

SECOND DIVISION

[G.R. No. 182191, May 08, 2009]

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LORENZO LAYCO, SR., APPELLANT.

R E S O L U T I O N

TINGA, J.:

Subject of this appeal is the 13 September 2007 Decision promulgated by the Court of Appeals,^[1] affirming the Regional Trial Court's (RTC) judgment in Criminal Case Nos. 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256 and 1257 finding Lorenzo Layco, Sr. (appellant) guilty of nine (9) counts of qualified rape.

Appellant was charged with nine (9) counts of rape committed against his own 11-year old daughter, AAA, on 6, 7, 8, 9 January 1993 and his 7-year old daughter, BBB, sometime in 1993, 1994, 1995, 1996 and 1997.

Both victims testified that they were raped by their father inside their house. On these occasions, each incident of rape was always preceded by physical violence^[2] on their persons. AAA stowed away on 10 January 1993 and lived first with her grandmother in Dupax del Sur, Nueva Vizcaya, before settling down with her aunt in Baguio City. Five years later, she went home to Aritao, Nueva Vizcaya for a vacation. Thereat, she saw her sister BBB washing dishes and crying while her father was doing the pumping motion behind her in a standing position. When AAA went back to Baguio City, she asked her aunt to take custody of BBB. Finally, BBB was reunited with AAA in Baguio. Together, they revealed to her the rapes their father had committed on them. After convincing their mother to go with them, AAA, BBB and their aunt proceed to the National Bureau of Investigation (NBI) in Baguio to report the incidents. The victims were subjected to physical examination. Dra. Elizabeth J. Batino (Dra. Batino) noted that AAA's hymen had sustained several lacerations which were more than a year old counting from the time of examination. Dra. Batino likewise attended to BBB and discovered that she had incomplete lacerations in the hymen. On both victims, however, Dra. Batino testified that their vaginas can easily admit of two (2) fingers.

Appellant interposed denial and alibi. He claims that on the dates when AAA was supposedly raped, the latter was no longer living with him. As to BBB, appellant also alleges that BBB was then living with different relatives.

Appellant's wife, as well as his two sons testified in his favor, denying knowledge of any rape committed against AAA and BBB.

On 22 June 2004, the trial court rendered its Decision finding appellant guilty as charged and decreeing the penalties therefor:

WHEREFORE, premises considered, finding accused, Lorenzo Layco, Sr., **GUILTY** beyond reasonable doubt of nine counts of rape, 4 of which were committed against his first daughter, [AAA], and 5 against his second daughter, [BBB], he is hereby sentenced to suffer the following penalties, namely:

Reclusion Perpetua for Criminal Case No. 1249;
Reclusion Perpetua for Criminal Case No. 1250;
Reclusion Perpetua for Criminal Case No. 1251;
Reclusion Perpetua for Criminal Case No. 1252;
Reclusion Perpetua for Criminal Case No. 1253;
Death by lethal injection for Criminal Case No. 1254;
Death by lethal injection for Criminal Case No. 1255;
Death by lethal injection for Criminal Case No. 1256; and,
Death by lethal injection for Criminal Case No. 1257.

The accused is further ordered to indemnify the victim [AAA] the amount of P50,000.00 for each of the 4 rapes committed against her and the like amount of P50,000.00 to victim [BBB] for each of the 5 rapes committed against her and another amount of P50,000.00 to each of them as moral damages.

The Provincial Warden is directed to cause the immediate transfer of accused Lorenzo P. Layco, Sr. to the National Penitentiary.^[3]

The trial court gave full credence to the testimonies of the victim and concluded that their testimonies correspond with the medical reports.

In view of the death penalty imposed, the case was brought to this Court on automatic review. Pursuant to *People v. Mateo*,^[4] the case was transferred to the Court of Appeals for appropriate action and disposition.^[5]

On 13 September 2007, the Court of Appeals affirmed with modification the RTC's Decision. The dispositive portion of the decision reads:

WHEREFORE, the questioned Decision dated June 22, 2004 in Criminal case Nos. 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256 and 1257 is **AFFIRMED** with **MODIFICATION**. The penalty of death imposed in Criminal Case Nos. 1254, 1255, 1256 and 1257 is commuted to *reclusion perpetua* in accordance with Republic Act No. 9346.

SO ORDERED.^[6]

The Office of the Solicitor General (OSG) and appellant both manifested that they would not file supplemental briefs and would instead adopt the briefs they had previously filed.

In his appellant's brief, appellant essentially questions the credibility of AAA and BBB in their narration of the instances of alleged rape. Appellant argues that their testimonies were either uncorroborated or denied by their brother, who testified for the defense. Furthermore, appellant notes that BBB failed to recall the exact date of the commission of the rape, which effectively renders doubt on their claims.^[7]