

THIRD DIVISION

[G.R. No. 185203, September 17, 2009]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DOMINGO ARAOJO, ACCUSED-APPELLANT.**

DECISION

VELASCO JR., J.:

On May 15, 2003, in the Regional Trial Court of Calabanga, Camarines Sur, four separate informations for rape and one for acts of lasciviousness were filed against accused-appellant Domingo Araojo. The informations for rape, docketed as Criminal Case Nos. RTC 03-809, 03-810, 03-811 and 03-812, and that for acts of lasciviousness, docketed as Criminal Case No. RTC 03-813, were eventually raffled to Branch 63 of the court.

The first information for rape in Criminal Case No. RTC 03-809 reads as follows:

That sometime in the year 1997 at Sitio Caltigao, Bgy. Sumaoy, Municipality of Garchitorena, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a knife, with lewd designs, by means of force and intimidation, did then and there willfully, unlawfully and feloniously [succeeded in] having carnal knowledge with one AAA^[1], a 7 year old minor, and the niece of the accused, which act of accused debase, degrade and demean the intrinsic worth and dignity of the child as a human being and prejudicial to the child's development to her damage and prejudice.

ACTS CONTRARY TO LAW.^[2]

The other informations (Criminal Case Nos. 03-810, 03-811, and 03-812) for rape were worded similarly as above but reflected the dates 1998, 1999, and August 2002, and the corresponding age of AAA as 8, 9, and 12 years old, respectively.

The information for Criminal Case No. RTC 03-813 for acts of lasciviousness reads:

That sometime in the year 2001 at Sitio Caltigao, Bgy. Sumaoy, Municipality of Garchitorena, Province of Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a knife, did then and there criminally abuse, with lewd designs sucking her breast and caressing her vagina of one AAA, a minor girl 11 year old and the niece of the accused, which act of accused debase, degrade and demeans the intrinsic worth and dignity of the child

as a human being and prejudicial to the child's development to her damage and prejudice.

ACTS CONTRARY TO LAW.^[3]

When arraigned, Araojo pleaded not guilty to all the charges contained in the five (5) separate informations that were read to him in Bicol, a language he understood very well.^[4]

During pre-trial, Araojo acknowledged that AAA's deceased father was his brother. He likewise admitted living in the same house with AAA's family when the alleged incidents happened.^[5]

In the ensuing joint trial, the prosecution presented evidence to prove the following facts:^[6]

AAA was born on December 1, 1989, the third child of BBB and CCC,^[7] Araojo's brother. When CCC died in 1997, Araojo stayed with BBB and her family. AAA used to fondly call Araojo as "Papay Inngo."

The first rape incident occurred sometime in 1997. On that fateful day in 1997, when BBB was out fishing with one of her sons, Araojo asked AAA to fetch water from a nearby river. AAA obeyed but it took her some time to accomplish her task. When AAA finally reached home, an irate Araojo, with a rope in his hand, reprimanded an apologetic niece. He made it plain that he would forgive her if she sucked his private organ. AAA obeyed out of fear. AAA, as later told, then removed her dress and parted her legs. Araojo then kissed her lips and inserted his finger into her vagina. He then placed himself on top of AAA, put saliva on his penis and started having sexual intercourse with AAA. Despite experiencing pain, AAA did not put up resistance for fear of being harmed. After satisfying his lust, he asked AAA to dress up after which he left the room. Alone in the room, AAA examined herself and noticed blood in her vagina. AAA later related her ordeal to her mother, who merely shrugged the matter off, but nonetheless assured AAA that she would ask Araojo not to do it again.

BBB's exhortation evidently went unheeded as, in 1998, appellant again raped AAA, with threats of physical harm. She reported the incident to her mother but the latter would not believe her.

One day the following year, AAA, now 9 years old, was again alone with her younger sister and Araojo in their small hut. He threatened AAA with a bolo to give in to his advances. What happened next was a virtual repeat of what he did the first and second molestation rounds. When he was done, he asked her if she was satisfied. Fearful of being abused again if she answered "no," AAA said "yes."

In 2001, Araojo again made an attempt to rape AAA. He first kissed AAA on the lips and cheeks and then asked her to undress. He, however, was unable to consummate his lust as BBB arrived at that point, thereby thwarting his evil designs. BBB stared at AAA as she wiped the saliva off her daughter's face. AAA confided anew to her mother, who again promised to talk to Araojo.

On August 16, 2002, Araojo raped AAA again, while BBB, with one of her sons, was out fishing. This time, Araojo poked a knife on AAA's neck before giving vent to his lustful desires, resorting to the same preliminary moves previously employed. After being done with AAA, he went to the basketball court. AAA reported the incident to her unbelieving mother, who tried to deflect her daughter's complaint by saying that Araojo had already promised to stop with his designs against AAA.

As her mother hardly exhibited concern about her plight, AAA decided to leave their house in Brgy. Sumaoy. By motorboat, she proceeded to Tamban, Camarines Sur to ask the help of her "Ate" Susan Fenes. Together, they approached a policeman who suggested that AAA be medically examined. With Fenes, AAA went to the *poblacion* of Garchitorena where she met social worker, Muriel Señor Berunio. Berunio later assisted AAA undergo a medical examination in Naga City.

Dr. Maria Medem Perez, Chief Resident of the Obstetrics and Gynecology Unit of the Bicol Medical Center, testified to the records of AAA's examining physician, who had meanwhile resigned. According to the medical report, AAA's external genitalia showed no visible abnormality, but her internal genitalia had hymenal lacerations. AAA's hymen was not intact and there were old incomplete lacerations at 5 o'clock and 9 o'clock positions. Said lacerations could have been caused by sexual assault or other causes that could have been inflicted months or even years before.

In lieu of the unavailable documents to establish AAA's birth date, namely her birth certificate, baptismal certificate and scholastic records, the court heard for the purpose the testimony of BBB. According to BBB, she gave birth to AAA on December 1, 1989 in Ibahoy, Lagonoy, Camarines Sur and had her baptized in Azon, Garchitorena.

In the witness box, BBB also admitted not taking AAA's complaints against Araojo for rape seriously in the face of the latter's denial of any wrongdoing. It was only when AAA left home that BBB became convinced of the veracity of AAA's complaints.

Only Araojo testified for the defense. He admitted cohabiting with BBB in 1998, or a year after his brother's death. This relationship, however, lasted only for about a year as he moved in 1999 to Nasugbu, Batangas to work in a sugarcane plantation from 2000 to 2001. He returned to Garchitorena in 2002. He professed innocence of the 1997 rape incident, being then in Manila working. Neither, according to him, could he have raped AAA in 1998 since he was busy taking care of the ailing BBB. In denying the occurrence of the alleged 1999 rape episode, he claimed that AAA stayed with the Barja family in 1999 and later with the family of a certain Willy in Caltigao, Garchitorena.

On rebuttal, AAA stated that the Barja's place in Caltigao, Garchitorena, Camarines Sur and that of Willy are near her house, enabling her to go home in the afternoon after her babysitting chores. She further stated that Araojo came home every month while he was working in Nasugbu in 2000.

On June 15, 2005, the trial court rendered a joint decision finding Araojo guilty as charged and accordingly sentenced him, thus:

WHEREFORE, in view of the foregoing, the prosecution having proven the guilt of Domingo Araojo beyond reasonable doubt, he is guilty of statutory rape in Crim. Cases Nos. RTC 03-809 and RTC 03-810; rape with the use of a deadly weapon in Crim. Cases Nos. RTC 03-811 and RTC 03-812 and Acts of Lasciviousness in Crim. Case No. RTC 03-813. Thus, he is hereby sentenced to suffer the following penalties:

1. In Crim. Case No. RTC 03-809 for rape, accused Domingo Araojo is meted the penalty of reclusion perpetua. He is likewise ordered to pay the private complainant, AAA the amount of P50,000.00 as civil indemnity; P50,000.00 as moral damages, and to pay the cost.

2. In Crim. Case No. RTC 03-810 for rape, accused Domingo Araojo is meted the penalty of reclusion perpetua. He is likewise ordered to pay the private complainant, AAA the amount of P50,000.00 as civil indemnity; P50,000.00 as moral damages, and to pay the cost.

3. In Crim. Case No. RTC 03-811 for rape, accused Domingo Araojo is meted the penalty of reclusion perpetua. He is likewise ordered to pay the private complainant, AAA the amount of P50,000.00 as civil indemnity; P50,000.00 as moral damages, and to pay the cost.

4. In Crim. Case No. RTC 03-812 for rape, accused Domingo Araojo is meted the penalty of reclusion perpetua. He is likewise ordered to pay the private complainant, AAA the amount of P50,000.00 as civil indemnity; P50,000.00 as moral damages, and to pay the cost.

5. In Crim. Case No. RTC 03-813 for Acts of Lasciviousness, accused Domingo Araojo is meted the indeterminate penalty of SIX (6) MONTHS of arresto mayor as minimum to FOUR (4) YEARS and TWO (2) MONTHS of prision correccional as maximum. He is likewise ordered to pay the private complainant, AAA the amount of P30,000.00 as moral damages, and to pay the cost.

Accused is likewise meted the accessory penalty of perpetual absolute disqualification as provided for under Article 41 of the Revised Penal Code.

Considering that accused Domingo Araojo has undergone preventive imprisonment during the pendency of his case, he shall be credited in the services of his sentence with the time he has undergone preventive imprisonment subject to the conditions provided for in Article 29 of the Revised Penal Code.

SO ORDERED. [8]

The Ruling of the CA

From the RTC's decision, Araojo went to the Court of Appeals (CA) on the lone submission that:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING [HIM] OF THE CRIMES CHARGED, WHEN THE GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.

Eventually, on July 9, 2008, the CA rendered judgment affirming Araojo's conviction but modified the penalty thus imposed by the trial court. The *fallo* of the appellant court's decision reads:

WHEREFORE, in view of the foregoing, the appeal is hereby **DISMISSED**. The Joint Decision of the Regional Trial Court of Calabanga, Camarines Sur, Branch 63, in Criminal Cases Nos. RTC 03-809, 810, 811, 812 and 813 is hereby **AFFIRMED with MODIFICATION**. Appellant Domingo Araojo is sentenced to suffer the following:

- a) the penalty of reclusion perpetua for each count of Statutory Rape subject of Crim. Case Nos. RTC 03-809 and 810;
- b) the penalty of reclusion perpetua for the crime of Statutory Rape committed with the use of a deadly weapon subject of Crim. Case No. RTC 03-811;
- c) the penalty of reclusion perpetua for the crime of Simple Rape committed with the use of a deadly weapon subject of Crim. Case No. RTC 03-812;
- d) the penalty of imprisonment of Six (6) Months of *arresto mayor* as minimum to Four (4) Years and Two (2) Months of *prision correccional* as maximum in Crim. Case No. RTC 03-813.

He is likewise ordered to pay the private complainant, the following:

- a) the sum of P75,000.00 as moral damages, P75,000.00 as civil indemnity, and P25,000.00 as exemplary damages for each count of Statutory Rape and Statutory Rape committed with the use of a deadly weapon plus costs in Criminal Case Nos. RTC 03-809, RTC 03-810 and RTC 03-811;
- b) the sum of P50,000.00 as moral damages, P50,000.00 as civil indemnity, and P25,000.00 as exemplary damages for the crime of Simple Rape committed with the use of a deadly weapon plus costs in Criminal Case No. RTC 03-812; and
- c) the amount of P30,000.00 as moral damages for the crime of Acts of Lasciviousness in Criminal Case No. RTC 03-813.

SO ORDERED. [9]

Therefrom, appellant filed a notice of appeal to which the CA, per its resolution of July 31, 2008, gave due course.