

## FIRST DIVISION

[ G.R. No. 181246, March 20, 2009 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. REMEIAS BEGINO  
Y GRAJO, APPELLANT.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This is an appeal from the Decision<sup>[1]</sup> dated 18 September 2007 of the Court of Appeals which affirmed the Decision<sup>[2]</sup> dated 13 December 2005 of the Regional Trial Court of Labo, Camarines Norte, Branch 64, (RTC-Branch 64) finding appellant Remeias Begino y Grajo (appellant) guilty beyond reasonable doubt of the crime of rape, with modification reducing the penalty of death to *reclusion perpetua*.

#### The Facts

Appellant was formally charged on 29 January 1999 in an Information which reads, as follows:

That sometime in the early afternoon of August 2, 1994 in Sitio WWW, Barangay XXX, YYY, ZZZ, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then the stepfather of private complainant AAA,<sup>[3]</sup> with lewd design, and by using force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of said AAA, an 8 year old girl, against her consent, to her damage.<sup>[4]</sup>

Upon arraignment, appellant, assisted by counsel, pleaded not guilty to the offense charged.<sup>[5]</sup> Trial ensued.

The prosecution presented Dr. Virginia Barasona (Dr. Barasona), the Rural Health Officer in YYY, ZZZ, and Melinda Reyes (Melinda), the social worker of Department of Social Welfare and Development (DSWD) who conducted the social case study on AAA.

At the time she testified, AAA was 14 years old. She testified that she was born on 28 February 1986. AAA stated that in the afternoon of 2 August 1994, she and appellant were alone in their house. Appellant was sharpening his bolo while her mother, BBB, was out getting "talapang." She was not aware that appellant had closed the door and windows of the house. Appellant approached AAA and removed her shirt, panties and bra. Appellant removed his shorts and briefs and laid AAA down on the bamboo bench. With the bolo placed on his right side, appellant placed himself on top of AAA and inserted his penis into her vagina. AAA tried to fight back

and resisted but appellant was too strong. Appellant kissed her and touched her breasts. AAA felt pain and blood oozed out of her vagina. After satisfying himself, appellant warned AAA that he would kill her and her mother BBB if she would tell anybody about the incident.<sup>[6]</sup>

Sometime in November 1998, AAA mustered enough courage to narrate her ordeal to her mother. AAA claimed appellant raped her four times - when she was still eight years old, then when she was in Grade III, in Grade IV and in Grade V. BBB brought her daughter to the DSWD where AAA was interviewed and assisted in executing her sworn statement before the Philippine National Police of YYY.<sup>[7]</sup> AAA was later brought to Dr. Barazona for medical examination which revealed the following:

#### PHYSICAL FINDINGS:

General Survey: conscious, coherent, ambulatory, not in cardiorespiratory distress, cooperative

#### Pertinent findings:

- nipple is pinkish, measures .5 cm. in diameter
- areola is pinkish, 1.8 cm. in diameter
- with developing breasts
- lanugo hair is present
- with hymenal laceration (healed) at 9:00 o'clock and 6:00 o'clock position (s)
- non-parous introitus
- labia minora is not gaping
- fouchette is v-shaped
- admits tip of finger up to 1 cm. with resistance.<sup>[8]</sup>

Dr. Barasona explained that the lacerations on AAA's hymen were caused by penetrations of an erected and turgid sex organ.<sup>[9]</sup>

AAA testified that she stopped studying since 1998. She felt ashamed of what happened to her that she even transferred to Daet because she was scorned by people.<sup>[10]</sup>

The defense presented appellant himself, Camilo Begino (Camilo) and Reynaldo Esturas (Reynaldo) as witnesses.

Appellant denied the accusation and asserted that he treated AAA and her siblings as his own children since he started living with their mother in 1991. He claimed BBB wanted to get rid of him as she was already romantically linked with the Chief of the Department of Agrarian Reform in Daet.

Appellant further testified that from 6:00 in the morning of 2 August 1994 until 6:00 in the afternoon of the same date, he was at the coconut plantation of Apolinario Malaluan (Apolinario) together with Camilo and Reynaldo husking coconuts. The distance between his house and the coconut plantation is two kilometers, more or less, and would require a 30-minute walk. There was never a time that he left the workplace since he took his lunch and snacks there.<sup>[11]</sup>

Defense witnesses Camilo and Reynaldo substantially corroborated appellant's testimony that appellant was with them the whole day from sunrise to sunset of 2 August 1994 and that there was never a time that appellant left the workplace.<sup>[12]</sup> Camilo and appellant are first cousins, as their fathers are brothers.<sup>[13]</sup>

### **The Ruling of the Trial Court**

After trial, the RTC-Branch 64 rendered judgment on 13 December 2005 finding appellant guilty beyond reasonable of the "crime of statutory rape aggravated by the fact that the victim is below eighteen (18) years old" and that the offender is the common law husband of BBB. Appellant was sentenced to suffer the penalty of death. He was likewise ordered to pay the victim P75,000 as civil indemnity, P75,000 as moral damages, and P30,000 as exemplary damages.

The trial court found inconsistencies in the testimonies of the defense witnesses. Camilo testified that he owned the coconut plantation where appellant worked but he was not certain as to the exact date appellant went to work at the coconut plantation. Reynaldo testified that appellant worked at the coconut plantation of Apolinario and not in the alleged coconut plantation of Camilo.

The trial court further rejected appellant's defense of alibi. The trial court found that it took only 30 minutes to walk going to appellant's house from the coconut plantation where he was husking. The trial court ruled that it was not physically impossible for appellant to have been at the scene of the crime at the time of its commission.

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

On appeal, the Court of Appeals affirmed the judgment of conviction but reduced the penalty of death to *reclusion perpetua* in view of Republic Act No. 9346 (RA 9346) proscribing the imposition of the death penalty.

The Court of Appeals ruled that denial and alibi could not prevail over the positive identification by the victim. The Court of Appeals further ruled that the findings of the trial court on the credibility of witnesses enjoy a badge of respect as the latter is in a better position to observe the demeanor of witnesses as they testify.

### **The Court's Ruling**

We agree with the findings and conclusion of the trial court, as affirmed by the appellate court, that, as the evidence undoubtedly proved, rape was committed by appellant against AAA.

The trial court found appellant guilty of "statutory rape aggravated by the fact that the victim is below eighteen (18) years old" and "the offender is the common law husband" of the mother of the victim. Thus, it imposed the death penalty pursuant to paragraph 1 of Article 266-B. The appellate court agreed with the trial court but reduced the penalty imposed from death to *reclusion perpetua*. However, we hold that appellant could not be indicted for qualified rape and penalized under paragraph 1 of Article 266-B.