

FIRST DIVISION

[G.R. No. 192253, September 18, 2013]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CARLITO ESPENILLA, ACCUSED-APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

The present case is an appeal from the Decision^[1] dated February 25, 2010 of the Court of Appeals in CA-G.R. CR.-H.C. No. 01830, entitled *People of the Philippines v. Carlito Espenilla*, which affirmed the Decision^[2] dated March 3, 2005 of the Regional Trial Court (RTC) of Masbate City, Branch 44 in Criminal Case No. 9115. The trial court found appellant Carlito Espenilla guilty beyond reasonable doubt of the crime of simple rape as defined and penalized under Article 335 of the Revised Penal Code.

As stated in the Information^[3] dated March 30, 1999, the aforementioned crime was committed in the following manner:

That on or about October 20, 1995, at x x x, Province of Masbate, Philippines, within the jurisdiction of this Honorable Court, the above-named accused with lewd design and by means of violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one AAA,^[4] a girl of 13 years old, against her will.

It should be noted that appellant was charged under Article 335 of the Revised Penal Code prior to its amendment by Republic Act No. 8353 or the "Anti-Rape Law of 1997" that reclassified and expanded the definition of rape, the provisions of which are now found in Articles 266-A to 266-D under Crimes Against Persons in the Revised Penal Code. This was in light of the fact that the alleged offense was committed prior to the effectivity of said amendment on October 22, 1997.

The case sprang from one of two complaints instituted by AAA with the aid of her father BBB who represented her since she was then a minor. The other complaint for rape was filed against AAA's grandfather, CCC. The two criminal cases were tried jointly. However, the case against CCC was later dismissed by the trial court owing to the death of the accused.^[5]

Upon his arraignment on November 18, 1999, appellant entered a plea of "not guilty."^[6] Pre-trial of the case was held which was then followed by a trial on the merits. Only AAA testified for the prosecution while the defense offered BBB and the appellant as witnesses.

The facts of this case, as culled in the assailed February 25, 2010 Decision of the Court of Appeals, are as follows:

[A]t around 7:00 o'clock in the morning of October 20, 1995, while AAA, a Grade 2 pupil in Brgy. Balatucan Elementary School was left in their house in x x x, Masbate with her two younger siblings (as her father and stepmother were in the farm), accused-appellant Carlito Espenilla, who is the brother of her stepmother, arrived and asked her for a tobacco leaf and a newspaper. When AAA went inside the room to get what was asked of her, accused-appellant followed and closed the door behind him. While inside the room, accused-appellant who was then with a bolo, immediately undressed her by taking off her shorts and panty and at the same time warning her not to tell anyone about what is happening, otherwise, she will be killed. After she was undressed, accused-appellant unzipped his pants, put out his private organ, held her, and ordered her to lie down on the floor. With the unsheathed bolo beside them, accused-appellant inserted his penis into AAA's vagina. AAA cried because of the pain but did not offer any resistance because accused-appellant was very strong and had a bolo that was placed beside her. Neither did she shout because there was no other person in the house (except her younger siblings). And besides, she knows that nobody would come to her rescue. With accused-appellant's penis inside AAA's private organ, he then made thrusting motions which lasted for about five (5) minutes and AAA felt something come out from accused-appellant's penis. When accused-appellant was done, he again warned AAA not to reveal the incident to anybody, otherwise, he would kill her and her family.

In the late afternoon or early evening of the same date, while AAA's parents were not yet around, accused-appellant came back and raped her again for the second time. Again, she was threatened not to reveal to anyone said incident. Because of fear, she kept the incident to herself. She could not, however, keep it forever as she could no longer suffer in silence. Thus, she ran away from home and took refuge at the house of Brgy. Captain Floro Medina of the nearby barangay of Marintoc. It was there that she was able to unburden herself of her secret. Brgy. Captain Medina then summoned the victim's father, BBB, and explained to him his daughter's predicament. Thereafter, BBB accompanied his daughter to the Police Authorities of Mobo where she was investigated. She was also subjected to medical examination by Dr. Enrique O. Legaspi III who issued a Medico-Legal Certificate (Records, p. 81) dated January 7, 1999, with the following findings:

| | |
|------------------------------|---|
| Name | : AAA |
| Address | : x x x, Mobo |
| Age | : 13 |
| Sex | : Female |
| Date and Time of Infliction | : 1995 (?) – 1996 (?) |
| Date and Time of Examination | : January 7, 1999, 2:30 p.m. |
| Findings | : Old healed hymenal : laceration at 3, 6, 9, o'clock position. : Admits two fingers with resistance. |

A complaint was then lodged before the MCTC of Mobo-Milagros in connection with the aforesaid rape incident. Meanwhile, after AAA's plight was brought to the attention of the Department of Social Welfare and Development (DSWD), AAA was taken from the house of Brgy. Captain Medina and was brought to the Bahay Ampunan of DSWD in Sorsogon where she stayed after the case was filed in Court.

On its turn to present evidence, the defense offered the testimony of the victim's father BBB and the accused-appellant himself. BBB testified that he was the complainant in the cases filed against herein accused-appellant and CCC, the victim's grandfather or BBB's father. He narrated that he was made to believe by her daughter AAA that she was raped by the said two accused on different occasions. However, he allegedly came to realize that the story of rape was not true, that is why he wanted that if it is possible, the cases against the two accused be dismissed by the Court. He then proceeded to affirm and confirm the contents of the Affidavit of Recantation which he claimed he had previously executed. When cross-examined, BBB maintained that he filed the cases against the accused-appellant and CCC (AAA's grandfather or BBB's father) because his daughter AAA informed him that she was allegedly raped and not because of the misunderstanding regarding the administration of his father's property. But when asked by the Court during a clarificatory hearing, BBB easily changed his answer and claimed that what he stated in his Affidavit of Recantation was the truth. That he merely forced his daughter AAA to say that she was raped by CCC and accused-appellant, so that the two will be put to jail. He went further and said that he came to know that the person who actually raped his daughter was someone who was killed by the NPA.

When called to the witness stand, accused-appellant Carlito Espenilla, merely denied the accusation against him and claimed that the charge of rape was fabricated only because of a misunderstanding between him and BBB regarding his non-payment of the Php1,000.00 indebtedness he owed to BBB (the victim's father). Accused-appellant did not offer an alibi.^[7]

Upon evaluation of the evidence, the trial court found credence in AAA's version of events and, thus, convicted appellant of the felony of simple rape. The dispositive portion of the assailed March 3, 2005 ruling read:

WHEREFORE, foregoing premises considered, the Court finds the accused CARLITO ESPENILLA, guilty beyond reasonable doubt of the crime of Rape, defined and penalized under Article 335 of the Revised Penal Code and is hereby sentenced to suffer the penalty of Reclusion Perpetua to pay the amount of P50,000.00 as civil indemnity, P50,000.00 for moral damages, or a total amount of P100,000.00, and to pay the costs.

The accused being a detention prisoner, his detention shall be credited in full in the service of his sentence.^[8]

Appellant then elevated his case to the Court of Appeals in the hope that his conviction would be reversed. However, the Court of Appeals merely affirmed the

trial court's ruling in the assailed February 25, 2010 Decision, the dispositive portion of which provided:

WHEREFORE, in view of the foregoing, the appealed Decision dated March 3, 2005 of the Regional Trial Court (RTC) of Masbate City, Branch 44 in Criminal Case No. 9115 finding herein accused-appellant Carlito Espenilla guilty beyond reasonable doubt of the crime of rape, sentencing him to Reclusion Perpetua and ordering him to pay the amount of Php50,000.00 as civil indemnity; Php50,000.00 as moral damages and costs is hereby **AFFIRMED**.^[9]

Hence, appellant questions before us the foregoing affirmance of his guilt by propounding the following assignments of error:

I

THE COURT A QUO GRAVELY ERRED IN GIVING FULL CREDENCE TO THE TESTIMONY OF THE PRIVATE COMPLAINANT.

II

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME OF RAPE DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.^[10]

After an assiduous review, we find the present appeal to be without merit.

To reiterate, the incident of rape involved in this case occurred before the enactment of Republic Act No. 8353 and the applicable provision of law is Article 335 of the Revised Penal Code:

Art. 335. *When and how rape is committed.* – Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age or is demented.

Based on the foregoing provision, the elements of rape under Article 335 of the Revised Penal Code are: (1) the offender had carnal knowledge of the victim; and (2) such act was accomplished through force or intimidation; or when the victim is deprived of reason or otherwise unconscious; or when the victim is under 12 years of age.^[11]

The records of this case reveal that the prosecution has sufficiently demonstrated that there is ample evidence to prove that appellant had carnal knowledge of the then minor victim through the use of force and intimidation. The testimony of AAA

pertaining to the rape incident at issue articulates in blunt detail her horrific experience at the hands of appellant. The pertinent portion of her testimony is quoted here:

[PROSECUTOR] ALFORTE

Q While you and the accused were inside the house, what happened?

A He undressed me.

Q In what part of the house the accused undressed you? Do you have a room?

A There was a room.

Q Were you undressed inside the room of that house?

A Yes, sir.

Q How about your younger brother, where was he at that time?

A My younger brother cried.

Q Where was he, inside or outside the bedroom?

A Outside the bedroom.

Q Was the accused armed at that time he undressed you?

A Yes, sir.

Q What kind of instrument?

A A bolo.

COURT

Q What did he do with that bolo?

A When I was already nude, he placed the bolo beside me.

Q You told the court that you were told by the accused to undress yourself. Were you able to undress yourself?

A He was the one [who] undressed me.

Q Did he succeed in undressing you?

A Yes, sir.

Q Completely?

A My shorts and my panty.

Q After you were undressed by him, what did the accused do?

A He unzipped his pants and put out his male organ.

Q Did he tell you anything when he undressed you?

A Yes, your Honor.

Q What did he tell you?

A He told me not to reveal this matter, because if I will reveal this to anybody, he is going to kill me.

[PROSECUTOR] ALFORTE