

## SECOND DIVISION

[ G.R. No. 171313, August 16, 2009 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDGAR TRAYCO Y MASOLA, ACCUSED-APPELLANT.**

### DECISION

**BRION, J.:**

We review in this appeal the November 2, 2005 Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00004,<sup>[1]</sup> affirming with modification the November 20, 2002 Decision of the Regional Trial Court (RTC), Branch 73, Antipolo City.<sup>[2]</sup> The RTC Decision found accused-appellant Edgar Trayco y Masola (*appellant*) guilty of the crime of rape and sentenced him to suffer the penalty of *reclusion perpetua*.

### ANTECEDENT FACTS

The prosecution charged the appellant before the RTC with the crime of rape under an Information that states:

x x x

That on or about the 30<sup>th</sup> day of July, 1998, in the City of Antipolo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a bladed weapon, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one [AAA],<sup>[3]</sup> a minor, who is eleven (11) years of age, against her will and consent.

CONTRARY TO LAW.<sup>[4]</sup>

The appellant pleaded not guilty to the charge.<sup>[5]</sup> The prosecution presented the following witnesses in the trial on the merits that followed: AAA; Rufino Almodiel (*Rufino*); BBB; CCC; and Dr. Tomas Suguitan (*Dr. Suguitan*). The appellant, Reynilda Naprada (*Reynilda*), and Arnold Naprada (*Arnold*) took the witness stand for the defense.

AAA testified that at around 5:30 a.m. of July 30, 1998, she left her house in Cogeo, Antipolo City and walked towards Bagong Nayon Elementary School to attend her classes. On her way to school, the appellant appeared from behind, went to her right side, and placed his arms over her shoulders. The appellant pointed a sharp object at AAA's neck, and told her not to make a noise. The appellant brought AAA to a nearby garage in Cogeo, and, once inside, started kissing her. AAA resisted but the appellant continued kissing her. The appellant took out his penis and asked AAA

to hold it. AAA declined but the appellant threatened to kill her. AAA held the appellant's penis using her right hand; afterwards, the appellant inserted his hand into AAA's shorts and touched her private part.

Thereafter, the appellant ordered AAA to lie on the hood of the car that was parked inside the garage. The appellant took off AAA's shorts and then inserted his penis inside her vagina. AAA felt pain but did not tell the appellant to stop because she felt scared. Afterwards, the appellant ordered AAA to stand and place his penis inside her mouth. AAA obliged because she was scared. Immediately after, the appellant told AAA to put back her shorts and pick up her bag. He told AAA to go to school as they went out of the garage.

AAA arrived in school at around 6:30 a.m., but she went home because her teacher was not yet there. She narrated the rape to her mother, BBB, upon arriving home. BBB immediately reported the incident to the *barangay* officials, and then accompanied AAA to the garage where the rape took place. The appellant was no longer there. The *barangay tanod* conducted a search for the appellant, but only located him at around 7:00 a.m. of the next day. The *tanod* brought the appellant to the *barangay* hall, where AAA pointed to him as the person who had raped her.<sup>[6]</sup>

On cross-examination, AAA confirmed that she had executed an affidavit at the police station on August 1, 1998 in the presence of BBB. She recalled that the appellant came from behind her, overtook her, covered his face with his t-shirt, came back to her right side and placed his arms around her shoulder. According to her, the appellant was wearing a moss green t-shirt and *maong* pants; and that his face was still partly visible despite the t-shirt on his face. She further added that the street was quite bright when the appellant approached her.<sup>[7]</sup>

On re-direct, AAA explained that the appellant's face was not anymore covered when he started kissing her. On re-cross, AAA confirmed that the appellant's face was also not covered when he ordered her to lie on the hood of the car.<sup>[8]</sup>

Rufino, the over-all chief *tanod* of *Barangay Bagong Nayon*, testified that AAA and BBB arrived at the *barangay* hall at 7:00 a.m. of July 30, 1998 to report the rape incident. AAA narrated that she had been raped inside a garage located at the corner of Road 3 and Road 4 in Cogo; she then described the features of the suspect. Immediately after, the *barangay tanod* went to the garage but did not find anyone.

AAA, BBB, and the victim's father, CCC, returned to the *barangay* hall the next morning and reported that AAA saw the appellant at Phase 2, Road 28. The *barangay tanod*, AAA and her parents all went to this place; AAA saw the appellant and pointed to him as the person who had raped her. Immediately after, the *tanod* approached the appellant and invited him to the *barangay* hall. At the *barangay* hall, AAA again identified the appellant as the person who had raped her.<sup>[9]</sup>

On cross-examination, Rufino testified that the house beside the garage was owned by a certain Colonel Ruiz who was seldom home. He explained that the appellant was delivering water when he (Rufino) approached him and invited him to the *barangay* hall.<sup>[10]</sup>

BBB stated that AAA was 11 years old on July 30, 1998. She narrated that AAA returned from school at around 7:00 a.m. of July 30, 1998, and told her that she had been raped. She and other *barangay* officials accompanied AAA to the garage in Cogeo, but the suspect was not there. They went to the house of her friend, Gertrudes Bascal (*Gertrudes*), where they waited for AAA's father, CCC. When CCC arrived, AAA narrated to him her harrowing experience. At around 10:00 a.m., AAA and BBB went to Camp Crame, where AAA was interviewed and examined. Afterwards, they went to the Antipolo Police Station to report the rape.<sup>[11]</sup>

On cross-examination, BBB testified that the house of Gertrudes was near the garage where AAA had been raped. She confirmed that AAA was interviewed at Camp Crame before being examined. She added that AAA executed at the Antipolo Police Station a sworn statement narrating the rape.<sup>[12]</sup>

CCC narrated that he went to the Land Transportation Office at around 5:00 a.m. of July 30, 1998 to have the meter of his taxi resealed. He went back to Cogeo at around 10:00 a.m. Upon arrival, his brother-in-law told him that AAA had been raped. AAA confirmed in their talk that she had indeed been raped. He went to the garage together with AAA, BBB and his brother-in-law, but did not see anyone. According to him, the occupants of the house adjacent to the garage refused to talk to them about the incident.

CCC further testified that in the early morning of the next day, AAA informed him that she saw the appellant deliver water to a neighbor. AAA answered in the affirmative when asked if the appellant was the person who had raped her. He immediately went to the *barangay* hall and sought the assistance of the *barangay tanod*. They proceeded to Road 28 and saw the appellant delivering water to another neighbor. The chief *barangay tanod* invited the appellant to the *barangay* hall where they questioned him. There, AAA identified the appellant as the person who had raped her.<sup>[13]</sup>

On cross-examination, CCC stated that he only saw one car in the garage. He added that he tried to talk to the occupants of the nearby houses but they refused to cooperate. At the *barangay* hall, the chief *tanod* took the appellant's clothes. CCC brought these clothes to Camp Crame for examination.<sup>[14]</sup>

Dr. Suguitan, the Medico-Legal Officer of the PNP Crime Laboratory, Quezon City, testified that she conducted a medical examination of AAA on July 31, 1998, and made the following findings:

#### FINDINGS:

##### GENERAL AND EXTRAGENITAL:

Fairly developed, fairly nourished and coherent female subject. Breasts are conical with pale brown areola and nipples from which secretions could be pressed out. Abdomen is flat and soft.

##### GENITAL:

There is scanty growth of pubic hair. Labia majora are full, convex and coaptated with the congested labia minora presenting in between. On separating the same disclosed a congested and abraded posterior fourchette and an elastic, fleshy-type hymen with deep fresh lacerations at 3 and 9 o'clock and shallow fresh laceration at 5 o'clock positions. External vaginal orifice offers strong resistance to the introduction of the examining index finger. Vaginal canal is narrow with prominent rugosities. Cervix is firm and closed.

#### CONCLUSION:

Findings are compatible with recent loss of virginity.

There are no external signs of application of any form of trauma.

#### REMARKS:

Vaginal and peri-urethral smears are negative for gram negative diplococci and for spermatozoa.<sup>[15]</sup>

According to Dr. Suguitan, the lacerations could have been caused by a blunt object like an erect male penis.<sup>[16]</sup>

The defense presented a different version of the events.

Reynilda testified that the appellant worked for her as a "water-delivery helper." At around 5:00 a.m. of July 30, 1998, the appellant reported for work at her house in Cogeo Village, Antipolo City. She woke up her son, Arnold, and told the appellant to wait in the *sala*. Arnold took a shower, drank coffee and told the appellant to start the truck's engine. Afterwards, Arnold and the appellant proceeded to Buso-Buso to pick up the water they would deliver. They returned to Reynilda's house at around 10:00 a.m.<sup>[17]</sup>

The appellant declared on the witness stand that he left his house in Cogeo Village, Antipolo City at around 4:30 a.m. of July 30, 1998 to report for work at the house of his employer, Reynilda. He arrived there in 20 to 30 minutes, and asked Reynilda to call Arnold as he (appellant) was ready for their water delivery. The appellant and Arnold left the house at around 6:00 a.m. and returned there after one delivery. He stayed at Reynilda's house until 3:00 p.m., and then went home.

The next day, the appellant went to work at 4:30 a.m.; he and Arnold finished delivering water before 7:00 a.m. Arnold parked the delivery truck at Road 28. At this point, two men approached him and asked about the price of a drum of water. The two men then held his hand and requested him to go with them. They brought him to the *barangay* hall and placed him in a cell. They brought him before the *barangay* captain when he arrived. While before the *barangay* captain, a girl arrived and pointed to him as the person who had raped her. The people inside the room then mauled him.<sup>[18]</sup>

On cross-examination, the appellant testified that he had stayed in Cogeo for only

two weeks prior to July 30, 1998. He resides in Olongapo and worked there as a carnival employee. While in Cogeo, he was hired by Reynilda as a truck helper to assist in her water delivery business. He would report for work at around 5:00 a.m., and go with Reynilda's son, Arnold, to Buso-Buso to pick up the water they would deliver. They picked up water four to five times a day, and finish their delivery at around 5:00 p.m.

He reiterated that he left his house at 4:30 a.m. on July 30, 1998 to report for work, and arrived at Reynilda's house at around 4:45 a.m. In the early morning of the next day, two men approached him while he and Arnold were delivering water at Road 28. One of the men asked about the price of a drum of water, and then told him to go with them to the *barangay* hall. He went with them and was handcuffed and placed in a cell at the *barangay* hall. He was in the cell for an hour and was thereafter brought before the *barangay* chairman. At that point, BBB arrived, slapped him, and accused him of raping her (BBB's) daughter. Thereafter, the men inside the *barangay* chairman's office punched him. His wife and mother-in-law arrived soon after. They later brought him in a vehicle to the Antipolo Police Station where they again investigated him and placed him in a cell.<sup>[19]</sup>

Arnold testified that he saw the appellant wiping the delivery truck outside his house at around 5:00 a.m. of July 30, 1998. After his shower, he and the appellant proceeded to *Buso Buso* to pick the water they would deliver. They delivered water in Cogeo until 12:00 p.m., ate lunch and separated at Road 24. The next day, while he and the appellant were delivering water at Road 28, two men approached the appellant and invited him to come with them to the *barangay* hall for questioning. The appellant went with the two men and was detained at the *barangay* hall. A *tanod* informed him (Arnold) that the appellant was being accused of rape. Arnold thereafter went home.<sup>[20]</sup>

In its decision of November 20, 2002, the RTC convicted the appellant of the crime of rape and sentenced him to *reclusion perpetua* pursuant to Republic Act No. 7610, as amended by Republic Act No. 8353. The RTC likewise ordered him to indemnify the victim the amount of P50,000.00.<sup>[21]</sup>

The records of this case were originally transmitted to this Court on appeal. Pursuant to *People v. Mateo*,<sup>[22]</sup> we endorsed the case and the records to the CA for appropriate action and disposition.<sup>[23]</sup>

In its decision<sup>[24]</sup> of November 2, 2005, the CA affirmed the RTC decision with the modification that the appellant be ordered to pay the victim P50,000.00 as moral damages.

The CA held that AAA's testimony was candid, straightforward, and free from inconsistencies. AAA positively identified the appellant as the person who had raped her using force and intimidation, and her testimony was corroborated by the medico-legal report of Dr. Suguitan. According to the CA, when the victim's testimony is corroborated by the physician's finding of penetration, sufficient basis exists to conclude that carnal knowledge took place.

The CA further ruled that mere carnal knowledge with AAA, even without force and intimidation, already constituted rape as the prosecution proved that AAA was only