

FIRST DIVISION

[G.R. No. 176637, October 06, 2008]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. REYNALDO DELA TORRE, APPELLANT.

DECISION

CARPIO, J.:

The Case

This is an appeal from the 4 December 2006 Decision^[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 00453. The Court of Appeals affirmed the 3 August 2001 Decision^[2] of the Regional Trial Court (RTC), National Capital Judicial Region, Parañaque City, Branch 259, in Criminal Case Nos. 98-1094 and 99-618 finding Reynaldo Dela Torre y Murillo (Dela Torre) guilty beyond reasonable doubt of rape.

The Facts

At around 9:00 p.m., on 13 November 1998, AAA,^[3] who was then 11 years old, went out of the house to buy barbecue. On her way back to the house, Dela Torre called her and pulled her towards a parked jeep where Richie Bisaya (Bisaya) and Leo Amoroso (Amoroso) were waiting.

Dela Torre brought AAA inside the jeep and asked her if she loved him. AAA answered that she did not love him because he was ugly. Dela Torre kissed AAA on the cheeks and lips and touched her breast and vagina. After kissing and touching AAA, Dela Torre passed AAA to Bisaya who took his turn in kissing and touching AAA. Bisaya then passed AAA to Amoroso who poked a knife on AAA's neck, removed her clothes, inserted his penis in her vagina, and kissed her. AAA felt pain and her vagina bled.

Meanwhile, AAA's uncle went out of the house to look for AAA. While looking, he urinated near the parked jeep. He saw Dela Torre looking out from the jeep and a man on top of AAA whom, because of lack of illumination, he did not recognize. The men ran away when they saw AAA's uncle. AAA's uncle tried to run after the man who was on top of AAA but was not able to catch him. He dressed AAA, who was crying inside the jeep, then brought her to the house.

When AAA's mother arrived at the house, AAA's uncle told her what happened. They immediately went to Eva Abejero (Abejero), President of the Manggahan Homeowners Association, to report the incident. Thereafter, barangay tanods looked for Dela Torre, Bisaya, and Amoroso but were only able to find Dela Torre inside a hut. The barangay tanods brought Dela Torre to Abejero's house, then brought him to the police station where AAA positively identified him as one of the offenders.

Dr. Emmanuel N. Reyes of the National Headquarters Philippine National Police Crime Laboratory examined AAA. In his report dated 14 November 1998, he found a deep healing laceration at 9 o'clock position and shallow healing lacerations at 3, 4, 5, 6, and 7 o'clock positions of the genital. He concluded that his findings were compatible with recent loss of physical virginity.

In an information dated 29 December 1998, Assistant Prosecutor Antonietta Pablo-Medina (Pablo-Medina) charged Dela Torre, Bisaya, and Amoroso with rape:

That on or about the 13th day of November, 1998, in the City of Parañaque, Philippines and within the jurisdiction of [the RTC, Dela Torre], conspiring and confederating together [with Amoroso and Bisaya], all of them mutually helping and aiding one another, armed with a deadly weapon, by means of force and intimidation did then and there willfully, unlawfully and feloniously [have] carnal knowledge with [AAA], a child 11 years of age, against her will.^[4]

In another information dated 29 December 1998, Pablo-Medina charged Dela Torre, Bisaya, and Amoroso with acts of lasciviousness:

That on or about the 13th day of November, 1998, in the City of Parañaque, Philippines and within the jurisdiction of [the RTC, Dela Torre], conspiring and confederating together with [Bisaya and Amoroso], all of them mutually helping and aiding one another, with lewd design, did then and there willfully, unlawfully and feloniously commit acts of lasciviousness upon [AAA], by then and there kissing her on the different parts of her face, massaging her breast and touching her private parts, against her will.^[5]

Since Bisaya was allegedly already dead and Amoroso was still at large, trial proceeded against Dela Torre only. Dela Torre pleaded not guilty to both charges. He claimed that he was in a hut which was ten arms-length (*dipa*) away from the jeep when the incident happened. A certain Jojo Sestosa (Sestosa) testified that, indeed, Dela Torre was inside the hut with him on 13 November 1998. However, Sestosa slept and he did not know if Dela Torre left the hut while he was asleep.

The RTC 's Ruling

In its 3 August 2001 Decision, the RTC dismissed the charge for acts of lasciviousness and found Dela Torre guilty beyond reasonable doubt of rape:

WHEREFORE, PREMISES CONSIDERED, Crim. Case No. 98-618 for Acts of Lasciviousness as against Reynaldo dela Torre is ordered **DISMISSED** and finding **Reynaldo dela Torre GUILTY** beyond reasonable doubt for the crime of rape in Crim. Case No. 98-1094 as defined and penalized under Art. 266-A par. 1(a) and (d) of the Revised Penal Code in relation to Art. 266-B 1st par. of RPC as amended by in [sic] RA 8353 and considering the aggravating circumstance of use of a deadly weapon and the crime having been committed by more than one person without any mitigating circumstances, accused **REYNALDO DELA TORRE** is hereby sentenced to the supreme penalty of death by lethal injection and suffer the accessory penalties provided by law specifically

Art. 40 of the Revised Penal Code and to indemnify [AAA], the private complainant, the amount of Php 75,000.00 in line with existing jurisprudence, Php 75,000.00 for moral damages and Php 75,000.00 as exemplary damages.^[6]

The RTC held that (1) AAA's testimony was credible; (2) AAA was unequivocal and explicit in identifying Dela Torre as one of the offenders; (3) there was conspiracy among Dela Torre, Bisaya, and Amoroso; (4) Dela Torre's flat and unsubstantiated denial did not deserve any significant consideration; and (5) the alleged acts of lasciviousness were merely acts preparatory to or part of the rape.

On appeal, Dela Torre contended that the RTC erred in finding him guilty beyond reasonable doubt. He claimed that the declaration of AAA's uncle in his sworn affidavit dated 16 November 1998 that he did not know the offenders and his act of identifying Dela Torre as one of the offenders during the trial were inconsistent. Furthermore, Dela Torre contended that identification was difficult because the place where the incident happened was dark.

The Court of Appeals' Ruling

In its 4 December 2006 Decision, the Court of Appeals affirmed the RTC's Decision with modification of the penalty. In keeping with Republic Act No. 9346, the Court of Appeals reduced the penalty from death to *reclusion perpetua* with all its accessory penalties.

The Court of Appeals held that (1) the medical findings were consistent with AAA's testimony that she was raped; (2) there was no showing that AAA's uncle could not have possibly identified Dela Torre at the place where the incident happened; (3) AAA positively identified Dela Torre as one of the offenders; (4) there was no ill-motive on AAA's part; (5) AAA's testimony was straightforward and candid; (6) testimonies of young rape victims are accorded great weight; (7) the defense of denial is weak and cannot prevail over positive identification; and (8) there was conspiracy among Dela Torre, Bisaya, and Amoroso.

Hence, this appeal.

The Court's Ruling

The Court finds Dela Torre guilty of rape.

An appeal in a criminal case opens the entire case for review. The Court can correct errors unassigned in the appeal.^[7]

The lower courts found that there was conspiracy among Dela Torre, Bisaya, and Amoroso. The RTC held that:

[I]t is quite apparent that [Dela Torre, Bisaya, and Amoroso] conspired and mutually helped one another in raping the young victim. Reynaldo dela Torre and Ritchie Bisaya did not do anything to stop Amoroso in ravishing the victim and they even acted as lookouts and it could be safely surmised that they were just waiting for their turns after Amoroso shall have finished raping the victim were it not for the

sudden appearance of the victim's uncle x x x that prompted the three misfits to scamper and disappear in the cover of darkness.^[8] (Emphasis supplied)

The Court of Appeals held that, "Considering that the un rebutted testimony of the victim showed the combined actuations of all the accused, including [Dela Torre], clearly indicating a common design to commit the crime of rape, conspiracy was satisfactorily proved."^[9]

The Court agrees. Conspiracy exists when the acts of the accused demonstrate a common design towards the accomplishment of the same unlawful purpose.^[10] In the present case, the acts of Dela Torre, Bisaya, and Amoroso clearly indicate a unity of action: (1) Dela Torre called AAA and brought her inside the jeep; (2) Bisaya and Amoroso were waiting inside the jeep; (3) Dela Torre kissed and touched AAA while Bisaya and Amoroso watched; (4) Dela Torre passed AAA to Bisaya; (5) Bisaya kissed and touched AAA while Dela Torre and Amoroso watched; (6) Bisaya passed AAA to Amoroso; and (7) Amoroso inserted his penis in AAA's vagina and kissed her while Dela Torre and Bisaya watched.

Since there was conspiracy among Dela Torre, Bisaya, and Amoroso, the act of any one was the act of all and each of them is equally guilty of all the crimes committed.^[11]

The lower courts found Dela Torre guilty beyond reasonable doubt of rape. The RTC held that:

While [it] is true that it was only Leo Amoroso who actually ravished the victim based on the testimony of the private complainant that Amoroso succeeded in inserting his penis to her private parts and that Reynaldo dela Torre and Ritchie Bisaya merely kissed her and fondled her private parts, accused dela Torre can likewise be held liable for the bestial acts of Amoroso as it is quite apparent that the three of them conspired and mutually helped one another in raping the young victim.^[12]

The Court of Appeals held that:

[W]hile [Dela Torre] did not have carnal knowledge with [AAA], his tacit and spontaneous participation and cooperation of pulling her towards the parked jeep, molesting her and doing nothing to prevent the commission of the rape, made him a co-conspirator. As such, he was properly adjudged as a principal in the commission of the crime.^[13]

The Court agrees. During the trial, AAA testified that Amoroso raped her:

A: *Pinasa ako ni Ritchie [B]isaya kay Leo Amoroso at noong na kay Leo Amoroso na ako ay hinubad ang short[s] ko at [T]-shirt ko.*

Q: *Sino ang naghubad?*

A: *Si Leo Amoroso po.*

Q: *Noong hinubaran ka, ano ang ginawa [nina Dela Torre at Bisaya]?*