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SECOND DIVISION

[G.R. No. 178066 (Formerly G.R. Nos. 150420-21), February 06, 2008]

THE PEOPLE OF THE PHILIPPINES, Appellee, vs. ROLANDO ZAMORAGA, Appellant.

D E C I S I O N

TINGA, J,:

For consideration is the Court of Appeals Decision[1] dated 26 January 2007 that affirmed the judgment of conviction[2] of the Regional Trial Court of Panabo City, Davao Del Norte, Branch 4 involving appellant Rolando Zamoraga for the crime of rape.

Appellant was charged with violation of Article 335 of the Revised Penal Code, as amended by Section 2 of Republic Act (R.A.) No. 7659[3] and R.A. No. 8353[4] in two informations, the inculpatory portions of which read—

Criminal Case No. 98-84:

> That on or about November 7, 1997, in the Municipality of x x x, Province of x x x, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who is the uncle of the victim, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of [AAA], his niece, a nine (9)-year old girl, against her will.
>
> CONTRARY TO LAW.[5]

Criminal Case No. 98-85:

> That sometime in the month of June 1996, in the Municipality of x x x, Province of x x x, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who is the uncle of the victim, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of [AAA], his niece, a nine (9)-year old girl, against her will.
>
> CONTRARY TO LAW.[6]

Appellant entered a negative plea to both charges.[7] Joint trial of the cases ensued which culminated in the judgment of guilt, based on the following statement of facts:

Appellant, who was positively identified in open court by AAA as her assailant,[8] is

the second cousin of AAA's mother who frequented, and on occasions spent the night in, their house.[9] AAA recounted that the first rape occurred sometime in June 1996—a date of which AAA was certain because it was the opening of school. At 9:00 that night, while she was fast asleep in her room with her seven-year old sister, she was surprised to find that appellant was already on top of her.[10] It was dark but she was able to recognize appellant because the moon beams filtered through the gaps in the bamboo wall of the house.[11] In that instant, she realized that appellant had no more clothes on and that he had already removed her own short pants and panties. Appellant inserted his finger and then his penis in her vagina and started pumping. AAA felt pain in her genitalia. After gratifying

his lust, appellant warned AAA not to tell the incident to anyone or appellant would kill her if she did. AAA soon discovered that there was blood in her genitalia. Appellant kept on abusing her many times more since then.[12] The last time appellant wantonly gave bent to his carnality on her, under the same circumstances as the first one, was on 7 November 1997, a date that she likewise could not forget because it was the eve of her ninth birthday.[13] On 30 November 1997, AAA confessed her ordeal to her mother who in turn lost no time in reporting the incident to the barangay authorities and then submitting her daughter for medical examination.[14]

Eleanor Salva, the doctor who administered the examination on AAA, testified that she found two (2) hymenal lacerations in the victim's vagina at the 1 and 5 o'clock positions, at least three weeks to one year old, possibly caused by the alleged rapes. She pointed out that the victim was possibly subjected to forcible sexual intercourse within the past three weeks to one year.[15] Furthermore, to prove that AAA was eight (8) and nine (9) years old, respectively, at the time of the first and last rapes, the prosecution submitted to the trial court her certificate of birth.[16]

Appellant denied the charges. He argued that he could not have committed the rapes because on the alleged dates thereof, he was far away from AAA's residence as he was then employed either as a laborer in Davao Central Chemical Corporation in Davao City, or as a construction worker in Tagum City.[17] He claimed that at the time he was so employed, he stayed at the house of BBB, his aunt and AAA's maternal grandmother, located two or three kilometers away from AAA's residence.[18] BBB's testimony, which corroborated appellant's alibi in material respects, was offered in court to fortify the defense.[19]

Giving more credence to the evidence for the prosecution, the trial court dismissed appellant's alibi and accordingly sentenced him to suffer the penalty of *reclusion perpetua* for each of the two rapes alleged and proved, as well as to indemnify AAA, likewise for each count, in the amount of seventy-five thousand pesos (P75,000.00).[20]

The case was directly appealed to the Court pursuant to Section 3 and Section 10 of Rule 122, Section 13 of Rule 124 and Section 3 of Rule 125 of the Rules on Criminal Procedure. Pursuant to *People v. Mateo*,[21] the case was transferred to the Court of Appeals for intermediate review per Resolution[22] dated 20 September 2004. However, finding no sufficient basis to overturn the lower court, the Court of

Appeals, on 26 January 2007, rendered the assailed decision affirming the findings and conclusion of the court *a quo* but modifying the award of damages as per recommendation of the Office of the Solicitor General (OSG), thus:

> **FOR THE REASONS STATED**, the assailed joint Decision dated 16 August 2001 of the Regional Trial Court, Branch 4, Panabo, Davao del Norte so far as it held appellant guilty beyond reasonable doubt of two (2) counts of rape is **AFFIRMED** with the **MODIFICATIONS** that he shall pay the victim, [AAA,] P50,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages, for each and every count of rape. *Costs against appellant.*
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> **SO ORDERED.**[23]

Undeterred, appellant filed a Notice of Appeal[24] and the records of the case were thereafter elevated to the Court. The parties were then required to file their respective supplemental briefs,[25] but they manifested instead that they were adopting their respective briefs filed with the appellate court.[26]

Thus, appellant once again raises before the Court the lone issue that the trial court gravely erred in establishing his guilt for two counts of statutory rape beyond reasonable doubt.[27] He challenges the credibility of the testimony of AAA in that the latter's almost perfect and highly detailed narration of the incidents of rape was rehearsed and that it was possible that she was coached by her mother to testify falsely against him. He suspects that AAA, induced by no sincere desire to obtain justice, was merely influenced by her mother to point to him as the assailant in order that AAA's father could get even with him and resolve the ill feelings between them.[28] Capitalizing on the fact that BBB, AAA's maternal grandmother, took his side and testified in his favor, he concludes that it was indeed unimaginable for BBB to controvert the allegations of her own granddaughter unless the charges were false.[29]

There is no merit in the appeal.

At the heart of almost all of rape cases is the issue of credibility of witnesses. This is primarily because the conviction or acquittal of the accused depends entirely on the credibility of the victim's testimony as only the participants therein can testify to its occurrence. The manner of assigning values to declarations of witnesses on the witness stand is best and most competently performed by the trial judge who has the unique and unmatched opportunity to observe the witnesses and assess their credibility by the various *indicia* available but not reflected on record. The demeanor of the person on the stand can draw the line between fact and fancy, or evince if the witness is lying or telling the truth. Thus, when the question arises as to which of the conflicting versions of the prosecution and the defense is worthy of belief, the assessment of trial courts is generally given the highest degree of respect if not finality.[30]

Conviction for rape therefore may lie based solely on the testimony of the victim if the latter's testimony is credible, natural, convincing and consistent with human nature and the normal course of things.[31] In scrutinizing such credibility, jurisprudence has established the following doctrinal guidelines: (1) the reviewing

court will not disturb the findings of the lower court unless there is a showing that it had overlooked, misunderstood, or misapplied some fact or circumstance of weight and substance that could affect the result of the case; (2) the findings of the trial court pertaining to the credibility of witnesses are entitled to great respect and even finality as it had the opportunity to examine their demeanor when they testified on the witness stand; and (3) a witness who testified in a clear, positive and convincing manner and remained consistent on cross-examination is a credible witness.[32]

Applying these guidelines to the case at bar, we note that AAA's account of her harrowing experience is trustworthy and convincing as there is nary an indication in the records that her testimony should be seen in a suspicious light. On the contrary, the records do reveal that AAA testified in a candid and straightforward manner and in fact remained resolute and unswerving even on cross-examination, able as she was to withstand all the rigors of the case including the medical examination and the trial that followed. Indeed, it is inconceivable for a child to concoct a sordid tale of so serious a crime as rape at the hands of a close kin and subject herself to the stigma and embarrassment of a public trial, if her motive were other than an earnest desire to seek justice.[33]

Appellant offers an alibi to evade liability. While he claims the impossibility of his having committed the rapes on the ground that he was on those dates employed in faraway places, he nevertheless admits—and so does his witness, BBB—that the place where he retired after work and the place where the rapes occurred were only two or three kilometers away from each other.[34] No other principle in criminal law jurisprudence is more settled than that alibi is the weakest of all defenses as it is prone to facile fabrication. It is therefore received in court with much caution and for it to prevail, the accused must establish by clear and convincing evidence that it was physically impossible for him to have been at the scene of the crime when it happened, and not merely that he was somewhere else.[35] The records show that such is not the case here as appellant failed to adduce an iota of satisfactory evidence that it was physically impossible for him to be in AAA's house at or about the same time the rape occurred.

What stands out therefore is that the evidence for the defense has failed to negate appellant's presence at the *locus criminis* at the time of the commission of the offense. Suffice to say, denial and alibi, being negative self-serving defenses, cannot prevail over the affirmative allegations of the victim,[36] AAA, and the latter's categorical and positive identification of appellant as her assailant.[37] On this score, the imputation of ill motives to AAA's mother and to AAA herself must likewise de dismissed as a last-ditch attempt on the part of appellant to exonerate himself from an inevitable guilty verdict.

With respect to the monetary award, we agree with the OSG that civil indemnity and moral damages, being based on different jural foundations, are separate and distinct from each other.[38] However, we do not accede to its recommendation that appellant be ordered to pay P50,000.00 as moral damages, P75,000.00 as civil indemnity and P20,000.00 as exemplary damages. In *People v. Biong*,[39] we held that upon a finding of the fact of rape the award of civil indemnity is mandatory in the amount of P50,000.00, or P75,000.00 if death penalty is involved; whereas moral damages in the amount of P50,000.00 is automatically granted in addition