

SECOND DIVISION

[G.R. NO. 174470 (Formerly G.R. Nos. 159844-46), April 27, 2007]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FILOMINO LIZANO
Y MARVILLA APPELLANT.**

D E C I S I O N

TINGA, J.:

For consideration is an appeal by Filomino Lizano y Marvilla^[1] (appellant) from the Decision^[2] dated 28 April 2006 of the Court of Appeals in CA-G.R. CR-H.C. No. 01659, affirming the 30 May 2003 Decision^[3] of the Regional Trial Court (RTC) of Calauag, Quezon, which found him guilty beyond reasonable doubt of the crime of rape.

On 20 February 1997, appellant was charged with three (3) counts of rape in three (3) separate Informations, which, except for the date, similarly read as follow:

That on or about the month of January 1996, at Sitio San Jose Ilaya, Barangay Sta. Cecilia, in the Municipality of Tagkawayan, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, who is the uncle of the offended party, with lewd design, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one [AAA],^[4] a minor, 11 years of age, against her will.

Contrary to law.^[5]

The two (2) other Informations^[6] alleged that appellant had raped AAA on 18 and 19 January 1997, respectively.

Appellant pleaded not guilty on all three charges. Trial then proceeded.

The victim, AAA, testified that she had been staying in her grandmother's house in Barangay Sta. Cecilia, Tagkawayan, Quezon, together with appellant and his wife, BBB who is AAA's aunt. Sometime in January 1996, AAA, who was then only 11 years old, was sleeping inside the house when appellant lay down beside her and began undressing her while threatening to kill her, her grandmother and aunt should she reveal his acts to anybody. Afterwards, appellant also took off his clothes. He then went on top of AAA and inserted his penis into her vagina, causing her to feel pain.^[7] A year later, on 18 January 1997, appellant raped AAA again. The following day, at around 10:30 a.m., appellant raped her for the third time. She, however, declared during direct-examination that there were only slight penetrations in these two occasions.^[8] AAA was only forced to disclose the incident to an uncle, a brother

of her mother, upon the prodding of BBB, who chanced upon AAA while inside the room of appellant.^[9]

The prosecution also presented CCC to testify on the age of her daughter, AAA. CCC stated in court that AAA was born on 14 May 1985.^[10] AAA's birth certificate^[11] attesting to the same data was likewise presented in court.

The third witness for the prosecution was Delia Mayuga Ayuda, a Medical Clerk at the Tagkawayan District Hospital, whose duty was to keep all the files of the patients in the hospital. She identified the signature of Dr. Juvy Paz Purino in the Medico-Legal Certificate which contained the following findings:

-superficial lacerations at 6 o'clock and 8 o'clock positions, hymen

NOI- Allegedly raped by someone

DOI- January 18, 1997

TOI- P.M.

POI- San Jose Tagkawayan, Quezon^[12]

Appellant testified on his behalf, raising denial and alibi as defenses. Appellant denied raping AAA sometime January 1996.^[13] He averred that on 19 January 1997, he was driving his tricycle the whole day and got home 11 a.m. the next day. He however recalled an incident where he asked AAA to get a spare part of a tricycle in the living room. Unable to follow his orders, appellant followed AAA inside the house. It was at that moment when his wife, BBB, arrived and accused him of raping AAA.^[14] Appellant maintained that BBB had induced AAA to charge him with rape because of their frequent quarrels.^[15]

The trial court found the first incident of rape as credible and found appellant guilty in Criminal Case No. 2857-C. However, he was acquitted in Criminal Case Nos. 2858-C and 2859-C for insufficiency of evidence.^[16]

From the decision in Criminal Case No. 2857-C, appellant directly appealed to this Court. Conformably with our ruling in *People v. Mateo*,^[17] the appeal was remanded to the Court of Appeals for intermediate review.

On 28 April 2006, the Court of Appeals promulgated a Decision dismissing the appeal and affirming in *toto* the decision of the RTC.

Both parties opted not to file Supplemental Briefs and instead adopted their Briefs before the appellate court.^[18]

In this appeal, appellant contends that the prosecution's evidence is insufficient to sustain his conviction, especially taking into account the alleged delay on the part of the victim in reporting the rape. Thus, the resolution of this case hinges on the straightforward issue of whether the prosecution was able to establish appellant's guilt beyond reasonable doubt based on the complainant's testimony.

In the prosecution of rape cases, conviction or acquittal depends on the credence to be accorded to the complainant's testimony because of the fact that usually the

participants are the only witnesses to the occurrences.^[19] Thus, the issue boils down to credibility. Significantly, findings of fact of the trial court should not be disturbed on appeal since conclusions as to the credibility of witnesses in rape cases hinge heavily on the sound judgment of the trial court which is in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying.^[20]

In the case at bar, the trial court aptly observed:

In the first incident, the private complainant AAA then an 11 years old [sic] girl in a clear, convincing and straightforward manner testified how the accused Filomino Lizano undressed her and then afterwards, he undressed also, put himself on top of her and inserted his penis to her private part. AAA clearly stated that the accused's penis was able to fully penetrate her vagina and it was painful. . . Her clear account of the first incident of rape unequivocally show that she was indeed raped by the accused Filomino Lizano.^[21]

We find no cogent reason to depart from these findings. During the direct examination, AAA recounted the rape incident and positively identified appellant as the perpetrator, thus:edwino

Q: Do you know this Filomino Lizano?

A: Yes, sir.

Q: Why do you know him?

A: He is the husband of my auntie, sir.

x x x x

Q: If this Filomino Lizano is in Court, will you be able to point to him?

A: Yes, sir.

Q: Please do so. (Witness pointing to a man who identified himself to be Filomino Lizano).

Q: Now, in January, 1996, how old were you then?

A: 11 years old, sir.

Q: And on that month, do you remember any unusual incident that happened to you?

A: Yes, sir.

Q: And what was that unusual incident?

A: I was raped by Filomino Lizano, sir.

Q: Where?

A: In the house of my grandmother, sir.

Q: Where is that house of your Lola located?

A: In Brgy. Sta. Cecilia, Tagkawayan, Quezon.

Q: Will you tell or relay to this Court that particular incident that you are referring to that you were raped by Filomino Lizano?

A: He slept beside me, sir.

Q: And after sleeping beside you, what did he do if he did anything?

A: He undressed me, sir.

Q: After undressing you, did he do anything more?

A: He told me not to tell anybody.

Q: And did he tell you what will happen if you will tell anyone about that incident?

x x x x

WITNESS:

Because if I inform [sic] about the incident, he will kill us, sir.

FISCAL BONIFACIO

Q: When you say "us," whom was he referring to?

A: My grandmother, auntie, and myself, sir.

Q: After he undressed you, is there anything more he did?

A: He undressed himself also, sir.

Q: Then anything more?

A: He put himself on top of me, sir.

Q: And when he put himself on top of you, did he do anything more?

A: He entered his penis to my private part, sir.

Q: Do you know if he was able to fully penetrate his penis on your private part?

A: Yes, sir.

Q: What did you feel when he was doing that?