

## EN BANC

[ G.R. No. 174484, February 23, 2009 ]

**THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FELIX ORTOA  
Y OBIA, APPELLANT.**

### DECISION

**AUSTRIA-MARTINEZ, J.:**

Before the Court on automatic review is the Decision<sup>[1]</sup> of the Court of Appeals (CA) dated May 26, 2006 in *CA-G.R. CR-H.C. No. 01939* which affirmed, with modification, the decision of the Regional Trial Court (RTC) of Mandaluyong City, Branch 212, in Criminal Case Nos. MC01-386-FC-H, MC01-387-FC-H and MC01-388-FC, finding appellant Felix Ortoa<sup>[2]</sup> y Obia guilty beyond reasonable doubt of two counts of Rape and one count of Acts of Lasciviousness and sentencing him to suffer the penalties of Death and *Reclusion Temporal*, Medium, respectively.

The facts of the case are as follows:

AAA<sup>[3]</sup> is the eldest while BBB is the second among eight children of common-law spouses Felix Ortoa (appellant) and CCC.

In 1991, when AAA was only three years old, appellant started sexually molesting her each time her mother was at work. Appellant undressed her and ordered her to lie down on the wooden bed. He then inserted his finger into her vagina causing her to cry, as she felt pain. AAA did not narrate any of these incidents to anyone, as she thought that she and appellant were just playing games.<sup>[4]</sup>

In 1994, when AAA reached the age of six, appellant started having sexual intercourse with her. Whenever CCC was at work, he would put AAA's siblings to sleep. Once AAA's siblings are asleep, appellant would close the door and windows. He would undress AAA, insert his penis into her vagina and make push and pull movements. Appellant would only stop after he ejected a sticky white substance from his organ. AAA cried each time she was violated, but she never attempted to report these incidents to anyone, because she did not know that what her father was doing to her was a crime. Appellant repeatedly had carnal knowledge of AAA, and it was only when the latter reached the age of 12 that she realized that she was being sexually abused.<sup>[5]</sup>

In December 1999, AAA experienced profuse bleeding (*dinugo*) which lasted for several days. It was during this incident that she confessed to her mother that she was being sexually abused by appellant.<sup>[6]</sup> CCC confronted appellant, but did not file a complaint against him.<sup>[7]</sup>

The last time that appellant had sexual intercourse with AAA was on April 3, 2001.

After appellant consummated his carnal desires, he lay beside AAA on their wooden bed. It was there that CCC saw them. CCC again confronted appellant. After a brief exchange of words, appellant left. AAA again told her mother that she was sexually abused by appellant.<sup>[8]</sup>

As to BBB, appellant started sexually abusing her when she was eight years old. Everytime she and her father were left inside their house, the latter would close the door, undress her, partially insert his penis into her vagina and slide it into her labia.<sup>[9]</sup>

Sometime in October 2000, she was summoned by appellant and was told to close the windows and the door of their house. Thereafter, appellant told her to lie down on their wooden bed. At that time, her mother was at work while her older sister, AAA, went to school. BBB's younger siblings were at home with her and appellant. When BBB was already lying on the bed, appellant directed her to remove her underwear. Appellant then went on top of her, placed his left knee on her right thigh, pulled his short pants and briefs down to his knees and inserted his erect penis into her vagina. BBB felt pain and cried quietly. Appellant did push and pull movements. After emitting a sticky white substance from his penis, appellant lay down beside BBB and told her not to tell anybody about what he did, otherwise he would hit her. BBB then stood up and started to prepare her things, as she was about to go to school.<sup>[10]</sup>

On April 3, 2001, when BBB heard her sister, AAA, tell their mother about her sexual abuse in the hands of their father, BBB also confessed what their father did to her.<sup>[11]</sup> CCC immediately went to the employer of appellant and sought advise and help from him. Appellant's employer accompanied her to the Mandaluyong City Police Station. However, the person they wanted to talk to was not there at that time. Appellant's employer then advised CCC to go home and instructed her to return the following day.<sup>[12]</sup>

On April 4, 2001, BBB and CCC returned to the office of appellant's employer. The latter again accompanied them to the police station where they reported the sexual abuses committed by appellant against AAA and BBB.<sup>[13]</sup> Upon instruction of the police, BBB and CCC, together with AAA, returned to the station the following morning. AAA and BBB were subjected to physical examination. Thereafter, they returned to the police station where their sworn statements were taken. A social worker then took custody of AAA and BBB.<sup>[14]</sup>

Subsequently, three separate Informations<sup>[15]</sup> which were all dated July 2, 2001 were filed against appellant. The accusatory portions read:

In Criminal Case No. MC01-386-FC-H:

That sometime in 1994, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and intimidation, did, then and there willfully, unlawfully and feloniously have carnal knowledge, with her [sic] own daughter one [AAA], a minor (6 years old), against her will and consent, thus debasing and/or demeaning the intrinsic worth and dignity of the child as a human being.

**CONTRARY TO LAW.**<sup>[16]</sup>

In Criminal Case No. MC01-387-FC-H:

That sometime in October 2000, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and intimidation, did, then and there willfully, unlawfully and feloniously have carnal knowledge, with her [sic] own daughter one [BBB], a minor (9 years old), against her will and consent, thus debasing and/or demeaning the intrinsic worth and dignity of the child as a human being.

**CONTRARY TO LAW.**<sup>[17]</sup>

In Criminal Case No. MC01-388-FC:

That sometime in 1991, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs did, then and there wilfully, unlawfully and feloniously commit acts of lasciviousness with her [sic] own daughter one [AAA], a minor, three (3) years old girl, by then and there inserting his finger to the vagina of the victim, against the latter's will and consent. Thus debasing and/or demeaning the intrinsic worth and dignity of the child as a human being.

**CONTRARY TO LAW.**<sup>[18]</sup>

On arraignment, appellant pleaded not guilty to all of the charges.<sup>[19]</sup> Pre-trial conference followed. Thereafter, trial ensued.

On June 10, 2004, the RTC rendered its Decision,<sup>[20]</sup> the dispositive portion of which is as follows:

WHEREFORE, finding accused **FELIX ORTOA y OBIA GUILTY BEYOND REASONABLE DOUBT** for two counts of RAPE and for ACTS OF LASCIVIOUSNESS, he is hereby sentenced to suffer the following penalty.

**IN CRIMINAL CASE NO. MC01-386-FC-H:**

The supreme penalty of DEATH; and to pay [AAA] P75,000.00 as indemnity; and P50,000.00 as moral damages.

**IN CRIMINAL CASE NO. MC01-387-FC-H**

The supreme penalty of DEATH; and to pay [BBB] P75,000.00 as indemnity; and P50,000.00 as moral damages.

**IN CRIMINAL CASE NO. MC01-388-FC**

The penalty of Indeterminate Sentence of RECLUSION TEMPORAL

MEDIUM or imprisonment of sixteen (16) years, five (5) months and eleven (11) days, as minimum to eighteen (18) years, two (2) months and twenty (20) days, as maximum;

And to pay BBB [sic]<sup>[21]</sup> P50,000.00 as moral damages.

The Branch Clerk of Court is hereby ordered to prepare the mittimus and to transmit the complete records of this case to the Honorable Supreme Court for automatic review.

SO ORDERED.<sup>[22]</sup>

Appellant filed a Notice of Appeal on June 22, 2004 from his conviction of the crime of Acts of Lasciviousness in Criminal Case No. MC01-388-FC.<sup>[23]</sup> With respect to Criminal Case Nos. MC01-386-FC-H and MC01-387-FC-H, sentencing appellant to suffer the penalty of death, the RTC directed that the entire records of the cases be forwarded to this Court for automatic review.<sup>[24]</sup>

In its Resolution dated November 8, 2005, the Court referred the cases to the CA for appropriate action and disposition<sup>[25]</sup> pursuant to the Court's pronouncement in *People v. Mateo*.<sup>[26]</sup>

After a review of the cases, the CA rendered its decision, the dispositive portion of which reads:

**WHEREFORE**, the Decision of the Regional Trial Court of Mandaluyong City, Branch 212, finding accused-appellant Felix Ortoa y Obia guilty of two (2) counts of rape in Criminal Cases Nos. MC01-386-FC-H and MC01-387-FC-H is **AFFIRMED** with the **MODIFICATION** that the accused-appellant is hereby ordered to pay exemplary damages - P25,000.00 to [AAA] and P25,000.00 to [BBB].

Regarding Criminal Case No. MC01-388-FC, the judgment of conviction for acts of lasciviousness is **AFFIRMED** with **MODIFICATION**, in that the accused-appellant is hereby sentenced to an indeterminate imprisonment ranging from six (6) months of *arresto mayor*, as minimum, to six (6) years of *prision correccional*, as maximum, and to pay the victim, [AAA] P25,000.00 as exemplary damages.

Let the entire records of this case be elevated to the Supreme Court for its review, pursuant to A.M. No. 00-5-03-SC (Amendments to the Revised Rules of Criminal Procedure to Govern Death Penalty Cases) which took effect on October 14, 2004.

**SO ORDERED.**<sup>[27]</sup>

The case was then elevated to this Court for review.

Appellant's Assignment of Errors in his Brief is as follows:

**THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY IN CRIMINAL CASE NO. MC01-387-FC-H WHEN PHYSICAL EVIDENCE PROVES OTHERWISE.**

**II**

**THE COURT A QUO GRAVELY ERRED IN GIVING FAITH AND CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES AND IN TOTALLY DISREGARDING THE VERSION OF THE DEFENSE.**<sup>[28]</sup>

The Court finds appellant's contentions untenable.

To determine the innocence or guilt of the accused in rape cases, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.<sup>[29]</sup>

Accordingly, in resolving rape cases, primordial consideration is given to the credibility of the victim's testimony.<sup>[30]</sup> The settled rule is that the trial court's conclusions on the credibility of witnesses in rape cases are generally accorded great weight and respect, and at times even finality, unless there appear in the record certain facts or circumstances of weight and value which the lower court overlooked or misappreciated and which, if properly considered, would alter the result of the case.<sup>[31]</sup>

Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial court stood in a much better position to decide the question of credibility.<sup>[32]</sup> Findings of the trial court on such matters are binding and conclusive on the appellate court, unless some facts or circumstances of weight and substance have been overlooked, misapprehended or misinterpreted.<sup>[33]</sup> No such facts or circumstances exist in the present case.

Both the RTC and the CA are in agreement that AAA and BBB were categorical, straightforward, spontaneous, convincing, clear and candid in their testimonies that their father raped them. The same is true with respect to AAA's testimony that appellant committed acts of lasciviousness against her.

Appellant contends that the probable reason why private complainants and their mother filed criminal complaints is that they bore grudges against him for bringing problems to their family, particularly because of his having sexual relations with a woman other than his wife and for inflicting harm on AAA as a means of imposing discipline upon her because appellant caught her having sexual intercourse with her boyfriend.<sup>[34]</sup>

Appellant's claim deserves scant consideration. The Court finds it incredible for