but fitting that exemplary damage, in the sum of Php30,000.00 be granted.^[21]

Consequently, appellant filed a Notice of Appeal^[22] on March 14, 2013. Thereafter, in a Resolution^[23] dated September 4, 2013, the Court notified the parties that they may file their respective supplemental briefs, if they so desire, within thirty (30) days from notice. Both parties, however, manifested that they are adopting their respective briefs filed before the CA as their supplemental briefs, their issues and arguments having been thoroughly discussed therein. Thus, the case was deemed submitted for decision.

In his Brief, appellant assigned the following error:

I.

THE COURT OF APPEALS ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.^[24]

Appellant essentially argues that he should not be convicted of the crime charged herein on the basis of AAA's testimony as it is loaded with serious inconsistencies. He likewise asserts that it is beyond human nature how AAA can be transported to appellant's room without being noticed by those who were asleep in the same living room as AAA. Appellant also found surprising why AAA did not immediately report the alleged incident to her parents or other relatives when she had every opportunity to do so.^[25]

We affirm appellant's conviction, with modification as to the award of damages.

Article 266-A, paragraph one (1) of the Revised Penal Code (RPC) provides the elements of the crime of rape:

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;

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;

2. By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.^[26]

Time and again, the Court has always given primordial consideration to the credibility of a rape victim's testimony. This is because rape is a crime that is almost always committed in isolation, usually leaving only the victims to testify on the commission of the crime. Thus, for as long as the victim's testimony is logical, credible, consistent and convincing, the accused may be convicted solely on the basis thereof.^[27] Here, the trial court found AAA's testimony to be categorical, straightforward, spontaneous and frank. In spite of her stringent cross-examination, AAA remained steadfast, committing no material inconsistency which may adversely affect her credibility, clearly and convincingly describing the events that transpired during the rape incidents.

As to appellant's contention that serious inconsistencies in AAA's testimony render it