

## SECOND DIVISION

[ G.R. No. 192232, December 10, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE  
ESTALIN PRODENCIADO, ACCUSED-APPELLANT.**

### R E S O L U T I O N

**DEL CASTILLO, J.:**

On appeal is the February 4, 2010 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02861 affirming with modification the May 25, 2007 Decision<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 13, Malolos, Bulacan, in Criminal Case Nos. 3206-M-2000 to 3209-M-2000 which found appellant Jose Estalin Prodenciado (Prodenciado) guilty of two counts of Statutory Rape and two counts of Simple Rape.

#### ***Factual Antecedents***

Prodenciado was charged with two counts each of Statutory Rape and Simple Rape committed against his own daughter, "AAA."<sup>[3]</sup> The Informations for the charges narrate:

Crim. Case No. 3208-M-2000 for Statutory Rape

That in or about the year 1993, in the municipality of Baliuag, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bolo, did then and there willfully, unlawfully and feloniously, by means of threats, force and intimidation and with lewd designs, have carnal knowledge of his daughter "AAA," a girl 8 years of age, against her will and consent.

Contrary to law.<sup>[4]</sup>

Crim. Case No. 3209-M-2000 for Statutory Rape

That in or about the year 1995, in the municipality of Baliuag, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bolo, did then and there willfully, unlawfully and feloniously, by means of threats, force and intimidation and with lewd designs, have carnal knowledge of his daughter "AAA," below 12 years old, against her will and consent.

Contrary to law.<sup>[5]</sup>

Crim. Case No. 3206-M-2000 for Simple Rape

That on or about the 13th day of August, 2000 at about 11:00 o'clock in the morning, in the municipality of Baliuag, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bolo, did then and there willfully, unlawfully and feloniously, by means of threats, force and intimidation and with lewd designs, have carnal knowledge of his daughter "AAA," a girl 14 years of age, against her will and consent.

Contrary to law.<sup>[6]</sup>

Crim. Case No. 3207-M-2000 for Simple Rape

That on or about the 13th day of August 2000 at about 11:30 in the morning, in the municipality of Baliuag, province of Bulacan, Philippines, and within the Jurisdiction of this Honorable Court, the above-named accused, armed with a bolo, did then and there willfully, unlawfully and feloniously, by means of threats, force and intimidation and with lewd designs, have carnal knowledge of his daughter "AAA," a girl 14 years of age, against her will and consent.

Contrary to law.<sup>[7]</sup>

Upon arraignment, Prodenciado, assisted by counsel, entered separate pleas of not guilty to the crimes charged.

### ***The Prosecution's Case***

As summarized in the Appellee's Brief,<sup>[8]</sup> the prosecution's case is premised on the following facts:

"AAA" was born on December 13, 1985<sup>[9]</sup> to common[-]law spouses "BBB", a housewife, and Jose E. Prodenciado (a.k.a. Rommel), a fisherman. The couple has five (5) children[,], with "AAA" being the eldest. At the time the rape incidents took place, appellant and "AAA" resided at Sta. Barbara, Baliuag, Bulacan.

x x x x

Sometime in 1993[,], at around noon, "AAA" brought food for appellant at the hut by the river where her father usually rests after fishing. Suddenly, appellant pulled out a knife, poked it at her and told her to go up the hut with him. As soon as they reached the hut, appellant removed both their clothes and told "AAA" to lie down on the floor. Appellant lowered himself atop "AAA" and inserted his penis into her vagina.

After satiating his lust, appellant dressed and warned "AAA" not to tell anybody what happened[,], or else[,], he would kill her mother. At that time, "AAA" was only eight (8) years old.

x x x x

The incident was repeated sometime in 1995 when "AAA" was then [10]

years old and was in Grade III.

While appellant was fishing near their place in Sta. Barbara, Baliuag, Bulacan, he told "AAA" to go with him to the hut. "AAA" obeyed and once there, she was instructed to take off her clothes. She was made to lie down on the floor and while [in] that position, appellant [laid] on top of her. Appellant then inserted his penis inside her vagina and raped her. There were no other people in the hut that day.

Afterwards, appellant told her to put on her clothes and go home. "AAA" did as she was told and upon reaching their house, she prepared to go to school. She did not report the incident to her mother. She could not recall the exact date when she was raped the second time.

x x x x

On August 13, 2000, appellant repeated his dastardly acts. This time, "AAA" was sexually violated not once but twice that same day.

At around 11:00 o'clock in the morning, "AAA," was doing the laundry by the river while appellant was sharpening his bolo nearby. Suddenly, appellant, clutching his bolo, approached "AAA" and dragged her towards the hut. At that time, the victim's mother[,], "BBB," who was then cooking by their stove outside the house about two (2) meters away[,], and two younger siblings saw appellant pulling "AAA" towards the house. As appellant climbed the stairs, he warned "BBB" not to follow them.

Inside the hut, appellant raised "AAA's" blouse and forcibly took off her shorts and underwear. Appellant kissed "AAA's" lips and breasts then mounted her and consummated his bestial desires. After satisfying his lust, appellant told "AAA" to dress up and go downstairs. "AAA" did as she was told and resumed doing her laundry chores.

A few minutes thereafter, or at around 11:30 o'clock that same day, appellant, still holding his bolo, called "AAA" and told her to go upstairs again to fix the clothes. "AAA" obeyed and, once again, she was sexually ravished by her father.

On both times that "AAA" went down the hut with appellant, "BBB" noticed her daughter to be crying. At that point, "BBB" suspected that "AAA" was being sexually abused by appellant. "BBB" wanted to ask her daughter what appellant did to her, but she could not since they were constantly being watched by appellant who was always armed with a bolo.

When Edwin, a neighbor, dropped by their place and talked with appellant, "BBB" took advantage of the opportunity and advised "AAA" to report the incidents to the police.

Subsequently, "BBB" devised a plan to report the matter to the police authorities. "BBB" asked appellant's permission to leave the house on the pretext of buying medicines. Before she left, appellant warned her not to

do anything behind his back ("*walang traiduran*"). "BBB" then immediately proceeded to the police station where she and the police officers plotted appellant's arrest.

The following day, appellant was fishing by the river when the policemen arrived. "BBB" guided the police towards the river and on their way thereto, she destroyed the fence so that the police would be able to pass by without being noticed by appellant.

"BBB" called out [to] her husband and told him to come over as there was a snake. Knowing that "BBB" was scared of snakes, appellant rushed to her side. The police immediately closed in on appellant and effected his arrest.

Thereafter, "AAA" and "BBB" executed a complaint and caused the investigation of the rapes committed against the victim. The victim was referred to the Bulacan Provincial Crime Laboratory Office, Philippine National Police (PNP) in Malolos, Bulacan. Police Senior Inspector Ivan Richard A. Viray, a Medico-Legal Officer, performed a physical examination on the victim. His Medico-Legal Report No. MR-146-2000 disclosed his findings, thus:

GENERAL AND  
EXTRAGENITAL:

PHYSICAL BUILT	- Light built
PHYSICAL STATUS	- Coherent female subject
BREAST[S]	- Are conical in shape with light brown areola and nipples from which no secretion could be pressed out
ABDOMEN	- Is flat/soft
PHYSICAL INJURIES	- No external signs of application of any form of trauma

GENITAL:

PUBIC HAIR	- Scanty growth
LABIA MAJORA	- Are full, convex and coaptated
LABIA MINORA	- In between labia majora, pinkish brown in color
HYMEN	- Elastic fl[e]shy type with the presence of deep healed laceration at 2 and 3 o'clock positions
POSTERIOR FOURCHETTE	- V-shaped or sharp
EXTERNAL VAGINAL ORIFICE	- Offers strong resistance to the examining index finger
VAGINAL CANAL	- Narrow with prominent rugosities
CERVIX	- Is firm/close[d]
PERI-URETHRAL & PERI-VAGINAL	- Are negative for spermatozoa and negative for gram (-) diplococci.

## SMEARS

During the trial, [Dr.] Viray elucidated on the procedures he undertook in examining the child and gave his impressions on his findings, viz: (1) subject is in non-virgin state physically; and (2) there are no external signs of application of any form of trauma.<sup>[10]</sup>

### ***Appellant's Defense***

As set forth in his Accused-Appellant's Brief,<sup>[11]</sup> Prodenciado alleged that he could not have committed the rape in 1993 as he was then a construction worker with a project in Pulilan, Bulacan and that the *nipa* hut where the alleged rape took place was built only in 1994. Anent the alleged rape in 1995, he contended that "AAA" and "BBB" lived with his mother-in-law during that year and that "AAA" never visited him in the *nipa* hut by the river at any time then. With regard the alleged rape on August 13, 2000, Prodenciado averred that "AAA" was already working in a factory at that time and she likewise did not pay him any visit during that period.

Prodenciado asserted that "AAA" must have been impelled by anger in filing the cases against him as he used to scold her for accepting suitors at a very young age. There were even occasions that he hit her for coming home late. However, as "AAA" later on admitted to him that the suitors were not hers but her mother's, Prodenciado likewise surmised that his wife wanted to get rid of him so she can live-in with one of her suitors. In fact, immediately upon his detention, "BBB" already started living-in with another man.

### ***Ruling of the Regional Trial Court***

On May 25, 2007, the RTC rendered a Decision, the dispositive portion of which reads as follows:

WHEREFORE, premises considered, the Court finds [the] accused guilty beyond reasonable doubt of the crime of Statutory Rape thru carnal knowledge on two (2) counts in Crim. Case Nos. 3208-M-2000 and 3209-M-2000, and hereby sentences him to suffer the penalty of *reclusion perpetua*, for each count (Total: Two (2) *reclusion perpetua*).

The accused is likewise directed to indemnify the private complainant in the amount of P100,000.00 for each count (Total: P200,000.00).

The Court likewise finds the accused guilty beyond reasonable doubt of the crime of Rape thru carnal knowledge on two (2) counts in Crim. Case Nos. 3206-M-2000 and 3207-M-2000, and hereby sentences him to suffer the penalty of *reclusion perpetua* for each count (Total: Two (2) *reclusion perpetua*).

The accused is likewise directed to indemnify the private complainant in the amount of P50,000.00 for each count (Total: P100,000.00).

SO ORDERED.<sup>[12]</sup>