

FIRST DIVISION

[G.R. No. 188901, December 15, 2010]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GILBERT CASTRO Y AGUILAR, ACCUSED-APPELLANT.**

D E C I S I O N

PEREZ, J.:

Before this Court is an Appeal,^[1] seeking the reversal and setting aside of the Decision^[2] dated 11 May 2009 of the Court of Appeals (CA) which affirmed the Decision^[3] of the Regional Trial Court (RTC) of Malolos City, Bulacan, Branch 12 convicting appellant Gilbert Castro y Aguilar (Castro) of the crime of rape, with modification as to the amount of damages awarded to the victim.

In line with the ruling of this Court in *People v. Cabalquinto*,^[4] the real name and identity of the rape victim, 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, are not disclosed in this decision. Instead, the rape victim shall herein be referred to as AAA; her mother XYZ; and her uncle, BBB.

THE FACTS

The victim in this case is an 18-year old lass with a mental capacity akin to a 5-year old child. Due to her poor learning capacity, she has not even finished Grade 1 and is unable to read and write.

The accused, on the other hand, was then 22 years old and a second cousin of the victim. He testified that he has known the victim for 3 years prior to 5 February 2002, the alleged first rape incident.^[5] They are neighbors whose residences are just two meters apart.^[6]

On 14 February 2003, Castro was charged with two counts of rape before the RTC in informations^[7] the accusatory portions of which read:

Criminal Case No. 771-M-2003

That on or about the 5th day of February, 2002, in the municipality of San Ildefonso, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with the use of bladed weapon, did then and there willfully, unlawfully and feloniously, by means of force, violence and intimidation and with lewd designs, have carnal knowledge of the said AAA, a mentally retarded, a fact known to the

accused, against her will and without her consent.

CONTRARY TO LAW.

Criminal Case No. 772-M-2003

That on or about the 27th day November, 2002, in the municipality of San Ildefonso, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously, by means of force, violence and intimidation and with lewd designs, have carnal knowledge of the said AAA, a mentally retarded, a fact known to the accused, against her will and without her consent.

CONTRARY TO LAW.

Upon arraignment, Castro, with the assistance of counsel, entered separate pleas of not guilty to the charges. Thereafter, the cases were consolidated and trial on the merits ensued. In the course of the trial, two versions arose.

Version of the Prosecution

As summarized by the RTC and adopted for the most part by the CA, the version of the prosecution^[8] is as follows:

This resolves the alleged rape committed twice on an 18-year old woman named AAA whose IQ & Projected Test concluded at the National Center for Mental Health by psychologist Nimia C. de Guzman resulted to a finding that "Level of intelligence is appraised under the Moderate Level of Mental Retardation (Imbecile) with a numerical IQ of 43 and mental age of 5 years 6 months. xxx Personality profile pictures an immature and inadequate person who has not achieved full development of her learning and social skills." xxx (See Exh. "D," Psychological Report) (at pp. 6-20; TSN, April 14, 2005).

The medico-legal examination conducted on November 29, 2002, to determine the presence of physical signs of sexual abuse has shown that she "is in non-virgin state, physically," although "there are no signs of application of any form of trauma at the time of examination" (See Exh. "A," Medico-Legal Report) (at pp. 2-10; TSN, June 26, 2003).

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The accused, Gilbert Castro y Aguilar, then 22 years old, single, was AAA's neighbor whose house was just more than two (2) meters away. Despite that proximity between their houses and knowing her for years, he denied on the witness stand ever talking to her or to any member of her family. He was arrested at his house on November 28, 2002, where he contended to be on those dates and time he allegedly had carnal knowledge of the mentally retarded victim (at pp. 3-5, TSN, March 23,

2006; pp. 4-7, TSN, June 22, 2006).

From the witness stand AAA pointed to accused Castro as the man who raped her for two times, first, during the wake for a deceased neighbor or supposedly on February 5, 2002, when he brought her under a mango tree where he made her lie down on banana leaves and stripped her off her clothings before inserting his penis inside her vagina, and, second, on November 27, 2002, when he did same things to her at the same place under the mango tree. She said that before that happened the accused used to frequent her place, giving her peanuts and some money (at pp. 2-7, TSN, April 20, 2004).

What they did on November 27, 2002, was discovered when prosecution witness BBB, their 55-year old neighbor who claimed on the stand to be their uncle and that the two of them were second cousins, caught them in the act of sexual intercourse behind the unoccupied house of her parents at that time under a mango tree, both fully naked. He had been watching them for three (3) days before, suspicious that they were up to doing something bad. So when he saw them from his house by the door outside, he approached them making the accused run off away as soon as he saw him coming. Left behind in her nakedness AAA admitted that she was doing the act with the accused. So, he covered her with her clothings and walked her to her house and left her parents at the market where they were vegetable vendors. As soon as told of what he discovered, her parents went home with him and, together that afternoon of the following day, they reported their complaint to the local police where AAA and witness BBB gave their respective statements on the incident (Exhs. "C" and "E") (at pp. 2-6, TSN, September 29, 2005; pp. 2-13, TSN, October 13, 2005).

Version of the Defense

To exculpate himself from liability, accused Castro offered both denial and alibi as his defense. He denied raping the private complainant. He averred that on 5 February 2002, between 5:00 in the afternoon to 12:00 in the morning, he was attending a funeral wake of a neighbor. During the alleged second rape, he contended that he was inside their house having lunch with his sister. After lunch at around 2:00 in the afternoon, he allegedly went to the field to harvest *palay*.^[9]

Ruling of the RTC

On 2 January 2007, the RTC rendered a decision acquitting Castro in Criminal Case No. 771-M-2003 for failure of the prosecution to clearly establish that accused, with the use of a bladed weapon, assaulted and had carnal knowledge of AAA on 5 February 2002. The trial court, however, found Castro guilty of the crime of rape in Criminal Case No. 772-M-2003. The dispositive portion of the latter decision reads:

WHEREFORE, finding herein accused Gilbert Castro y Aguilar guilty as principal beyond reasonable doubt of the crime of rape as charged in Criminal Case No. 772-M-2003, without any circumstance, aggravating or

mitigating, found attendant in its commission, he is hereby sentenced to suffer the penalty of reclusion perpetua, to indemnify victim AAA in the amount of P50,000.00, plus another P50,000.00 as moral damages subject to the corresponding filing fees as a first lien, and to pay the costs of the proceedings.

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Aggrieved, Castro appealed to the CA,^[10] assigning the following error:

THE COURT A QUO GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT

Accused-appellant argued that the lower court failed to appreciate the fact that the testimony of private complainant was full of contradictions. The trial court allegedly gave credence to the inconsistent statements made by AAA which when analyzed are highly illogical.

Accused Castro averred that the inconsistent statements of AAA were made apparent during the cross-examination. She allegedly denied that the accused was courting her despite her previous statement in court that she was being courted by accused-appellant. Accused also submitted that the failure of AAA to offer any resistance when she was allegedly being sexually molested belies the charge of rape.

Ruling of the CA

In its decision dated 11 May 2009, the CA affirmed with modification the findings of the RTC, to wit:

WHEREFORE, the assailed Decision of the Regional Trial Court dated January 2, 2007 and its subsequent Order dated March 2, 2007 finding accused-appellant Gilbert Castro guilty beyond reasonable doubt of the crime of Rape are hereby **AFFIRMED with MODIFICATION** as to the damages awarded. Accordingly, accused-appellant is ordered to pay AAA the amounts of P75,000.00 as civil indemnity; P75,000.00 as moral damages; and P25,000.00 as exemplary damages.^[11]

Hence, this appeal.

In a resolution dated 1 February 2010, the Court required the parties to simultaneously file their supplemental briefs, if they so desire, within thirty (30) days from notice. In their respective pleadings, both the appellee, represented by the Office of the Solicitor General, and the appellant, represented by the Public Attorney's Office, manifested that they will no longer be filing any supplemental briefs in support of their respective positions. The appellant merely repleaded and adopted all the defenses and arguments raised in his Appellant's Brief.

The vital issue before this Court is whether the pieces of evidence adduced by the prosecution is sufficient to convict Castro beyond reasonable doubt of the crime of rape committed against AAA. In fine, assailed in this recourse are the credibility of the prosecution's witnesses and the adequacy of its evidence.

This Court has painstakingly perused over the records as well as the transcripts of stenographic notes of this case and found no reason to reverse and set aside the findings of the trial court and the CA. We affirm Castro's conviction.

Article 266-A of the Revised Penal Code, as amended, provides that rape is committed:

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat, or intimidation;

b) When the offended party is deprived of reason or otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority; and

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

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Clearly, "sexual intercourse with a woman who is a mental retardate with the mental age of a child below 12 years old constitutes statutory rape."^[12] Proof of force or intimidation is not necessary, as a mental retardate is not capable of giving consent to a sexual act. What needs to be proven are the facts of sexual congress between the accused and the victim, and the mental retardation of the latter.^[13]

In the case before us, the prosecution was able to establish through clinical and testimonial evidence that AAA is a mental retardate. It presented and offered the psychological report of Dr. Nimia de Guzman of the National Center for Mental Health stating that AAA was suffering from moderate mental retardation (imbecile) with an IQ of 43 and a mental age equivalent to that of a five and a half year old child.^[14] Likewise, the testimonies of XYZ^[15] and the psychologist^[16] confirmed the victim's mental retardation.

The aforesaid facts support the allegation in the information that AAA is a mental retardate. It was even noted by the appellate court that the defense admitted the fact that the victim is suffering from mental retardation, as stated in the accused-appellant's *Kontra Salaysay*.^[17]