

SECOND DIVISION

[G.R. No. 194833, July 02, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
PORFERIO BALINO ALIAS "TOTO," ACCUSED-APPELLANT.**

D E C I S I O N

PEREZ, J.:

Before this Court is an appeal from the Decision^[1] of the Twenty-Second Division of the Court of Appeals (CA), Cagayan de Oro City in CA-G.R. CR-HC No. 00648-MIN affirming *in toto* the Decision dated 10 March 2008^[2] in Criminal Case No. 12362-02 rendered by the Regional Trial Court (RTC) of the City of Malaybalay, Branch 8. The RTC Decision found Porferio Balino guilty beyond reasonable doubt of the crime of statutory rape.

THE FACTS

Porferio Balino (accused) was charged under the Information^[3] docketed as Criminal Case No. 12362-02 for violation of Article 266-A of the Revised Penal Code, as amended by Republic Act (R.A.) No. 8353 (statutory rape), which reads as follows:

That on or about the middle part of August 2001, in the afternoon, at Purok 1A, barangay Poblacion, municipality of Danggagan, province of Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there willfully, unlawfully and criminally with the use of force and intimidation have sexual intercourse with [AAA], an 8 year old child, against her will, to the damage and prejudice of [AAA] in such amount as may be allowed by law.

Upon arraignment, the accused pleaded not guilty to said charge.^[4] Thereafter, a full-blown trial proceeded.

The factual findings of the trial court, quoted verbatim by the appellate court, are as follows:

Evidence for the prosecution.

The prosecution presented the first witness AAA, 10 years old, Grade I, out of school youth, and a resident of Purok 5, x x x, Bukidnon. She testified that:

She is the complainant-victim in this case, and that, she knows the accused being her neighbour and she frequently went to the house of the accused to watch TV; that her favorite is the MTV program; that she knows the name of the accused whom she pointed in the courtroom, as Porferio Balino; that in the middle of August 2001, she was watching the MTV program in the house of Porferio Balino. After the MTV show, the accused put off the television; that she was about to leave from the house of the accused but since her slipper was missing, she searched for it and found the same at the back of the house; but when she was about to leave, accused pulled her and brought her inside the house; he then closed the door in the kitchen and also closed the door by the sala, and then he brought her to the room and undressed her; that she was wearing then a blouse with a sleeve; After the accused undressed her, he then undressed himself, took off his clothing, his pants and his brief and then he put himself on top of her then kissed her and when she was about to shout for Mama, he covered her mouth; he kissed her and then he bit her mouth; then her vagina was bleeding because he inserted his penis she felt "very painful"; and he wipe the same with his clothing; that after the accused had sexual intercourse with her; He then dressed her and pushed her outside as a result of which her feet was sprained and her chest hit the ground. He said to me that he is going to kill me if I am going to reveal that he raped me. She was able to go home and when she returned home nobody was around; because her mother was working in Quirino; she did not tell her mother it was after a longtime because she was not yet around. She was 8 years old at that time; that she is afraid every time she saw the accused.

The second witness for the prosecution, BBB, 30 years old, married, high school graduate, housekeeper and a resident of Purok 5, x x x, Bukidnon. She testified that she is the mother of the private complainant-victim. x x x that she was able to know of the fact when the child was admitted to hospital that was September 2, 2001; x x x; that she knows the accused Porferio Balino x x x; that on September 2, 2001, in the morning, she was working with the farm of Quirino Tero, at new Salay, Bukidnon. x x x; After 4:30 in the afternoon, she went home she saw her daughter with a fever, that she took her to the (sic) on September 2 she brought the victim at the Emergency Hospital at Kibawe, Bukidnon; and on September 4, 2001 to provincial hospital at Cagayan de Oro City because of her vagina which was swelling and for the reason that the hospital at Kibawe did not have the things needed for her treatment; she was already losing consciousness, she cannot anymore talk and her eyes were already not normally functioning; the sex organ of my daughter was examined at the hospital of Cagayan de Oro; she was admitted on September 4 and was discharged somewhat in October 7, but continued check up was done on her even after she was discharged. x x x; she identified the Living Case Report issued by the hospital x x x during the pre-trial including the findings therein; she then reported the matter to the police. She learned that her daughter was raped because the Doctor said that your daughter was molested so she asked her daughter and she told her that it was Porferio Balino.

DR. CRISTILDA ORTEGA VILLAPANE, x x x testified on the medical certificate marked as annex "B" and the injuries suffered by the victim.

Evidence for the accused.

PORFERIO BALINO, 59 years old, married, Grade VI, rubber topper, a resident of Poblacion, Danggagan, Bukidnon and now a detention prisoner. He testified that he is the accused; he denied the allegations in the information and further testified that: he knows the private complainant AAA, she being his neighbor in Danggagan, Bukidnon; that the said AAA frequently went to his house because she used to watch TV at their house but that habit was stopped when the accused in this case had an altercation with the father of AAA; that he knew the first time that he was charged of raping AAA when he was arrested in Danggagan, Bukidnon sometime in May 31, 2002, as he is employed as a rubber topper in a rubber plantation owned by Diosdado Palencia located at Carohatan, Banisilan, North Cotobato.^[5]

THE RULING OF THE RTC

In its Decision dated 10 March 2008,^[6] the RTC of the City of Malaybalay, Branch 8, convicted accused of statutory rape. The RTC gave weight to the positive testimony of AAA^[7] and disregarded inconsistencies considering that testimonies of rape victims who are young and of tender age are credible, especially if they are without any motive to falsely testify against the accused. The court *a quo* declared that her demeanor as a witness during the trial manifested by her unhesitant spontaneous and plain responses to the questions further enhanced her claim to credibility and trustworthiness. Moreover, the testimony was corroborated by the findings of other witnesses, Dr. Cristilda O. Villapañe and the mother of AAA. Hence, it found the prosecution to have successfully discharged its burden of proving the guilt of appellant beyond reasonable doubt. It simply rejected his defense of alibi for being weak since the physical impossibility to have been at the scene of the crime at the time of its commission was not given credence.^[8] Accused was thus sentenced to suffer the penalty of *reclusion perpetua*, and to pay the victim a fine of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 for actual damages.^[9]

THE RULING OF THE CA

On intermediate appellate review, the CA affirmed the RTC's Decision in convicting the accused. The CA adhered to the rule that the testimony of a young victim of rape deserves full credence and should not be dismissed as a mere fabrication. No woman, especially one of tender age, would concoct a story of defloration, allow an examination of her private parts and thereafter permit herself to be subjected to a public trial, unless she is motivated solely by desire to have the culprit apprehended and punished.^[10] The evidence shows that the narration of AAA was clear and spontaneous. The CA ruled that AAA cannot be blamed if she failed to confide to her parents or neighbor what had happened to her immediately after the incident by reason of fear which the accused had successfully instilled in her.^[11] The appellate court gave no credence to the defense of alibi and mere denial. It ruled that a denial is a weak defense which cannot prevail against a positive identification by the

rape victim. Thus, a denial which is unsubstantiated by clear and convincing evidence is by nature, negative and self-serving evidence, undeserving of weight in law.^[12] Consequently, the RTC Decision, which had sentenced accused to suffer the penalty of *reclusion perpetua* in lieu of death and awarded various damages to the victim, was affirmed by the appellate court.^[13]

THE RULING OF THE COURT

We resolve to deny the appeal for lack of merit, but we modify the amount of damages awarded.

This Court finds no valid reason to depart from the time-honored doctrine that where the issue is one of credibility of witnesses, and in this case their testimonies as well, the findings of the trial court are not to be disturbed unless the consideration of certain facts of substance and value, which have been plainly overlooked, might affect the result of the case.^[14]

Upon perusal of the records of the case, we see no reason to reverse or modify the findings of the RTC on the credibility of AAA's testimony, less so in the present case, in which its findings were affirmed by the CA. It is worthy to mention that the court *a quo* was in the best position to weigh the evidence presented during trial and ascertain the credibility of the witnesses who testified. In addition, there is no showing that the lower court overlooked, misunderstood, or misapplied facts or circumstances of weight which would have affected the outcome of the case.^[15]

This Court is not unaware that due to its intimate nature, rape is usually a crime bereft of witnesses, and, more often than not, the victim is left to testify for herself. Thus, in the resolution of rape cases, the victim's credibility becomes the primordial consideration. It is settled that when the victim's testimony is straightforward, convincing, and consistent with human nature and the normal course of things, unflawed by any material or significant inconsistency, it passes the test of credibility, and the accused may be convicted solely on the basis thereof. Inconsistencies in the victim's testimony do not impair her credibility, especially if the inconsistencies refer to trivial matters that do not alter the essential fact of the commission of rape. The trial court's assessment of the witnesses' credibility is given great weight and is even conclusive and binding.^[16]

In *People v. Sapigao, Jr.*,^[17] this Court expounded on the rationale for the abovementioned guideline:

It is well settled that the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct, and attitude under grilling examination. These are important in determining the truthfulness of witnesses and in unearthing the truth, especially in the face of conflicting testimonies. For, indeed, the emphasis, gesture, and inflection of the voice are potent aids in ascertaining the witness' credibility, and the trial court has the opportunity and can take advantage of these aids. These cannot be incorporated in the record so that all that the appellate court can see are