

EN BANC

[G.R. No. 169641, September 10, 2009]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICHARD O. SARCIA, ACCUSED-APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

On automatic review is the decision^[1] dated My 14, 2005 of the Court of Appeals (CA) in *CA-G.R. CR-HC No. 00717* which affirmed, with modifications, an earlier decision^[2] of the Regional Trial Court (RTC) of Ligao City, Branch 13, in Criminal Case No. 4134, finding herein accused-appellant Richard O. Sarcia alias "Nogi" guilty beyond reasonable doubt of the crime of rape^[3] committed against AAA,^[4] and sentenced him to suffer the penalty of *Reclusion Perpetua* and to pay the amount of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and the cost of the suit. However, the CA modified the penalties imposed by the RTC by imposing the death penalty, increasing the award of civil indemnity to P75,000.00, and awarding P25,000.00 as exemplary damages, aside from the P50,000.00 for moral damages.

The crime of rape was allegedly committed sometime in 1996 against AAA, a five (5) year old girl. After almost four (4) years, AAA's father filed a complaint^[5] for acts of lasciviousness against herein accused-appellant on July 7, 2000. Upon review of the evidence, the Office of the Provincial Prosecutor at Ligao, Albay upgraded the charge to rape.^[6] The Information^[7] dated September 5, 2000 reads:

That sometime in 1996 at Barangay Doña Tomasa, Municipality of Guinobatan, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, and by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with [AAA], who was then 6 years of age, against her will and consent, to her damage and prejudice.

ACTS CONTRARY TO LAW.

At his arraignment on October 25, 2000, accused-appellant, with the assistance of his counsel, entered a plea of not guilty.^[8] Thereafter, trial on the merits ensued.

The prosecution presented the oral testimonies of the victim AAA; her minor cousin; her father; and Dr. Joana Manatlaog, the Municipal Health Officer of Guinobatan, Albay. The defense presented the accused-appellant himself, who vehemently denied committing the crimes imputed to him and Manuel Casimiro, Clerk of Court II of the Municipal Trial Court at Guinobatan, Albay.

On January 17, 2003, the trial court rendered its Decision^[9] finding the accused-appellant guilty of the crime of rape and imposed the penalty mentioned above.

The record of this case was forwarded to this Court in view of the Notice of Appeal filed by the accused- appellant.^[10]

Accused-appellant filed his Appellant's Brief^[11] on July 15, 2004, while the People, through the Office of the Solicitor General, filed its Appellee's Brief^[12] on December 15, 2004.

Pursuant to our pronouncement in *People v. Mateo*,^[13] modifying the pertinent provisions of the Revised Rules on Criminal Procedure insofar as they provide for direct appeals from the RTC to this Court in cases in which the penalty imposed by the trial court is death, *reclusion perpetua* or life imprisonment, and the Resolution dated September 19, 1995 in "Internal Rules of the Supreme Court," the case was transferred, for appropriate action and disposition, to the CA where it was docketed as CA-G.R. CR-H.C. No. 00717.

As stated at the beginning hereof, the CA, in its decision of July 14, 2005, in CA-G.R. CR-H.C. No. 000717, affirmed with modification the judgment of conviction pronounced by the trial court. We quote the fallo of the CA decision:

WHEREFORE, the judgment of conviction is **AFFIRMED**. The accused, Richard Sarcia y Olivera, is ordered to suffer the **penalty of DEATH**, and to pay the victim, [AAA], the amount of (1) P75,000.00 as civil indemnity; (2) P50,000.00 as moral damages, and (3) P25,000.00 as exemplary damages.

Let the entire records of this case be elevated to the Supreme Court for 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 15, 2004.

SO ORDERED.

On September 30, 2005, the case was elevated to this Court for further review.^[14]

In our Resolution^[15] of November 15, 2005, we required the parties to simultaneously submit their respective supplemental briefs. Accused- appellant filed his Supplemental Brief^[16] on April 7, 2006. Having failed to submit one, the Office of the Solicitor General (OSG) was deemed to have waived the filing of its supplemental brief.

In his Brief filed before the CA, accused-appellant raised the following assignment of errors:

THE LOWER COURT GRAVELY ERRED IN GIVING CREDENCE TO THE TESTIMONY OF [AAA], [her cousin] and [her father].

II

THE LOWER COURT GLARINGLY ERRED IN REJECTING THE DEFENSE OF ALIBI INTERPOSED BY THE ACCUSED WHICH IS MORE CREDIBLE.

III

THE LOWER COURT GRAVELY ERRED IN NOT ACQUITTING THE ACCUSED RICHARD SARCIA

The evidence for the prosecution is summarized by the OSG in the Appellee's Brief, as follows:

On December 16, 1996, five-year-old [AAA], together with her [cousin and two other playmates], was playing in the yard of Saling Crisologo near a mango tree.

Suddenly, appellant appeared and invited [AAA] to go with him to the backyard of Saling Crisologo's house. She agreed. Unknown to appellant, [AAA's cousin] followed them.

Upon reaching the place, appellant removed [AAA's] shorts and underwear. He also removed his trousers and brief. Thereafter, he ordered [AAA] to lie down on her back. Then, he lay on top of her and inserted his penis into [AAA's] private organ. Appellant made an up-and-down movement ("Nagdapadapa tabi"). [AAA] felt severe pain inside her private part and said "aray." She also felt an intense pain inside her stomach.

[AAA's cousin], who positioned herself around five (5) meters away from them, witnessed appellant's dastardly act. Horrified, [AAA's cousin] instinctively rushed to the house of [AAA's] mother, her aunt Emily, and told the latter what she had seen. [AAA's] mother answered that they (referring to {AAA and her cousin}) were still very young to be talking about such matters.

Meanwhile, after satisfying his lust, appellant stood up and ordered [AAA] to put on her clothes. Appellant then left.

Perplexed, [AAA's cousin] immediately returned to the backyard of Saling Crisologo where she found [AAA] crying. Appellant, however, was gone. [AAA's cousin] approached [AAA] and asked her what appellant had done to her. When [AAA] did not answer, [her cousin] did not ask her any further question and just accompanied her home.

At home, [AAA] did not tell her mother what appellant had done to her

because she feared that her mother might slap her. Later, when her mother washed her body, she felt a grating sensation in her private part. Thereafter, [AAA] called for [her cousin]. [AAA's cousin] came to their house and told [AAA's] mother again that appellant had earlier made an up-and-down movement on top of [AAA]. [AAA's mother], however did not say anything. At that time, [AAA's] father was working in Manila.

Dr. Joana Manatloa is the Municipal Health Officer of Guinobatan, Albay. She testified that: (1) it was the rural health officer, Dr. Reantaso, who conducted a physical examination on [AAA]; (2) Dr. Reantaso prepared and signed a medico-legal certificate containing the result of [AAA's] examination; (3) Dr. Reantaso, however, had already resigned as rural health officer of Guinobatan, Albay; (4) as a medical doctor, she can interpret, the findings in said medico-legal certificate issued to [AAA]; (5) [AAA's] medical findings are as follows: "negative for introital vulvar laceration nor scars, perforated hymen, complete, pinkish vaginal mucosa, vaginal admits little finger with resistance; (6) the finding "negative for introital bulvar laceration nor scars" means, in layman's language, that there was no showing of any scar or wound, and (7) there is a complete perforation of the hymen which means that it could have been subjected to a certain trauma or pressure such as strenuous exercise or the entry of an object like a medical instrument or penis.^[17]

On the other hand, the trial court summarized the version of the defense as follows:

Richard Sarcia, 24 years old, single, student and a resident of Dona Tomasa, Guinobatan, Albay denied he raped [AAA]. While he knows [AAA's] parents, because sometimes they go to their house looking for his father to borrow money, he does not know [AAA] herself. His father retired as a fireman from Crispa in 1991 while his mother worked as an agriculturist in the Municipality of Teresa, Antipolo, Rizal. As an agriculturist of the Department of Agriculture, his mother would bring seedlings and attend seminars in Batangas and Baguio. They were residing in Cainta, Rizal when sometime in 1992 they transferred residence to Guinobatan, Albay. His father is from barangay Masarawag while his mother is from barangay Dona Tomasa both of Guinobatan, Albay. After their transfer in Guinobatan, his mother continued to be an agriculturist while his father tended to his 1-hectare coconut land. Richard testified he was between fourteen (14) and fifteen (15) years old in 1992 when they transferred to Guinobatan. Between 1992 and 1994 he was out of school. But from 1994 to 1998 he took his high school at Masarawag High School. His daily routine was at about 4:00 o'clock in the afternoon after school before proceeding home he would usually play basketball at the basketball court near the church in Dona Tomasa about 1 kilometer away from their house. When her mother suffered a stroke in 1999 he and his father took turns taking care of his mother. Richard denied molesting other girls ... and was most surprised when he was accused of raping [AAA]. He knows Saling Crisologo and the latter's place which is more than half kilometer to their house. Richard claimed Salvacion Bobier, grandmother of Mae Christine Camu, whose death on

May 7, 2000 was imputed to him and for which a case for Murder under Criminal Case No. 4087 was filed against him with the docile cooperation of [AAA's] parents who are related to Salvacion, concocted and instigated [AAA's] rape charge against him to make the case for Murder against him stronger and life for him miserable. He was incarcerated on May 10, 2000 for the Murder charge and two (2) months later while he already in detention, the rape case supposedly committed in 1996 was filed against him in the Municipal Trial Court (MTC) of Guinobatan, Albay. He was to learn about it from his sister, Marivic, on a Sunday afternoon sometime on July 20, 2000 when his sister visited him in jail. He naturally got angry when he heard of this rape charge because he did not do such thing and recalled CA Record, pp. 77-105. telling his sister they can go to a doctor and have the child examine to prove he did not rape her. Subsequently, from his sister again he was to learn that the rape case was ordered dismissed.

On cross-examination, Richard admitted [AAA's] mother, is also related to his father, [AAA mother's] father, being a second cousin of his father. Richard is convinced it is not the lending of money by his father to the AAA's family as the motive for the latter to file the rape case against him but the instigation of Saivacion Bobier.

Manuel A. Casimiro, Clerk of Court II of the Municipal Trial Court (MTC), Guinobatan, Albay, testified on the records of Criminal Case No. 7078 filed in MTC Guinobatan, Albay against Richard Sarcia for Rape in relation to RA 7610 relative to the alleged withdrawal of said rape case but the accused through counsel failed to formally offer the marked exhibits relative to said case.^[18]

Accused-appellant alleges that the trial court erred in convicting him, as the prosecution was not able to prove his guilt beyond reasonable doubt. He assailed the credibility of the prosecution witnesses, AAA, her cousin and her father on the following grounds: (1) the testimonies of AAA and her cousin were inconsistent with each other; (2) the victim was confused as to the date and time of the commission of the offense; (3) there was a four-year delay in filing the criminal case, and the only reason why they filed the said case was "to help Saivacion Bobier get a conviction of this same accused in a murder case filed by said Saivacion Bobier for the death of her granddaughter Mae Christine Camu on May 7, 2000." Accused-appellant stressed that the same Saivacion Bobier helped AAA's father in filing the said case for rape. Accused-appellant also claimed that the prosecution failed to prove that he employed force, threats or intimidation to achieve his end. Finally, accused-appellant harped on the finding in the medical certificate issued by Dr. Reantaso and interpreted by Dr. Joana Manatlaog, stating "negative for introital bulvar laceration nor scar which means that there was no showing of any scar or wound."

In his Appellee's Brief accused-appellant pointed out the inconsistencies between AAA's and her cousin's testimonies as follows: (1) the cousin testified that she played with AAA at the time of the incident, while AAA testified that she was doing nothing before accused-appellant invited her to the back of the house of a certain Saling; (2) the cousin testified that when she saw accused-appellant doing the