

THIRD DIVISION

[G.R. No. 208007, April 02, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODRIGO GUTIEREZ Y ROBLES ALIAS "ROD AND JOHN
LENNON", ACCUSED-APPELLANT.**

D E C I S I O N

LEONEN, J.:

For a measly five- or ten-peso tip that a 10-year-old child would need for lunch money, a known acquaintance of their family would destroy a child's dignity by having illicit carnal knowledge of her. This case involves an act that is so dastardly that it is punished by Article 266-A of the Revised Penal Code as statutory rape which carries a sentence of reclusion perpetua.

We are asked to review the Court of Appeals decision^[1] in CA-G.R. CR-HC No. 02955. This decision affirmed the conviction of the accused-appellant for statutory rape under Article 266-A of the Revised Penal Code and imposed the penalty of reclusion perpetua.

The facts of the case are as follows:

On November 30, 2005, an information^[2] was filed against the accused-appellant before the Regional Trial Court of Baguio City, Branch 59. The information reads:

That on or about November 29, 2005, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have carnal knowledge of the offended party, (AAA), who is under twelve (12) years old.

Contrary to law.

Upon arraignment, Rodrigo Gutierrez pleaded "not guilty." Trial on the merits ensued.

The prosecution presented the victim, AAA, who was then 10 years old and a Grade 2 student at Camp 7 Elementary School in Baguio City. She testified that on November 29, 2005, she went home from school at around 12 noon to have lunch.^[3] On the way home, she met Rodrigo at his house. He brought her to his room and laid her down on the bed. He then raised her skirt and removed her panties. He pulled down his pants and then inserted his penis into her vagina.^[4]

According to AAA, Rodrigo stayed on top of her for a long time, and when he

withdrew his penis, white liquid came out. He then gave her five pesos (?5.00) before she went back to school.^[5]

AAA went back to school at about 2:10 p.m. Her adviser, Agustina Chapap, asked her where she came from because she was tardy. AAA initially did not answer. When asked again why she was tardy, AAA admitted she came from "Uncle Rod." She also admitted that she went there to ask for money. Chapap then brought AAA to Rona Ambaken, AAA's previous teacher. Together, they brought AAA to the principal's office. AAA was brought to the comfort room where Ambaken inspected her panties. The principal was able to confirm that AAA was touched since AAA's private organ was swelling. Her underwear was also wet.^[6]

Another teacher, Jason Dalisdis, then brought AAA to Baguio General Hospital where her underwear was again inspected. Dr. Anvic Pascua also examined her. On the way to the hospital, Dalisdis passed by the barangay hall and the police station to report the incident.^[7]

AAA also disclosed during trial that the accused-appellant had done the same thing to her about 10 times on separate occasions. After each act, he would give her ten (P10.00) or five (P5.00) pesos.^[8]

The prosecution also presented Dr. Asuncion Ogues as an expert witness. Dr. Ogues was the superior of Dr. Pascua who examined AAA. Dr. Ogues testified based on the medical certificate issued by the examining physician that there was blunt force penetrating trauma that could have been caused by sexual abuse. She also stated that there was another medico-legal certificate issued by Dr. Carag, surgical resident of the Department of Surgery of Baguio General Hospital, showing findings of some hematoma in AAA's legs.^[9]

In his defense, Rodrigo denied that AAA went to his house at 12 noon on November 29, 2005 and claimed he was already at work at 1:30 p.m. He has known AAA for a long time since his family rented the house of AAA's grandfather from 2001 to 2004.^[10] When the police came and asked him if he knew AAA, he answered in the affirmative. He was then brought to Baguio General Hospital where he was told that AAA identified him as the one who raped her.^[11]

Rodrigo admitted that he had a relationship with AAA's sister, and they even lived together as common-law spouses.^[12] He also admitted that a similar complaint was filed against him by AAA's mother when AAA was eight years old, but they settled the case at the barangay level.^[13]

On July 4, 2007, the trial court rendered a judgment^[14] finding Rodrigo guilty beyond reasonable doubt of statutory rape and imposing on him the penalty of reclusion perpetua. He was additionally required to indemnify the offended party P50,000.00 moral damages and P25,000.00 exemplary damages with costs of suit.

Rodrigo appealed^[15] to the Court of Appeals claiming that AAA's testimony fell short of the requirement of the law on the quantum of evidence required. He argued that she did not cry for help when her family's house was just nearby, which was cause for reasonable doubt that the trial court failed to appreciate.

On February 28, 2013, the Court of Appeals rendered a decision^[16] affirming the conviction.

On March 11, 2013, Rodrigo filed a notice of appeal^[17] with the appellate court, which was given due course in a resolution^[18] dated March 15, 2013.

Hence, this appeal was instituted.

In the resolution^[19] of September 9, 2013, this court required the parties to submit their respective supplemental briefs, if they so desired. Both parties, however, manifested that they were dispensing with the filing of a supplemental brief as their arguments were already substantially and exhaustively discussed in their respective briefs filed before the appellate court.

The only issue to be resolved by this court is whether the prosecution was able to prove beyond reasonable doubt that the accused-appellant was guilty of statutory rape punishable under Article 266-A of the Revised Penal Code.

Rape is defined in Article 266-A of the Revised Penal Code, which states:

Art. 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.

x x x x

Statutory rape is committed when (1) the offended party is under 12 years of age and (2) the accused has carnal knowledge of her, regardless of whether there was force, threat or intimidation; whether the victim was deprived of reason or consciousness; or whether it was done through fraud or grave abuse of authority. It is enough that the age of the victim is proven and that there was sexual intercourse.

People v. Teodoro^[20] explained the elements of statutory rape committed under Article 266-A, paragraph (1) (d):

Rape under paragraph 3 of this article is termed statutory rape as it departs from the usual modes of committing rape. What the law punishes in statutory rape is carnal knowledge of a woman below twelve (12)

years old. Thus, force, intimidation and physical evidence of injury are not relevant considerations; *the only subject of inquiry is the age of the woman and whether carnal knowledge took place. The law presumes that the victim does not and cannot have a will of her own on account of her tender years; the child's consent is immaterial because of her presumed incapacity to discern good from evil.* (Emphasis supplied)

The defense did not dispute the fact that AAA was 10 years old at the time of the incident. Her birth certificate was presented before the trial court.^[21] What is critical in this case, therefore, is whether there is a showing that Rodrigo had carnal knowledge of AAA.

In the testimony of AAA, she narrated that on November 29, 2005, she met Rodrigo in his house, thus:

Q: Now, when you met the accused, what did he do?

A: He brought me in the room, Ma'am.

Q: The room is located inside his house?

A: Yes, Ma'am.

Q: And, was that the first time you entered the room?

A: (The witness nods.)

Q: After entering the room, what did Uncle Rod tell you?

A: He laid me down, Ma'am.

COURT:

Q: Where?

A: On the bed, Ma'am.

PROS. BERNABE:

Q: Who were the persons inside the room aside from you and Uncle Rod?

A: (Witness shook her head – meaning no persons around.)

Q: After lying down on the bed, what did he do next?

A: He raised up my skirt.

Q: After raising up your skirt, what else did he do?

A: He removed my panty, Ma'am.

Q: Was he able to remove it from your legs your panty? [sic]

A: No, Ma'am.

Q: Until where was he able to remove?

A: (Witness is pointing down to the ankle.)

Q: After pulling down your panty until your ankle, what happened?

A: He pulled down his short pants, Ma'am.

Q: After pulling down his short pants, what did Uncle Rod do?

A: He brought out his penis.

Q: After bringing out his penis, what did he do next?

A: He inserted his penis to my vagina, Ma'am.

Q: Will you please show us where is your vagina?

A: (The witness stood and pointed to her private part.)

Q: You also mentioned AAA that Uncle Rod inserted his penis to your vagina, could you point to the "ari" of Uncle Rod?

A: (The witness pointed to a portion where the private part of the elder brother was standing.)

Q: Was it painful when Uncle Rod inserted his penis inside