

## FIRST DIVISION

[ G.R. No. 177137, August 23, 2012 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. PEDRO BANIG,  
APPELLANT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

Weddings are joyous occasions wherein we witness the love and union between a man and a woman. In this case, instead of love, the victim witnessed man's bestiality when during the pre-nuptial dance, herein appellant forcibly had carnal knowledge of her. Worse, appellant used a knife to bring his victim into submission.

On Appeal is the Decision<sup>[1]</sup> dated November 13, 2006 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02439, which affirmed with modification the Decision<sup>[2]</sup> dated July 17, 2000 of the Regional Trial Court (RTC), Branch 31, Cabarroguis, Quirino, in Criminal Case No. 1292, finding appellant Pedro Banig(appellant) guilty, beyond reasonable doubt of the crime of rape.

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

On July 1, 1996, appellant along with one Tony Ginumtad (Ginumtad) were charged with the crime of rape committed against "AAA"<sup>[3]</sup> in an Information<sup>[4]</sup> which reads:

That on or about 3:00 o'clock dawn of March 28, 1996 in *Barangay "XXX"*, Municipality of "YYY", Province of Quirino, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with prurient desires, and by means of force and intimidation, after conspiring and mutually helping one another, did then and there wilfully, unlawfully and feloniously have carnal knowledge [of] "AAA" against the latter's will.

CONTRARY TO LAW.<sup>[5]</sup>

Upon arraignment, appellant and Ginumtad pleaded not guilty to the crime charged. Trial on the merits subsequently followed.

#### ***Evidence for the Prosecution***

The prosecution presented "AAA" as its first witness. She testified that on the night of March 27, 1996, she attended a pre-wedding dance in their barrio which lasted until the early hours of the next day, March 28, 1996. At about 3:00 a.m. of March 28, 1996, "AAA" felt the need to urinate. She thus left the dance hall and went up to a hill about 50-100 meters away.

Suddenly, two persons came out of nowhere, held her hands, poked a knife at her thigh, and warned her not to scream for help or else they would kill her. They then pushed her to the ground with her face up and her hands placed behind her back crosswise.<sup>[6]</sup> Appellant proceeded to remove her pants and panties while Ginumtad pressed her shoulders down to the ground. When appellant was already on top of her, he spread her legs and inserted his penis into her vagina. Although "AAA" felt pain, she did not shout for fear that the appellant would kill her. After a while, Ginumtad took his turn and also inserted his penis into "AAA's" vagina. After Ginumtad's turn, appellant again had sexual intercourse with "AAA" and that was the time that she lost consciousness.<sup>[7]</sup>

When "AAA" regained consciousness, appellant was still on top of her making thrusting motions, while Ginumtad was already nowhere in sight. When done, appellant stood up and just left "AAA". Luckily, someone came and brought "AAA" to the house of the bride where she slept. The incident was then reported to the police authorities on April 15, 1996.

The prosecution then presented Dr. Briccio Macabangon (Dr. Macabangon), a medical doctor who examined "AAA" on April 23, 1996 at the "YYY" District Hospital. He issued a Medical Certificate with the following findings:

Laceration, old, at 8:00 o'clock. Admits one finger with difficulty.<sup>[8]</sup>

As its third witness, the prosecution presented "BBB," the father of "AAA". He testified that Alejandro Pugong (Pugong), the brother-in-law of appellant, approached him during the pendency of the preliminary investigation and asked for the settlement of the case. They offered marriage between appellant and his 20-year old daughter, "AAA". This, however, infuriated "BBB," hence, he reported to the police authorities the said offer of settlement. The police then arrested appellant.

The last witness for the prosecution is Noel Dunuan, the Barangay Captain of *Barangay* "XXX". He corroborated the testimony of "BBB" and declared that Pugong and appellant's brother, Afeles Banig, came to his office asking for the settlement of the case.

### ***Evidence for the Defense***

The appellant denied the charges against him. He unfurled his own version of the events that transpired in this case as follows:

Appellant was invited to a pre-nuptial dance and wedding ceremony of Mercy Ananayo and Fernando Witawit. It was during the said dance in the evening of March 27, 1996 that he met "AAA". He danced with "AAA" several times during that night and eventually courted her by professing his love for her. Sensing that she was attracted to him, appellant concluded that he had a chance of winning her heart.<sup>[9]</sup>

After dancing for quite some time, appellant and "AAA" stepped away from the dance hall and sat down together in a dimly lit place about 8-10 meters away. Both of them stayed there for about an hour where they chatted and got to know each

other better. When appellant sensed that no one was watching, he held "AAA's" hands and kissed her lips five times. They soon returned to the dance hall and continued to dance the night away until around 4:00 a.m. He told "AAA" that he loves her and asked her to wait for him to come back since he had another wedding to attend in Pangasinan. He promised her that upon his return, he will talk to her parents and formally ask their permission to marry her.

At around 6:00 a.m., appellant took a bath, accompanied by a certain Fernando Ananayo. Thereafter, he proceeded to have breakfast in the house of the bride and groom where he saw "AAA" also having her breakfast with other companions. After breakfast, appellant asked her permission to leave for Pangasinan to attend another wedding. "AAA" replied that if he really loves her, he will come back and talk to her parents.

Appellant went to Pangasinan and stayed there for a little over two weeks. Upon his return and as promised, he talked with "AAA's" parents. The mother of "AAA" informed appellant that if the two of them were really in love and wanted to marry, then they should start the process of securing the necessary papers for their marriage.<sup>[10]</sup> Thus, a date was set for the appellant and "AAA" to proceed to the Municipal Hall of "YYY" to apply for a marriage license. On such date, appellant and "AAA" went to "YYY" with "AAA's" mother and aunt. They first had lunch in a restaurant as it was already noon. After finishing their meal, a police officer came over and invited him for interrogation. Appellant obliged but was later arrested and put behind bars.

Appellant later learned that "BBB" filed a criminal case against him. According to the appellant, "BBB" must have felt embarrassed by the fact that people saw him and "AAA" embracing each other during the pre-nuptial dance. On that same day, "AAA" visited the appellant. When asked why they were putting him in jail, "AAA" replied that if she goes against the wishes of her father, her parents might disown her.<sup>[11]</sup>

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

On July 17, 2000, the RTC convicted appellant of the crime of rape while his co-accused Ginumtad was acquitted for insufficiency of evidence. The dispositive portion of the judgment of conviction reads as follows:

IN VIEW OF THE FOREGOING, this Court finds Pedro Banig guilty beyond reasonable doubt of the crime of rape as provided for under Article 335 of the Revised Penal Code as amended by R.A. 7659 and hereby impose[s] upon him the penalty of Reclusion Perpetua. In addition, said accused Pedro Banig should pay the victim, "AAA", the amount of P50,000.00 as indemnity.

As to accused Tony Ginumtad, this Court finds him Not Guilty for insufficiency of evidence.

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

In finding the appellant guilty, the RTC held that he had sexual intercourse with the

victim through the use of force. It gave full credit and weight to the testimony of the prosecution witnesses, especially that of "AAA". On the other hand, it debunked appellant's "sweetheart theory" for being intrinsically weak.

### ***Ruling of the Court of Appeals***

On October 20, 2000, appellant filed a Notice of Appeal,<sup>[13]</sup> which was granted by the RTC.<sup>[14]</sup> Consequently, the records of this case were forwarded to this Court. Conformably with the ruling of this Court in *People v. Mateo*,<sup>[15]</sup> however, the case was transferred to the CA for intermediate appellate review. Then on November 13, 2006, the CA rendered its now assailed Decision<sup>[16]</sup> affirming with modification the RTC's judgment of conviction, thus:

**WHEREFORE**, the decision appealed from is **AFFIRMED** with **MODIFICATION** in that the accused-appellant is hereby ordered to pay the victim, "AAA", P50,000.00 as moral damages.

SO ORDERED.<sup>[17]</sup>

Hence, this appeal.

### **Issue**

In his brief, appellant made a single assignment of error that –

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT [OF] THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.<sup>[18]</sup>

### **Our Ruling**

The appeal lacks merit.

"[I]n resolving rape cases, primordial consideration is given to the credibility of the victim's testimony."<sup>[19]</sup> This is so because conviction for rape may be solely based on the victim's testimony provided it is credible, natural, convincing, and consistent with human nature and the normal course of things.<sup>[20]</sup> Both the RTC and the CA agree that "AAA" recounted her ordeal in a candid, straightforward and categorical manner. Thus:

[FISCAL ORIAS]:

Q: And, what transpired after these two persons placed your two hands at your back?

A: When they put my hands at my back they removed my pants and panty, sir.

x x x x

Q: Who was that person who removed your pants and

underwear?

A: They were the ones, sir, Pedro Banig and Tony Ginumtad.  
x x x x

Q: After removing your pants and underwear, Madam witness, what did Pedro Banig do to you, if any?

A: He insert[ed] his penis, sir.

FISCAL ORIAS -

Q: Where did he insert his penis?

A: [Into my] vagina, sir.

Q: What did you feel when he inserted his penis [into] your vagina?

A: It was painful, sir.

Q: Did you not shout?

A: No, sir, because they told me that if I x x x shout they [would] kill me, sir.

Q: Was Pedro Banig armed at that time?

ATTY. PAWINGI:  
Leading, your honor.

[FISCAL ORIAS]:  
That is a follow-up to what she answered, your honor.

COURT:  
Let her answer.

A: Yes, sir.

[FISCAL ORIAS]:

Q: [With] what?

A: Knife, sir.

Q: What did he do next, Madam witness, when he inserted his penis [into] your vagina?

A: He made up and down movement, sir.<sup>[21]</sup>

Aggrieved that he was the only one convicted of the crime charged, appellant argues in his Brief<sup>[22]</sup> that the trial court erroneously concluded that he is the sole perpetrator of the crime charged. He claims that when his co-accused Ginumtad was acquitted, he was made to be the fall guy, "just because he is unrelated by blood to the private complainant."<sup>[23]</sup>

A judgment of acquittal is final and is no longer reviewable.<sup>[24]</sup> As we have previously held in *People v. Court of Appeals*,<sup>[25]</sup> "[a] verdict of acquittal is immediately final and a reexamination of the merits of such acquittal, even in the appellate courts, will put the accused in jeopardy for the same offense."<sup>[26]</sup> True, the finality of acquittal rule is not one without exception as when the trial court commits grave abuse of discretion amounting to lack or excess of jurisdiction. In such a case, the judgment of acquittal may be questioned through the extraordinary writ of *certiorari* under Rule 65 of the Rules of Court. In the instant case, however, we cannot treat the appeal as a Rule 65 petition as it raises no jurisdictional error that can invalidate the judgment of acquittal. Suffice it to state that the trial court is in the best position to determine the sufficiency of evidence against both appellant and Ginumtad. It is a well-settled rule that this Court accords great respect and full weight to the trial court's findings, unless the trial court overlooked substantial facts which could have affected the outcome of the case.<sup>[27]</sup> It is not at all irregular for a