

FIRST DIVISION

[G.R. No. 177152, January 06, 2010]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MANUEL BAGOS, ACCUSED-APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

On appeal is the Decision^[1] dated December 19, 2006 of the Court of Appeals (CA) in *CA-G.R. CR-HC No. 01669* which affirmed with modification an earlier decision^[2] of the Regional Trial Court (RTC) of Burgos, Pangasinan, Branch 70 in Criminal Case No. B-130, finding accused-appellant guilty beyond reasonable doubt of the crime of rape and imposing upon him the penalty of *reclusion perpetua*.

Consistent with our decision in *People v. Cabalquinto*,^[3] the real name of the rape victim in this case is withheld and, instead, fictitious initials are used to represent her. Also, the personal circumstances of the victim or any other information tending to establish or compromise her identity, as well as those of her immediate family or household members, are not disclosed in this decision.

In the RTC, accused-appellant was charged with the crime of rape in an Information^[4] dated July 27, 1998. The crime was alleged to have been committed as follows:

That on or about the month of May, 1998, along the river bank of Balingcaguing River, at sition Camanggaan, barangay Caranglaan, municipality of Mabini, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with lewd design, by means of force and intimidation, did then and there, willfully, unlawfully and feloniously grab, pull and force [AAA], 10 years old, a minor to sit on his lap, thereafter removed her panty and his pants, inserted his penis to her vagina and have carnal knowledge to the said victim, to her damage and prejudice. (Words in bracket ours)

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When arraigned on November 25, 1998, accused-appellant pleaded not guilty to the crime charged. In the course of the trial, the prosecution presented the testimonies of AAA, the victim; BBB, the victim's mother; Dr. Maribel Lazo, Municipal Health Officer of Mabini, Pangasinan; and PO2 Alonzo Bagua, member of the Philippine National Police in Mabini, Pangasinan.

The prosecution's version of the incident is succinctly summarized by the Office of

the Solicitor General in its Appellee's Brief,^[5] to wit:

Sometime in the month of May 1998, [AAA], her older brother [CCC], younger sister [DDD] and friend Michael (surname not on record) went to Baling-Caguing River, sitio Camanggaon, barangay Caranglaan, Mabini, Pangasinan from their house to take a bath.

While they were bathing, [CCC] and Michael decided to fish at a different location in the river about fifty (50) meters from where the sisters were bathing. Thereafter, [DDD] left [AAA] to join the two (2).

Later, [AAA] prepared to leave and follow her companions. However, appellant Manuel Bagos who was bathing nearby suddenly pulled her left leg causing her to slip towards him. He then lowered the panty of [AAA] up to the level of her knees and, thereafter, removed his pants.

Appellant sat down and seated [AAA] on his lap while they were in the water which was neck-deep in that position. [AAA] boxed the thighs of the appellant saying: "no uncle." Despite [AAA's] protestations, appellant placed his left hand over her stomach and used his right hand to insert his penis inside her vagina which caused her pain. After satisfying his lust, appellant threatened to shoot [AAA] if she reported the incident to anybody.

[AAA] was frightened by the threat of appellant because she had seen his gun when they played in his house one time prior to the incident. [AAA] then went to the river bank and waited for her companions after getting dressed.

[BBB], [AAA's] mother, testified that [AAA] was ten (10) years old when the incident happened since she was born on July 18, 1987 as shown by her birth certificate which was identified and marked as Exhibit B. On June 17, 1998, she was troubled by the unusual questions of her daughter such as: "Mama, is my stomach getting bigger?"; and "Mama, is my neck beating faster?" She then confronted [AAA] and asked her if somebody molested her. [AAA] answered in the affirmative and identified appellant as the culprit.

[AAA] underwent physical examination on June 18, 1998 which was conducted by Dr. Maribel Lazo who prepared the medico-legal report with the following findings:

Healed laceration of the hymen with non-coaptable borders and retraction of the edges indicating that the laceration took place long before the day of the physical examination.

Dr. Lazo explained that the report meant that the hymen had been ruptured and that the laceration took place longer than two weeks before

the day of the physical examination or that [AAA] was no longer a virgin at the time of the physical examination.^[6] (Words in bracket ours)

On the other hand, the defense relied on the lone testimony of accused-appellant himself. The CA summarized the defense's version as follows:

For the defense, accused-appellant was the sole witness. He denied swimming or bathing in the river near his house in May 1998, and claimed that he only went near the river to gather coconuts. While gathering coconuts, he noticed that a number of children were bathing in the river, including [AAA], as well as her brother and sister. Accused-appellant has known [AAA's] parents for approximately ten years because they were neighbors. [AAA's] grandmother and accused-appellant's father are also first cousins. He insisted that he stayed at the river bank while gathering coconuts, but never went near [AAA]. He denied that he raped [AAA], much less squatted on the river while raping [AAA], explaining that he is afflicted with a physical defect that renders him incapable of squatting down. He recounted that when he went to their barangay hall, the barangay captain asked him if he could afford to settle the case. Accused-appellant answered that he would not settle because he was innocent of the crime charged against him.

He speculated that [AAA's] family accused him of raping [AAA] due to a family misunderstanding. According to him, [AAA's] family cut a tamarind tree in a parcel of land owned by his deceased grandfather, made lumber out of the said tamarind tree, and used it to build a house. Upon instruction from his father, accused-appellant then told the family of [AAA] to stop cutting the tree. The rape charge could also have been spawned by a boundary dispute between [BBB's] father and accused-appellant himself. The father of [BBB] allegedly did not observe the correct boundaries in fixing his fence; thus, accused-appellant advised him to build his fence farther so as not to intrude on accused-appellant's own land.^[7] (Words in bracket ours)

In a decision^[8] dated December 15, 1999, the RTC rendered its decision convicting accused-appellant of the crime of rape, the dispositive portion of which stated:

WHEREFORE, premises considered, this Court finds accused Manuel Bagos guilty beyond reasonable doubt of the crime of Rape as charged and hereby sentences him to suffer Reclusion Perpetua. As regards the accused pecuniary liabilities, he is ordered to indemnify the complainant [AAA] the amount of P50,000.00 as civil indemnity in addition to another P50,000.00 as moral damages. (Words in bracket ours)

SO ORDERED.^[9]

Accused-appellant filed a Notice of Appeal dated January 26, 2000 with this Court.

[10]

On September 20, 2004, conformably with our pronouncement in *People v. Mateo*^[11] which modified the provisions of the Rules of Court insofar as they provide for direct appeals from the RTC to this Court in cases where the penalty imposed by the trial court is death, *reclusion perpetua* or life imprisonment, the Court resolved to refer the case to the CA for appropriate action and disposition.^[12]

In the assailed Decision dated December 19, 2006, in *CA-G.R. CR-HC No. 01669*, the CA upheld the conviction of accused-appellant and affirmed with modification the decision of the RTC. The CA added an award of exemplary damages in the amount of P25,000.00 in line with prevailing jurisprudence.

From the CA, the case was then elevated to this Court upon filing by accused-appellant of a notice of appeal on January 8, 2007.^[13] In its Resolution^[14] of June 27, 2007, the Court required the parties to submit their respective supplemental briefs, if they so desire. Both parties, however, manifested that they were dispensing with the filing of a supplemental brief as their arguments have already been substantially discussed in their respective briefs filed before the CA.^[15]

In support of his appeal, accused-appellant assigns the following errors:

I

THE COURT A QUO ERRED IN GIVING DUE WEIGHT AND CREDENCE TO THE UNRELIABLE AND UNCORROBORATED TESTIMONY OF THE COMPLAINING WITNESS, THEREBY CASTING GRAVE DOUBTS AS TO THE CRIMINAL CULPABILITY OF THE ACCUSED-APPELLANT.

II

THE COURT A QUO ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.^[16]

Accused-appellant contends that the testimony of AAA is incredible, unconvincing and inconsistent with human nature. He particularly points out the part of her testimony where accused-appellant allegedly pulled her panty down to her knees, removed his pants while standing, made her sit on his lap while in the water and inserted his penis into her vagina. Accused-appellant claims that this is incredulous, considering that he had a slight physical defect on his leg and could not have inserted his penis into AAA's vagina with ease and without ripping her panty if the same had been pulled down only to AAA's knees. According to accused-appellant, that AAA did not shout for help during the incident was likewise contrary to common experience. AAA could have done so since she knew fully well that her companions were fishing nearby and could have heard her.

Accused-appellant's contentions essentially assail the credibility of AAA's testimony. We must reiterate that, ultimately, when the issue is one of credibility of witnesses,

appellate courts will generally not disturb the finding of the trial court unless it has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case. This is so because the trial court is in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying during the trial.^[17] Accused-appellant miserably failed to convince us that his case presents an exception to this established rule. The observation of the RTC on this point is worth quoting here:

It can be deduced from the foregoing testimony of [AAA] that she was credible, straightforward, categorical and logical and that she was not motivated by ill will and malice in testifying against Manuel Bagos, notwithstanding the vigorous and extensive cross-examination by the defense. She wants justice in this case.^[18] (Words in bracket ours.)

It should not be forgotten that the victim in the present case was only ten (10) years old when the rape happened. Despite her very young age, her narration of her ordeal on the witness stand was straightforward, spontaneous and candid. Under rigid cross-examination, she was steadfast in the telling of her tragic tale of defilement and openly narrated in court her nightmarish experience at the hands of accused-appellant. We reproduce the relevant portions of AAA's testimony here:

PROS. RIVERA:

Q During that time while you and your sister [DDD] were swimming, did you notice anybody join you in that river?

A Yes madam.

Q Who was that?

A Manuel Bagos madam.

Q While you and your sister [DDD] were taking a bath or swimming as what you have said, what happened next?

A My younger sister went to join my elder brother and kuya Michael madam.

Q What about you, what did you do when your sister [DDD] went to join your brother and your kuya Michael?

A I was about to follow her but somebody pulled my leg madam.

Q Did you see who pulled your leg?

A Yes madam.

Q Who pulled your leg

A Manuel Bagos madam.

Q Where were you when Manuel Bagos pulled your leg?

A I was in the water madam.