

## THIRD DIVISION

[ G.R. No. 208173, June 11, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. OLIVER A. BUCLAO, ACCUSED-APPELLANT.**

### DECISION

**LEONEN, J.:**

To protect one's daughter is one of the noblest roles of a father. A father who defies this role is afflicted with a dysfunctional character that borders on moral depravity. Even if this breach of trust deserves the highest penalties in our legal order, it will never compensate for the daughter's deepest scars and sorrows.

This resolves the appeal, through Section 13, paragraph (c), Rule 124 of the Rules of Court, as amended by A.M. No. 00-5-03-SC, of the decision of the Regional Trial Court, Branch 9, La Trinidad, Benguet in Criminal Case Nos. 06-CR-6298 and 06-CR-6299.<sup>[1]</sup> The trial court found the accused Oliver Buclao guilty beyond reasonable doubt of two counts of rape. The Court of Appeals, upon intermediate review, affirmed with modification the trial court's decision, finding the accused guilty of two counts of qualified rape.<sup>[2]</sup>

We restate the facts as summarized by the Court of Appeals. Accused-appellant was charged with two counts of rape, as defined under Article 266-A, paragraph 1 (a) and (c) of the Revised Penal Code, as amended by Republic Act No. 8353 or the Anti-Rape Law of 1997, in relation to Republic Act No. 7610.<sup>[3]</sup> The informations read:

In Criminal Case No. 06-CR-6298:

### INFORMATION

The undersigned prosecutor accuses OLIVER A. BUCLAO of the crime of Rape, defined under Article 266-A, par. 1 (a & c), and penalized under Article 266-B, both of the Revised Penal Code, as amended by Republic Act No. 8353, otherwise known as "The Anti-Rape Law of 1997", in relation to Republic Act No. 7610, committed as follows:

That on or about the third week of September 2004, at Camangaan, Virac, Municipality of Itogon, Province of Benguet, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, who is the biological father of the complainant, did then and there willfully, unlawfully and feloniously, by means of force, threats, intimidation and grave abuse of authority, have carnal knowledge with her daughter AAA who is a minor, being

fifteen (15) years old, against her will and consent, to her great damage, prejudice and mental anguish.

CONTRARY TO LAW. In Criminal Case No. 06-CR-6299:

#### INFORMATION

The undersigned prosecutor accuses OLIVER A. BUCLAO of the crime of Rape, defined under Article 266-A, par. 1 (a & c), and penalized under Article 266-B, both of the Revised Penal Code, as amended by Republic Act No. 8353, otherwise known as "The Anti-Rape Law of 1997", in relation to Republic Act No. 7610, committed as follows:

That on or about the 3<sup>rd</sup> day of June 2003, at Camanggaan, Virac, Municipality of Itogon, Province of Benguet, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, who is the biological father of the complainant, did then and there willfully, unlawfully and feloniously, by means of force, threats, intimidation and grave abuse of authority, have carnal knowledge with her daughter [sic] AAA who is a minor, being fifteen (15) years old, against her will and consent, to her great damage, prejudice and mental anguish.

CONTRARY TO LAW.<sup>[4]</sup>

Accused-appellant entered a plea of not guilty, and the cases were tried jointly.<sup>[5]</sup>

During trial, private complainant AAA<sup>[6]</sup> testified that she was cleaning their backyard at 11:00 a.m. on June 3, 2003.<sup>[7]</sup> AAA's biological father, accused-appellant, called her to go inside their house.<sup>[8]</sup> When AAA was inside, her father closed the door and pushed her onto the bed.<sup>[9]</sup> AAA's father pulled her pants and panties down to her knees<sup>[10]</sup> then he removed his pants and briefs.<sup>[11]</sup> Next, AAA's father moved on top of her, inserted his erect penis into her vagina, and started pumping or doing a push and pull or an up and down motion.<sup>[12]</sup> AAA felt pain during the act, but she could not fight back so she just cried while she was being sexually assaulted.<sup>[13]</sup> Her father left after the incident.<sup>[14]</sup> However, before he left, the accused-appellant threatened her that he would kill her if she told anyone about what happened.<sup>[15]</sup>

On the third week of September 2004, AAA was raped for the second time.<sup>[16]</sup> AAA testified that at 12 in the afternoon, she was sleeping on her bed and was awakened when she felt somebody lying on top of her.<sup>[17]</sup> AAA was shocked to see her father. He pulled down her pants and panties until they were around her knees.<sup>[18]</sup> Her father then removed his pants and briefs.<sup>[19]</sup> AAA's father inserted his penis into her vagina and started doing the pumping motion.<sup>[20]</sup> She cried out in pain, but she could not fight off her father. Her father threatened to kill her if she told anyone about the incident.<sup>[21]</sup> AAA was afraid so she kept the incident a secret.<sup>[22]</sup> It was in 2006 when AAA told her maternal grandmother about the rape.<sup>[23]</sup> They reported

the incident to the police in Binanga, Tuding, on April 4, 2006.<sup>[24]</sup>

The prosecution also presented as witness Dr. Genalin B. Manipol.<sup>[25]</sup> The doctor testified that she examined AAA's genitalia and found no injuries.<sup>[26]</sup> However, the doctor clarified that lack of evident injuries in the genitalia does not negate the possibility of sexual abuse.<sup>[27]</sup>

Accused-appellant denied raping his daughter twice.<sup>[28]</sup> He argued that the charges were false. He claimed that it was his daughter BBB who was with him at their house on June 3, 2003.<sup>[29]</sup> Similarly, accused-appellant alleged that on the third week of September 2004, it was his other children, BBB and CCC, who were with him at their house.<sup>[30]</sup>

During trial, accused-appellant admitted that he was convicted for a previous case of child abuse.<sup>[31]</sup> His daughter BBB and his sister Virginia Buclao Wacdagan testified for the defense and claimed there was no truth to AAA's stories.<sup>[32]</sup>

On August 17, 2011 the trial court rendered a consolidated judgment finding accused-appellant guilty beyond reasonable doubt.<sup>[33]</sup> The dispositive portion of the decision states:

WHEREFORE, accused OLIVER BUCLAO is hereby found GUILTY BEYOND REASONABLE DOUBT of TWO COUNTS OF RAPE. ITe is sentenced to suffer the penalty of Reclusion Perpetua for each case.

Further, accused Oliver Buclao is ordered to pay the victim child the amount of P75,000.00 as civil indemnity, P50,000.00 as moral damages, and another P30,000.00 as exemplary damages for each of the two counts of Rape.

Furnish copy of this Consolidated Judgment to the Office of the Provincial Prosecutor of Benguet, the complainant, the accused and her counsel.

SO ORDERED.<sup>[34]</sup>

On review, the Court of Appeals affirmed with modification<sup>[35]</sup> the trial court's decision. It held that the prosecution proved beyond reasonable doubt the elements of rape under Article 266-A of the Revised Penal Code.<sup>[36]</sup> AAA was able to narrate in detail the antecedents and the surrounding circumstances of both rape incidents.<sup>[37]</sup> Accused-appellant's defense of denial and ill motives of AAA's grandmother in prodding AAA to file the case are insufficient to rebut the evidence and arguments presented by the prosecution.<sup>[38]</sup>

The dispositive part of the Court of Appeals' decision provides:

**WHEREFORE**, in view of the foregoing premises, the instant appeal is hereby **DENIED** and the August 17, 2011 Consolidated Judgment of the Regional Trial Court (Family Court for Benguet Province), Branch 9, in LA Trinidad, Benguet in Crim. Cases Nos. 06-CR-6298 and 06-CR-6299 is hereby **AFFIRMED with MODIFICATION**. Accused-appellant OLIVER

BUCLAO is found GUILTY beyond reasonable doubt of two counts of the crime of QUALIFIED RAPE, and sentenced to *reclusion perpetua*, in lieu of death, without eligibility for parole, for each case. He is **ORDERED** to pay the victim AAA Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity, Fifty Thousand Pesos (P50,000.00) as moral damages and Thirty Thousand Pesos (P30,000.00) as exemplary damages, for each of the two counts of rape.

**SO ORDERED.**<sup>[39]</sup> (Emphasis in the original)

On September 11, 2013, we issued a resolution which noted the records forwarded by the Court of Appeals, notified the parties that they may file their respective supplemental briefs if they so desire, and required the Chief Superintendent of the New Bilibid Prison to confirm the confinement of accused-appellant.<sup>[40]</sup>

The following documents were then received by this court and noted in our resolution dated January 27, 2014: 1) letter dated October 31, 2013 of P/Supt. IV Venancio J. Tesoro, new Bilibid Prison, Muntinlupa City, confirming the confinement of accused-appellant since November 8, 2011; 2) the Public Attorney's Office's *Manifestation (in Lieu of Supplemental Brief)* dated November 7, 2013 which stated that the Public Attorney's Office would no longer file a supplemental brief as all the relevant matters to the defense of appellant had already been taken up in the appellant's brief previously filed before the Court of Appeals; and 3) the Office of the Solicitor General's *Manifestation (Re: Supplemental Brief)* dated November 8, 2013 which stated that the office was not filing a supplemental brief as the appellee's brief had sufficiently addressed the issues and arguments in the appellant's brief.<sup>[41]</sup>

In his brief, accused-appellant argued that physical evidence is the best evidence in a rape case.<sup>[42]</sup> During trial, the prosecution's witness, Dr. Genalin Manipol, testified that her examination of private complainant resulted in a possibility that no penis entered private complainant's vagina.<sup>[43]</sup> Accordingly, all doubts as to the truth of AAA's allegations must be resolved in favor of accused-appellant and the presumption of innocence.<sup>[44]</sup>

In addition, accused-appellant questioned the delay in AAA's reporting of the incident.<sup>[45]</sup> Accused-appellant also ascribed the filing of the charges against AAA's maternal grandmother.<sup>[46]</sup> According to accused-appellant, the animosity between him and his mother-in-law was the reason behind the rape charges.<sup>[47]</sup>

The Office of the Solicitor General, for the people of the Philippines, argued in its brief that accused-appellant is guilty beyond reasonable doubt of the crime of rape under Article 266-A of the Revised Penal Code.<sup>[48]</sup> According to the appellee, AAA's positive identification of accused-appellant and her categorical testimony of the circumstances during the two rape incidents cannot be easily overcome by bare assertions of alibi and denial.<sup>[49]</sup>

Moreover, absence of lacerations in the victim's genitals does not negate the commission of rape.<sup>[50]</sup> Rape is also not negated by the delay in the reporting of the incident, particularly when the delay was founded on the threats by the accused-

appellant to the victim's life.<sup>[51]</sup>

The sole issue in this case is whether the accused-appellant is guilty of two counts of rape beyond reasonable doubt.

**We affirm the accused-appellant's conviction.**

Article 266-A, paragraph (1) of the Revised Penal Code 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.<sup>[52]</sup>

Rape is qualified when "the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim."<sup>[53]</sup> The elements of qualified rape are: "(1) sexual congress; (2) with a woman; (3) [done] by force and without consent; ... (4) the victim is under eighteen years of age at the time of the rape; and (5) the offender is a parent (whether legitimate, illegitimate or adopted) of the victim."<sup>[54]</sup>

In this case, both the trial court and Court of Appeals found that the prosecution proved beyond reasonable doubt all the elements of qualified rape. This court sees no reason to depart from the findings of the lower courts. As correctly observed by the Court of Appeals, AAA's recollection of the heinous acts of her father was vivid and straightforward. She was able to positively identify the accused-appellant as her sexual assailant. Her testimony was given in a "categorical, straightforward, spontaneous and candid manner."<sup>[55]</sup>

We recently held that "[i]t is doctrinally settled that factual findings of the trial court, especially on the credibility of the rape victim, are accorded great weight and respect and will not be disturbed on appeal."<sup>[56]</sup>

As to accused-appellant's argument that the absence of hymenal lacerations admits the possibility that there was never any sexual abuse, we find our disquisition in *People v. Araojo*<sup>[57]</sup> applicable: