

SECOND DIVISION

[G.R. No. 181633, September 12, 2008]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGER UGOS, ACCUSED-APPELLANT.

DECISION

VELASCO JR., J.:

Before us is an appeal from the October 25, 2007 Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00310-MIN entitled *People of the Philippines v. Roger Ugos y Lanzo alias "Dodong."* The CA affirmed the February 8, 2000 Decision of the Regional Trial Court (RTC), Branch 15 in Davao City in Criminal Case No. 39413-97, finding accused-appellant Roger Ugos guilty of raping his stepdaughter and sentencing him to *reclusion perpetua*.

The Facts

On August 11, 1997, accused-appellant was charged with rape under an Information which reads:

That on or about August 7, 1997, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with x x x [AAA], who is only seven (7) years of age.^[1]

On arraignment, accused-appellant entered a not guilty plea.

The prosecution presented the following facts:

On the evening of August 7, 1997, accused-appellant, while drunk and looking for a *bolo*,^[2] asked his stepdaughter, AAA, then seven years old, to look for her mother at her grandmother's place. But as her mother was not at her grandmother's residence, AAA went to look for her at a neighbor's house accompanied by accused-appellant. Her mother was not there, either. Accused-appellant thereupon held AAA and brought her to a nearby creek. Once there, he undressed her and then proceeded to insert his finger into her vagina four times.^[3] Thereafter, accused-appellant bit AAA's face and inserted his penis into her vagina. Not content, he held her by the neck and boxed her in the face and stomach.^[4] He then threatened to kill her if she told her mother about the incident.^[5]

When asked upon reaching home about the lumps on her face, AAA told her mother that she fell at the waiting shed.^[6] The next morning, however, AAA revealed the truth about her injuries, relating how accused-appellant, while holding her neck, bit and punched her on the cheek "causing a swelling and black right eye and bruises

on the neck."^[7] Mother and daughter then reported the incident to, only to be ignored by, the *barangay* captain. They then repaired to the police station in Toril to file a rape complaint before Police Station Child and Youth Officer Leonilo Jickain,^[8] after which they proceeded to *Barrio* Catigan, the scene of the crime. Mother and daughter pointed to accused-appellant as the rapist.^[9] After a short chase, he was apprehended and charged.^[10]

Dr. Danilo Ledesma testified having examined AAA on August 11, 1997.^[11] His findings: AAA had sustained contusions on her left eye and on her cheek. She also had a hemorrhage on both eyeballs. He also found that there was a complete hymenal laceration at the 5 and 9 o'clock positions, showing recent genital trauma.^[12]

Accused-appellant, the lone witness for the defense, on the other hand, presented the following story, as summarized in the RTC decision:

x x x [O]n August 7, 1997 from 7 A.M. to 7 P.M. he was in his employer's house because it was their barrio's fiesta, that on reaching home at about 7 P.M. only [his] step[children] AAA, 7 years old, Reggie 3 years old and [his] 10 year [old] niece were around. x x x his wife was not there so he went to their grandmother's house alone to get her, that his wife was not there, that he returned home at about 8 P.M. but she was not there in their house so he went to his ninang [godmother] and his neighbors looking for his wife, that he told the victim to go with him to the barrio which was about one kilometer from their house to look for his wife, that he told the victim to look for her mother while he waited in a shed, that the victim fell because the road was dark and slippery, that his wife was already home when they returned, that his wife smelled of liquor that night, that he and his wife quarreled and he hit his wife, that he did not rape and hit the victim, that he does not know why he is charged with rape.^[13]

The RTC found accused-appellant guilty as charged. The dispositive portion of the RTC decision reads:

WHEREFORE, the prosecution having proven the guilt of the accused beyond reasonable doubt, ROGER UGOS is hereby sentenced to Reclusion perpetua and to indemnify [AAA] the sum of Fifty Thousand Pesos (P50,000.00).

The preventive imprisonment shall be credited to the sentence of the accused if he voluntarily abides in writing to follow the rules under Article 29 of the Revised Penal Code.

SO ORDERED.^[14]

Accused-appellant thus appealed the RTC Decision with this Court.

On December 13, 2004, this Court, in accordance with *People v. Mateo*,^[15] ordered the transfer of the case to the CA for intermediate review.

By a Decision dated October 25, 2007, the CA affirmed that of the RTC with a modification on the award of damages, disposing as follows:

WHEREFORE, the lower court's Decision dated 8 February 2000 finding appellant guilty beyond reasonable doubt of the crime of Rape and sentencing him to suffer the penalty of *reclusion perpetua* is AFFIRMED, WITH THE MODIFICATION that appellant is ordered to pay P50,000.00, representing moral damages, in addition to the civil indemnity of P50,000.00 he had been adjudged to pay by the trial court.

SO ORDERED.^[16]

On November 22, 2007, accused-appellant filed his Notice of Appeal of the CA Decision.

Accused-appellant presents a lone issue before the Court:

WHETHER THE TRIAL COURT ERRED IN FINDING HIM GUILTY OF THE CRIME OF RAPE INSTEAD OF ACTS OF LASCIVIOUSNESS

Accused-appellant claims that the testimonies of AAA and her mother reveal only the commission of acts of lasciviousness. There was no sexual intercourse, according to him, as he only inserted his finger into her sex organ, adding that this was what AAA originally told her mother. He surmises that AAA, being underage, might have been confused with what the word "rape" meant. Accused-appellant further states that AAA only testified that he inserted his penis into her vagina when probed by the prosecutor through leading questions.

Our Ruling

We affirm the appellate court's decision.

AAA, as found by both the trial and appellate courts, was unequivocal in her testimony that she was raped by accused-appellant. While her mother may have contradicted AAA's testimony by stating that AAA reportedly told her she was merely "fingered" by accused-appellant, it is AAA's clear and credible testimony that should determine accused-appellant's guilt. She detailed both in direct and cross-examinations how accused-appellant violated her; she minced no words about what accused-appellant did to her on August 7, 1997.

Accused-appellant does not dispute AAA's testimony, arguing that she might have been coached in her answers. He likewise states that what AAA and her mother reported to the police was an **attempt** to rape AAA. It was only when the prosecutor asked her leading questions that she testified that accused-appellant inserted his penis into her vagina.

The Court is not persuaded by his contentions for the following reasons: *First*, the testimony of Police Officer Jickain, who related that AAA's mother approached him on August 7, 1997 while he was on duty as Police Station Child and Youth Officer, has documentary support. He stated that AAA's mother reported that accused-appellant raped her daughter.^[17] *Second*, accused-appellant's contention is at odds with what are contained in the records, which show that during cross-examination the trial court asked AAA what accused-appellant did to her, as follows:

COURT:

Q You said it is painful, is it because the finger was inserted or the penis?

A Because he inserted his finger into my vagina.

Q He did not insert his penis?

A He inserted. [18]

The prosecutor, on the other hand, examined AAA in this wise:

Q Who mounted you?

A Ondongan.

Q This Ondongan is in court could you point him?

A (Witness pointing to a person seated on a chair with white t-shirt printed navy when asked he said he is Roger Ugos).

Q What did Ondongan or your stepfather do?

A He placed his hand on my vagina.

Q Were you still dressed?

A Yes, Sir.

Q What did he do to your dress?

A He inserted his finger [in] my vagina 4 times.

Q When he did that to you were you still dressed or were you already naked? [19]

x x x x

Q What else?

A After that the accused stood up on a coco trunk [and] inserted his finger in my vagina four times.

Q What else did he do, did you see his penis?

A He inserted inside my vagina.

Q What did you feel when he inserted his penis in your vagina?

A I was angry, because he mounted me and it was very painful. [20]