

FIRST DIVISION

[G.R. NO. 172068, August 07, 2007]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO MANGUBAT, ACCUSED-APPELLANT.**

D E C I S I O N

GARCIA, J.:

On appeal to this Court is the Decision^[1] dated January 23, 2006 of the Court of Appeals (CA) in CA-G.R. CR.-HC No. 00186 finding appellant **Rolando Mangubat @ "Lando"** guilty beyond reasonable doubt of **simple rape** on two (2) counts and sentencing him to suffer the penalty of *reclusion perpetua* for each count. The decision affirmed with modifications that of the Regional Trial Court (RTC) of Pinamalayan, Oriental Mindoro, Branch 42, in *Criminal Case Nos. P-5788 and 5789* which found appellant guilty of **qualified rape** on two (2) counts and sentenced him to death for each count.

Appellant had previously been with this Court in *G.R. Nos. 154661-62* on account of the penalty of death imposed by the trial court. However, in accordance with our decision in *People v. Mateo*,^[2] the same were referred to the Court of Appeals for intermediate review, whereat it was docketed as CA-G.R. CR.-HC No. 00186. Following the CA's affirmance, albeit with modifications, of the trial court's decision, appellant is again with this Court via the present recourse pursuant to a *Notice of Appeal*^[3] filed by him with the CA.

Conformably with our decision in *People v. Cabalquinto*^[4] and subsequent cases, the real name of the victim in this case is not disclosed herein. Instead, fictitious initials (AAA) are used to represent her. Likewise, the personal circumstances of the victim, as well as any information tending to establish or compromise her identity and those of her immediate family or household members, are also not disclosed in this decision.

The Case

On July 20, 1998, in the RTC of Pinamalayan, Oriental Mindoro, two (2) separate Informations^[5] for rape were filed against appellant. Docketed in the same court as Criminal Case Nos. P-5788 and P-5789, the respective Informations alleged as follows:

In Criminal Case No. P-5788:

That sometime in the year 1997, more or less nighttime, in barangay Palayan, municipality of Pinamalayan, province of Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, by means of force

and intimidation, willfully, unlawfully and feloniously did lie, and succeeded in having carnal knowledge of one [AAA], a 10-year-old granddaughter of the accused, to the damage and prejudice of said offended party.

In Criminal Case No. P-5789:

That on or about the 13th day of June, 1998, at 8:00 o'clock in the evening, more or less, in barangay Palayan, municipality of Pinamalayan, Oriental, Mindoro, Philippines and with the jurisdiction of the Honorable Court, the above-named accused, with lewd and unchaste design, by means of force and intimidation, willfully, unlawfully and feloniously did lie and succeeded in having carnal knowledge of one [AAA], a 10-year-old granddaughter of the accused, to the damage and prejudice of said offended party.

When arraigned in both cases, appellant entered a common plea of "Not guilty." Thereafter, the cases were heard jointly.

The Evidence

In the ensuing trial, the prosecution presented in evidence the oral testimonies of AAA herself and that of Dra. Adelaida Malaluan, Municipal Health Officer of Pinamalayan, Oriental Mindoro who conducted a physical examination of the victim, plus the documents marked in the course of the proceedings. For its part, the defense adduced in evidence the testimonies of appellant himself and that of BBB, grandmother of the victim and appellant's common-law wife.

The prosecution's version of the incidents was aptly narrated in the CA decision under review, to wit:

Sometime in 1997, [AAA], who was born on 7 March 1987, was raped by her step-grandfather, appellant Rolando Mangubat, at their house at Barangay Palayan, Pinamalayan, Oriental Mindoro while her grandmother and Rolando's common-law wife, [BBB], was working in Manila. [AAA] knew that Rolando was able to partially insert his penis into her vagina because of the pain that she felt then.

Later, on 13 June 1998, at about 8:00 p.m., [AAA] was invited by her cousin, [CCC], to the latter's house, where they helped one "Kuya" [DDD] check some test papers. After an hour, [AAA's] uncle, [EEE], arrived, and told her "[AAA] tawag ka ni tatay, lagot ka, may garrote ka." Frightened, [AAA] immediately headed for home, and went upstairs to sleep. Thereupon, [EEE] told [AAA] that Rolando was asking if she would eat dinner, to which she replied negatively because she had already taken her dinner.

After the dinner, at around 9:00 p.m., [EEE] and [AAA's] brother went out to watch television at a nearby store, leaving [AAA] and Rolando in the house. Later, Rolando asked [AAA] to get some oil, and rub it to his body, which she did. Also, Rolando ordered [AAA] to lie down on his bed, and to remove her shorts and panty, which she obeyed for fear of bodily

harm. Rolando then laid himself on top of [AAA], and inserted his penis in her vagina, Hurt, [AAA] cried, and called out for [BBB], who was in Manila at that time.

[AAA] did not report the incident to her mother for fear that Rolando might kill them. Instead, [AAA] reported the matter to a certain "Bogs" at the Department of Social Welfare and Development (DSWD), which later brought her to Dr. Adelaido Malaluan for a physical examination.

Thereafter, [AAA] was brought to a police headquarter, where she detailed her traumatic experience in the presence of the investigating officer and her grandmother [BBB], who had already learned of the incident. [BBB] confirmed [AAA's] report, and explained that [AAA] bears Rolando's surname, instead of her father's surname, because they caused her surname to be registered after Rolando's, as she was in their custody since her early childhood. [6]

Denial is appellant's main plea in exculpation. Denying the charges against him, appellant averred that the cases were filed by AAA in retaliation to his having whipped her for refusing to do an errand on June 13, 1998, the date the alleged rape was committed. Appellant added that it was not possible for him to have raped AAA nor could the alleged rape incidents have happened inside their house - a one-room affair with no division - considering that including himself, there were six (6) of them living thereat, namely FFF, appellant's 15-year old son; GGG who is AAA's six-year old brother; AAA's real father HHH who left for Manila in 1997; AAA herself; and the latter's grandmother BBB. On cross-examination, appellant declared being legally married to BBB. Likewise, he admitted having taken care of AAA since the latter's birth.

Testifying for the defense, BBB, AAA's grandmother and appellant's common-law wife, belied the accusations hurled against her common-law husband and claimed that on June 13, 1998, while she was doing the laundry, appellant who was then sick with influenza, was in bed. While asserting that her common-law husband was examined at a health clinic and issued a prescription for his sickness, BBB, however, could not present the alleged prescription issued to him. She also denied having executed a sworn statement against appellant and professed that her decision to testify in his favor was because there was no truth to AAA's allegations.

The Trial and Appellate Court's Decisions

In a decision^[7] dated March 13, 2002, the trial court, giving more credence to the testimony of AAA and appreciating the special qualifying circumstances of minority and relationship, adjudged appellant guilty beyond reasonable doubt of two (2) counts of **qualified rape** and sentenced him to the extreme penalty of death for each count. The trial court also ordered appellant to indemnify AAA in the amount of P50,000.00 for each count. More specifically, the decision dispositively reads:

ACCORDINGLY, the Court finds accused Rolando Mangubat alias "Lando" GUILTY beyond reasonable doubt, as principal of the crime of RAPE, for TWO (2) COUNTS, defined and penalized in Article 335 of the Revised Penal Code, as amended by Republic Act No. 8353 and hereby sentences him to TWO (2) DEATH PENALTIES.

Additionally, accused is ordered to indemnify [AAA] the amount of Fifty Thousand Pesos (Php50,000.00) for each count and to pay the cost.

SO ORDERED.

When directly elevated to this Court for automatic review in view of the penalty imposed, the case, as earlier stated, was transferred to the CA for intermediate review, whereat it was docketed as *CA-G.R. CR.-HC No. 00186*.

In its **decision of January 23, 2006**, the CA affirmed, with modifications that of the trial court. While sustaining appellant's conviction on both counts, the CA, based on its finding that the marriage between appellant and AAA's grandmother has not been sufficiently proved, ruled that the offense committed is merely **simple rape** and accordingly meted on appellant the penalty of *reclusion perpetua* for each count. The appellate court further ordered appellant to pay AAA P50,000.00 by way of moral damages, in addition to the P50,000.00 civil indemnity awarded by the trial court for each count. We quote the *fallo* of the appellate court's decision:

WHEREFORE, the decision rendered by the Regional Trial Court, Branch 42, Pinamalayan, Oriental Mindoro in Criminal Case Nos. P-5788 and P-5789 on 13 March 2002 is **AFFIRMED**, with the modifications that accused-appellant Rolando Mangubat is found guilty beyond reasonable doubt of two counts of simple rape, for which he is sentenced to suffer the penalty of *reclusion of perpetua* for each count, and to pay private complaint [AAA] the amounts of P50,000.00, as civil indemnity, and P50,000.00, as moral damages, for each count.

SO ORDERED. [8]

The case is again with us in view of the *Notice of Appeal* interposed by appellant from the CA decision .

In its resolution dated July 12, 2006, the Court accepted the appeal and required the parties to file their respective supplemental briefs, if they so desire. In their respective manifestations, the parties waived the filing of supplemental briefs and instead merely adopted their earlier briefs before the CA.

In his Brief, appellant contends that the trial court erred in finding him guilty beyond reasonable doubt of the crime of rape on two counts and in imposing upon him the penalty of death for each count. The People, however, through the Office of the Solicitor General (OSG), submits that the trial court properly convicted appellant of **qualified rape** and correctly sentenced him with death in each count.

The appeal must fail.

In the review of rape cases where, most often than not, the credibility of the victim is in issue, the Court consistently relies on the assessment of the trial court.^[9] It has long been held that the trial court's evaluation of the credibility of witnesses should be viewed as correct and entitled to the highest respect because it has the opportunity to observe the witnesses' demeanor and deportment on the witness box, and the manner in which they give their testimony.^[10] For this reason, the trial

court's findings are accorded finality, unless there appears on record some facts or circumstances of weight and substance which that court may have overlooked, misunderstood or misappreciated and which, if properly considered, would alter the outcome of the case.^[11] None of the exceptions obtain herein.

Undoubtedly, AAA was twice sexually violated by appellant - the first, in 1997 when she was barely ten (10) years old and the other, on June 13, 1998 when she was already eleven (11) years old. Both incidents of rape happened inside their house at barangay Palayan, Pinamalayan, Oriental Mindoro.

In a clear, spontaneous and straightforward manner, AAA narrated in tears her harrowing experience with appellant. We quote from the transcripts of stenographic notes AAA's testimonies in both cases:

In Criminal Case No. P-5788:

"Q - The first to the last time that you were raped by your father in 1997, tell us where was (sic) actually that incident took place?

A - In our house also, sir.

Q - On that particular occasion when you were in Grade IV when you were raped in your house, what was done by your father?

A - The same, sir.

Q - In the year 1997, was there fatal (sic) penetration?

A - On (sic) sir, only one half.

Q - Why do you know only one half (sic) was able to penetrate to your vagina?

A - Because it was so painful, sir.

Q - What did you feel when the penetration reached one half?

A - I felt pain, sir.

Q - What did you do when your father was trying to insert his penis to your vagina?

A - I was crying then because I was apprehensive that he will do what he [had] done to me before.

Q - All in all, how many times were you raped by your father aside from 1997 and when you were in Grade IV?

A - He was always raping me whenever my mother was in Manila, I cannot count."^[12]

In Criminal Case No. P-5789:

"Q - Are you the same [AAA] who filed this case against Rolando Mangubat?

A - Yes, sir.

Q - Why did you file the case against Rolando Mangubat, your *Tatay*?