

THIRD DIVISION

[G.R. NO. 176153, September 21, 2007]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
OLIGARIO BALONZO, ACCUSED-APPELLANT.**

D E C I S I O N

CHICO-NAZARIO, J.:

For review is the Decision^[1] of the Court of Appeals promulgated on 6 October 2006 in CA-G.R. CR-H.C. No. 01295, entitled "*People of the Philippines v. Oligario Balonzo*," affirming, with modification, the Judgment^[2] of the Regional Trial Court of Gumaca, Quezon, Branch 61, in Criminal Case No. 7730-G, finding appellant Oligario Balonzo guilty beyond reasonable doubt of the crime of qualified rape committed against his own daughter, AAA.^[3]

Appellant was charged with rape as defined and punished under Articles 266-A and 266-B of the Revised Penal Code, as amended by Republic Act No. 8353, in relation to Republic Act No. 7610, allegedly committed as follows:

That on or about 8:00 o'clock in the evening of the 14th day of July, 2002, at XXX, XXX, XXX, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, with force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one AAA, a minor, then 15 years of age, against her will.

That the accused Oligario Balonzo is the biological father of the victim who had moral ascendancy over the latter and that the crime was committed inside their dwelling.^[4]

Appellant with the assistance of counsel, entered a plea of not guilty to the charge.^[5] Thereafter, trial on the merits ensued.

AAA testified that she is a daughter of appellant. When she was eleven years old, her mother died. From the time of her mother's death, she lived in the house of her older sister. In 2001, when she was about to graduate from grade school, she moved into appellant's house. She stayed there together with appellant, her older brother BBB, her younger sister CCC, and her younger brother DDD. Appellant and BBB helped each other in sending AAA to school but she only finished second year high school. At nighttime, AAA and CCC slept in the only bedroom of their house, while appellant and her two brothers slept on a mat in their living room.

Apparently, AAA's relationship with appellant was punctuated with bouts of fear. AAA testified that on two separate instances, when appellant was intoxicated, he chased her with a bolo for no reason whatsoever except for the fact that he was inebriated.

Unfortunately for AAA, she would later find out that appellant was capable of inflicting upon her a different form of harm which first manifested itself on the night of 14 June 2002. According to AAA, appellant entered the room she shared with CCC and purportedly warned her not to inform anyone about what he was going to do or else he would kill her siblings. Appellant then held her buttocks and removed her lower apparel. He thereafter went on top of her and inserted his penis into her sexual organ. Neither CCC, who was sleeping beside her, nor DDD, who was sleeping in their living room, was awakened by what was then taking place between AAA and appellant. After this incident, AAA opted to keep her harrowing ordeal to herself.

The revolting misdeed was again performed by appellant on the evening of 14 July 2002. AAA claimed that she was roused from sleep and found appellant removing her shorts. He then caressed her buttocks and inserted his penis into her vagina for which she felt pain. During the whole time that AAA was experiencing such malevolence, she was wearing her upper clothes while appellant was fully naked. She did not offer any resistance against appellant's bestial attack for she was afraid of him. Eventually, however, she was able to summon the courage to reveal her plight to BBB who, in turn, helped her initiate the criminal complaint against appellant.

During AAA's cross-examination, counsel for appellant was able to draw out from her the fact that darkness enveloped their house during the times when she was allegedly raped by appellant. Their house did not have electricity and they were using only a gas lamp which was not lit during those nights. Despite this, she insisted that appellant was the one who raped her for she was familiar with his physical features such as the texture of the hair on his head, his smell, and the coarse hair on his upper lip. In the course of her cross-examination, AAA could no longer restrain herself and started crying.^[6]

The prosecution presented, as its second witness BBB, who stated that on 24 September 2002, AAA disclosed to him that she was molested by their father, appellant herein. He then accompanied AAA to the authorities to report the matter.

The defense presented only one witness who was none other than appellant himself. He admitted before the court that AAA was indeed his daughter but denied that he had raped her. According to him, prior to 14 July 2002, he maintained a harmonious relationship with AAA and the only reason that the latter may hold a grudge against him was for the time when he disallowed her to go out with her friends. He also described AAA and BBB as liars for having accused him of rape.

On 23 May 2005, the trial court promulgated its decision finding appellant guilty beyond reasonable doubt of the crime of qualified rape. The dispositive portion of the decision reads:

WHEREFORE AND IN VIEW OF ALL THE FOREGOING, the court finds accused OLIGARIO BALONZO guilty of the crime of Qualified Rape defined and punished under Articles 266-A and 266-B of the Revised Penal Code as amended by R.A. 8353 and he is hereby sentenced to suffer the penalty of DEATH. He is further ordered to pay the amount of Php75,000.00 as civil indemnity, Php50,000.00 as moral damages and Php25,000.00 as exemplary damages.^[7]

The trial court brushed aside appellant's defense which was based mainly on denial. It described as "steadfast" AAA's testimony relating to the rape perpetrated upon her by appellant^[8] whom she identified in open court.

The records of the case were then forwarded to the Court of Appeals pursuant to this Court's holding in *People v. Mateo*,^[9] which allows for the intermediate review by the Court of Appeals of cases where the penalty imposed is death, *reclusion perpetua* or life imprisonment.^[10]

On 6 October 2006, the appellate court rendered the now assailed decision which affirmed, with modification, the judgment of the trial court, thus:

WHEREFORE, in view of the foregoing, the assailed decision of the Regional Trial Court is hereby AFFIRMED with MODIFICATION in that herein accused-appellant is sentenced to suffer the penalty of *reclusion perpetua*, in lieu of the supreme penalty of death.^[11]

In modifying the decision of the trial court, the Court of Appeals took cognizance of the effectivity of Republic Act No. 9346, otherwise known as "An Act Prohibiting the Imposition of Death Penalty in the Philippines."

Appellant assigns the following sole error:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF QUALIFIED RAPE AND IN IMPOSING UPON HIM THE SUPREME PENALTY OF DEATH.^[12]

Appellant insists that the prosecution failed to present sufficient evidence to convict him. He also claims that the trial court erred in putting premium on AAA's testimony since her testimony was so inconsistent with common experience. For one, appellant points out that per AAA's admission, she did not offer any resistance to his alleged sexual advances despite the fact that he was supposedly unarmed at that time. He argues that AAA could have easily shouted for help considering that her siblings were sleeping nearby.^[13]

Appellant also draws our attention to the lack of medical finding to support AAA's accusation. He asserts that while it was alleged that AAA underwent physical examination, the medical certificate that would support said claim was not presented before the court. Similarly, the doctor who supposedly conducted the said examination was not presented by the prosecution.^[14]

As regards the age of AAA, appellant claims that the prosecution failed to show proof that she was really a minor at the time of the alleged rape for she presented a mere photocopy of her birth certificate and not the original thereof.^[15]

We are not persuaded.

In determining the innocence or guilt of the accused in rape cases, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for

the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.^[16]

Resultantly, the primordial consideration concerning the crime of rape is the credibility of witnesses.^[17] The familiar rule is that, in passing upon the credibility of witnesses, the highest degree of respect must be afforded to the findings of the trial court unless there is proof of its misappreciation of evidence.^[18] Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial court stood in a much better position to decide the question of credibility.^[19]

In this case, we have thoroughly reviewed the testimony of AAA and, we cannot but join the trial court and the Court of Appeals in their conclusions that she was indeed raped by appellant. In a clear and unequivocal manner, she recalled her ordeal as follows:

Q What were your brother and sister doing at that time 8:00 P.M. of July 14, 2002?

A They were soundly sleeping.

Q And you said that you were raped by your father on July 14, 2002 at about 8:00 P.M. while your brother and sister were sleeping soundly, what did your father do to you?

A He removed [m]y shorts, he held by buttocks and inserted his penis into my vagina.

Q When he inserted his penis in your vagina, were you wearing panty?

A None, Madam.

Q How about your father, was he wearing brief or shorts at that time when he inserted his penis?

A None, Madam.

Q How about your upper clothes, were you wearing your upper clothes?

A Yes, Madam.

Q At the time that he inserted his penis into your vagina, were you wearing your upper clothes?

A Yes, Madam.

Q How about your father?

A None, Madam.

Q Your father was naked at that time?

A Yes, Madam.

Q You said that your father inserted his penis into your vagina, what did you feel when he inserted his penis?

A I felt pain.

Q And what did you tell your father when you felt pain?

A None, Madam.

Q Why did you not stop your father?

A Because I was afraid of him.

Q Why were you afraid of him?

A Because he will hurt me.

Q Were there previous incidents that you were hurt by your father?

A Yes, Madam.

Q How did he hurt you?

A I was about to bump the window one time when he chased me every time he was drunk.

Q How many times did your father chase you with a bolo whenever he is drunk?

A About two times.^[20]

Even under the rigorous cross-examination conducted on her by appellant's counsel, AAA remained consistent with her narration bolstering her charge against appellant. To borrow the words of the Court of Appeals –

x x x Jurisprudence holds that when a victim's testimony is straightforward, candid and unflawed by inconsistencies or contradictions in its material points, the same must be given full faith and credit. It is also a matter of judicial cognizance that the spontaneous crying of the victim during her testimony is evidence that speaks well of her credibility. A perusal of the transcript of stenographic notes forming part of the case records evinces the consistency and clarity of (AAA's) testimony.^[21]