

## FIRST DIVISION

[ G.R. No. 194946, September 03, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ECO YABA Y BASA A.K.A. "PLOK," ACCUSED-APPELLANT.**

### DECISION

**PEREZ, J.:**

Before this Court for final review is the appeal of Eco Yaba y Basa (accused-appellant) seeking the reversal of the Decision<sup>[1]</sup> dated 31 August 2010 of the Court of Appeals (CA) in CA-G.R. CR.-H.C. No. 03247 which affirmed with modification the Decision<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 57, Libmanan, Camarines Sur, finding him guilty beyond reasonable doubt of the crime of rape defined and penalized under Articles 266-A and 266-B of the Revised Penal Code, as amended.

#### The Facts

The accused-appellant was charged in an Information for the crime of rape, in relation to Republic Act (R.A.) No. 7610,<sup>[3]</sup> docketed as Criminal Case No. L-4056 before the RTC, allegedly committed as follows:

That on July 8, 2005 about 4:00 o'clock in the afternoon in x x x Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, did then and there willfully, unlawfully and feloniously, by means of force, threats and intimidation have carnal knowledge with [AAA<sup>[4]</sup>], 15[-]year[-]old minor, against her will and without her consent, thus, such defloration of hers affect her psychological growth and development, to her damage and prejudice as shall be proven in Court.<sup>[5]</sup>

Upon arraignment, the accused-appellant entered a plea of "not guilty" to the crime charged.<sup>[6]</sup> During the pre-trial conference, the parties stipulated that accused-appellant and AAA knew each other because the former was a friend of her uncle and at times, would stay at the house of AAA's grandmother. Trial on the merits thereafter ensued.

#### Version of the Prosecution

On 8 July 2005, AAA asked permission from her grandmother to go home to her parents' house at Bagong Sikat, Lupi, Camarines Sur, as it was a Friday.<sup>[7]</sup> AAA was staying with her grandmother during school days since she was studying in Banga Caves, Ragay, Camarines Sur and would go home to Lupi only every weekend.<sup>[8]</sup>

Her grandmother permitted her to go home provided that she would be accompanied by accused-appellant, a family friend who previously sought permission to accompany her in going home.<sup>[9]</sup>

Upon reaching Upper Tagbak, AAA told accused-appellant to return home as she would be accompanied by a friend named Jeffrey the rest of the way. It turned out, however, that Jeffrey was not yet home by the time AAA dropped by the former's house. This prompted AAA to proceed on her way home alone.<sup>[10]</sup>

While walking on the road, accused-appellant surprised AAA by grabbing her hair, causing her to fall and lose her balance.<sup>[11]</sup> AAA fought back but accused-appellant boxed and kicked her three times. The punches which landed on her stomach and ear caused her to feel weak, disoriented and deaf.<sup>[12]</sup> Accused-appellant then picked a pointed stone and poked this at AAA's head. He threatened AAA that he has a cousin who is a member of the New People's Army and that she and her family would be killed if she will not give in to what he wanted.

Accused-appellant ordered AAA to undress but when she refused, he forcibly removed her shorts and underwear. He thereafter mounted on top of her and inserted his penis into her vagina.<sup>[13]</sup> During this time, AAA struggled to free herself but accused-appellant held her hand and warned her that he would smash her head with the stone. After satisfying his desires, accused-appellant ordered AAA to dress up as he would accompany her in going home to Lupi.<sup>[14]</sup>

They arrived in Lupi at about 4:30 in the afternoon.<sup>[15]</sup> BBB, AAA's cousin, noticed that the latter was in tears and that her clothes were muddy. When she inquired what happened, AAA ignored her and went straight to her room to change her clothes. AAA thereafter proceeded to the creek to take a bath and wash her clothes. BBB accompanied her while accused-appellant trailed behind them.<sup>[16]</sup> They stayed in the creek for an hour. While thereat, AAA remained silent while BBB exchanged banter with accused-appellant.<sup>[17]</sup>

BBB was shocked when accused-appellant suddenly uttered: "*Kukuha ako ng baril at uubusin lahat,*" then hastily left. When only the two of them were left in the creek, AAA told her cousin that accused-appellant raped her.<sup>[18]</sup> The two immediately went home and related to AAA's parents what had happened to her.

The following day, AAA was brought to the Municipal Health Office for medical examination. She was examined by Dr. Marilyn R. Cerilo-Folloso (Dr. Folloso) and the latter made the following findings: that patient had a contusion on the right thigh, a multilinear abrasion on the right lower leg, another contusion on the left thigh, an abrasion on the left knee, a perineal laceration measuring about .5-1 centimeter with minimal bleeding, and hymenal laceration superficial only at 7:00 o'clock position.<sup>[19]</sup>

### **Version of the Defense**

Accused-appellant vehemently denied the allegations in the complaint. He averred that on the day in question, it was AAA who requested that he accompany her home to Bagong Sikat, Lupi. While on their way, it rained heavily and that made them slip

thrice. AAA stumbled to the ground with her legs wide apart and hit a mango tree. Accused-appellant noticed blood on AAA's short pants and learned that she was menstruating that day. He helped AAA stand up but kept his distance when AAA was changing her clothes. He, however, claimed that was not the first time AAA undressed in front of him. He further claimed that AAA had no qualms undressing in front of him because they were lovers.

To bolster the cause of the defense, the counsel for accused-appellant presented Fernando Sarmiento (Sarmiento) who testified that he saw AAA and accused-appellant walking hand in hand on the day in question. An owner of a store named Marites Manalo (Manalo) was also presented to narrate that she overheard AAA asking accused-appellant to accompany her home to Bagong Sikat, Lupi.<sup>[20]</sup>

Accused-appellant maintained that he did not rape AAA and was not aware of any reason why the latter would accuse him of rape.

### **Ruling of the RTC**

On 5 February 2008, the trial court rendered a Decision finding accused-appellant guilty beyond reasonable doubt of the crime of rape. He was sentenced to suffer the penalty of *Reclusion Perpetua* and ordered to pay fifty thousand pesos (P50,000.00) as civil indemnity, fifty thousand pesos (P50,000.00) as moral damages, and the costs of suit.<sup>[21]</sup>

The trial court noted that AAA was straightforward and categorical in her narration on how accused-appellant raped her. It held that even if there was no medical certificate presented, the testimony alone of the victim being credible, is enough to convict the accused-appellant of the crime charged. The trial court also noted that the family of AAA subjected her to a medical examination right the following morning. Such reaction revealed the family's resolve to have justice served for what had happened to their daughter. The trial court further held that even if the medical certificate did not mention about the presence or absence of spermatozoa, still it was of the belief that AAA had been raped and it was the accused-appellant who raped her. It gave great weight on the testimony of AAA positively identifying accused-appellant as the author of the crime. It pointed out that no ill motive was shown by the defense why AAA would cry rape. Lastly, it did not give credence to the testimonies of defense witnesses Sarmiento and Manalo who portrayed AAA and accused-appellant as sweethearts. It held that even if they saw the two together on the day of the incident, such did not prove anything.<sup>[22]</sup>

### **Ruling of the CA**

The CA agreed with the RTC that the prosecution successfully proved that accused-appellant is guilty beyond reasonable doubt of the crime of rape. It ruled that the RTC did not falter in according weight to the narration of AAA as she remained steadfast and unyielding amidst grilling examination.<sup>[23]</sup> Thus, it held that the judgment of conviction was in order.

The CA affirmed the RTC decision with the modification that exemplary damages in the amount of P30,000.00 shall also be awarded. Below is the decretal portion of