

## THIRD DIVISION

[ G.R. No. 188561, January 15, 2010 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FELIPE AYADE Y PULOD, APPELLANT.**

### DECISION

### RESOLUTION

**NACHURA, J.:**

Before this Court is an Appeal,<sup>[1]</sup> seeking the reversal of the Court of Appeals (CA) Decision<sup>[2]</sup> dated March 31, 2009, which affirmed the Decision<sup>[3]</sup> of the Regional Trial Court (RTC) of Mandaluyong City, Branch 212, dated October 31, 2007, convicting appellant Felipe Ayade y Pulod

(Ayade) of the crime of Qualified Rape, with a modification as to the amount of the moral damages awarded.

#### *The Facts*

Ayade was charged with Qualified Rape in an Information<sup>[4]</sup> dated March 31, 2003, which reads:

That on or about the 26<sup>th</sup> day of March 2003, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, who is the biological father of the victim, with lewd design and by means of force and intimidation, did, then and there willfully, unlawfully and feloniously have carnal knowledge with [VVV], a girl under thirteen (13) years of age against her will and consent, [with] prejudice to the child's development.

CONTRARY TO LAW.

Upon arraignment on April 21, 2003, Ayade, with the assistance of counsel, pleaded not guilty to the offense charged. Thereafter, trial on the merits ensued. In the course of the trial, two varying versions arose.

#### *Version of the Prosecution*

Private complainant VVV<sup>[5]</sup> (VVV) was only thirteen (13) years old when she was raped by Ayade, her own father, on March 26, 2003. According to VVV, at around 12 noon of said date, while she was alone in a room in their house in XXX Compound, Barangay ZZZ, Mandaluyong City, and while her mother was at work, Ayade went to

her room. Once inside, the latter started touching VVV's breasts. After he undressed VVV by removing her shorts and panty, he also removed his shorts and brief. Afterwards, he kissed and licked VVV's breasts and vagina, mounted her and forced his penis into her vagina, and had sexual intercourse with her. All the while, VVV resisted and struggled, but her attempts were futile as Ayade was bigger and stronger than her. While the sexual assault was taking place, VVV cried. To prevent her from shouting, Ayade punched her thigh.

After the incident, VVV went to her grandmother, GGG, and narrated to her the sexual assaults committed by Ayade against her. Thereafter, they reported the incident to the Mandaluyong Police Station. Subsequently, an investigation was conducted. Hence, the instant case was filed against Ayade. VVV positively identified her father, Ayade, as the perpetrator of the crime.<sup>[6]</sup>

### ***Version of the Defense***

Ayade denied all the accusations hurled against him. He averred that at the time and date of the alleged rape, he left for work as early as 7:00 a.m. Upon returning home, he just had dinner and then retired.

Ayade asseverated that the filing of the case was upon the prodding of GGG, his mother-in-law. He claimed that on March 29, 2003, at around 8:00 a.m., as he was standing outside his house, GGG arrived and asked for the payment of his electric bill. He told her that he could not pay, which angered GGG.

The next day, Ayade was surprised when police officers arrested him while he was in his cousin's house. The initial offense being imputed to him was for mauling and maltreating his wife. Later, however, he was accused of raping his daughter VVV. He recalled that when a police officer asked VVV as to whether or not Ayade raped her, his daughter kept silent, but GGG answered affirmatively on VVV's behalf.<sup>[7]</sup>

### ***The RTC's Ruling***

In its Decision dated October 31, 2007, the RTC found Ayade guilty as charged. The dispositive portion of the RTC decision reads as follows:

WHEREFORE, in view of the foregoing, this court finds accused Felipe Ayade y Pulod GUILTY beyond reasonable doubt of qualified rape as defined in Article 266-A of the Revised Penal Code, as amended by Republic Act [No.] 8353, qualified by minority and relationship the proper imposable penalty would have been death as provided in Article 266-B of the Revised Penal Code, as amended by RA [No.] 8353. However, pursuant to Republic Act No. 9346, accused Felipe Ayade y Pulod is hereby sentenced to suffer the penalty of Reclusion Perpetua without possibility of parole. The accused is likewise ORDERED to pay the private complainant [VVV], the amount of P75,000.00 as civil indemnity; P75,000.00 as moral damages and P50,000.00 as exemplary damages; all with the interest at the legal rate of six percent (6%) per annum from the receipt of this decision until fully paid.

Accordingly, the Officer-in-Charge/Branch Clerk of Court is hereby

directed to prepare the Mitimus Order.

SO ORDERED.<sup>[8]</sup>

Aggrieved, Ayade appealed to the CA,<sup>[9]</sup> assigning the following errors:

I.

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF QUALIFIED RAPE.

II.

THE COURT A QUO GRAVELY ERRED IN RENDERING A DECISION WHICH IS CONTRARY TO LAW AND ESTABLISHED FACTS.

III.

THE COURT A QUO GRAVELY ERRED IN ORDERING THE ACCUSED-APPELLANT TO PAY CIVIL INDEMNITY, MORAL AND EXEMPLARY DAMAGES, ALL WITH THE INTEREST AT THE LEGAL RATE OF SIX PERCENT (6%) PER ANNUM FROM THE RECEIPT OF THE DECISION UNTIL FULLY PAID.<sup>[10]</sup>

### ***The CA's Ruling***

In its Decision dated March 31, 2009, the CA affirmed with modification the findings of the RTC, thus:

WHEREFORE, in the light of the foregoing premises, the decision subject of the present appeal is hereby **AFFIRMED** save for a modification in the monetary award. Accordingly, the accused-appellant is ordered to pay the private complainant: (a) P75,000.00 as civil indemnity; (b) P50,000.00 instead of P75,000.00 as moral damages; and (c) P25,000.00 instead of P50,000.00 as exemplary damages.<sup>[11]</sup>

Hence, this appeal.

In their respective Manifestations<sup>[12]</sup> filed before this Court, appellee, People of the Philippines, as represented by the Office of the Solicitor General, and Ayade, as represented by the Public Attorney's Office,

intimated that they were no longer filing any Supplemental Brief in support of their