

THIRD DIVISION

[G.R. NO. 170840, November 29, 2006]

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. GREGORIO CARPIO @ "GORIO," APPELLANT.

DECISION

TINGA, J.:

For review before the court is the Decision^[1] of the Court of Appeals affirming with modification the Judgment^[2] dated 6 August 1997 of the Regional Trial Court (RTC) ^[3] Branch 32, of Agoo, La Union, finding appellant Gregorio Carpio @ Gorio guilty beyond reasonable doubt of two counts of the crime of statutory rape and sentencing him to suffer the penalty of reclusion perpetua in each case.

On 4 March 1994, appellant was charged with two counts of rape in two (2) separate Informations^[4] filed by 2nd Assistant Provincial Prosecutor Rogelio C. Hipol, the texts of which read:

Criminal Case No. A-2758

That sometime in the year 1991, when the aforementioned [AAA]^[5] was still 9 years old, in the Municipality of Rosario, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by using force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the aforementioned offended girl against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.

Criminal Case No. A-2759

That sometime in the month of June to the middle of August, [sic] 1993, when the aforementioned [AAA] was still 10 or 11 years old, in the Municipality of Rosario, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by using force and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of the aforementioned offended girl and against her will and without her consent, to her damage and prejudice.

CONTRARY TO LAW.

When arraigned, appellant pleaded not guilty to both charges.^[6] Trial promptly ensued thereafter. The prosecution presented the following witnesses: (1) AAA, the

minor victim; (2) BBB,^[7] mother of the victim; and (3) Dr. Elflida Bautista, Medico-Legal Officer II of the Doña Gregoria Memorial Hospital, Agoo, La Union. The prosecution sought to establish the following facts:

AAA is the natural child of BBB, born on 20 October 1982.^[8] At the time of her pregnancy and after giving birth, BBB stayed with her aunt Gloria Carpio and the latter's husband Gregorio, appellant herein. The Carpio spouses wanted to adopt AAA, but BBB did not consent to such. When she was capacitated to return to work, BBB entrusted her child to the care of her mother CCC,^[9] and not the Carpio spouses.^[10]

The sexual assault on AAA began sometime in 1991, when the child was nine (9) years old and a Grade 2 pupil at Damortis Elementary School in Nagtagaan, Rosario, La Union.^[11] She was living with her grandmother CCC in Nagtagaan, about 25 meters away from the house of appellant. She lived there and not with her mother because Nagtagaan was nearer her school.^[12]

Around after lunch on the day she was raped, the appellant summoned AAA from her home to remove his earwax.^[13] He brought her to a *nipa* hut, about only six (6) meters away from his house.^[14] After removing the earwax of appellant, he brought her to the room of his house. The appellant locked the door, lay the victim on the bed and undressed her. Thereafter, he removed her panties and forcibly inserted his finger and penis in her vagina. The victim cried in pain, but every time she would cry out "*Mama*," the appellant would spank or pinch or slap her.^[15]

When the appellant had finished ravishing the victim, he dragged her to the bathroom to perform *fellatio* on him. AAA refused. She was later allowed to go home, but not before the accused threatened her to keep silent about what had happened.^[16] When AAA went home, she did not report the incident to her grandmother or to anyone else.

According to AAA, the abuse continued until 1993. In the three (3) years that AAA was repeatedly raped by the appellant, she never told anyone of her ordeal.^[17] According to AAA, the rape would always occur after lunch, when the appellant's wife and children were not around.^[18] She was afraid to tell her mother out of fear that she might be castigated or reprimanded.^[19]

On 25 December 1993, BBB invited Julieta Flores,^[20] a *kumadre* and neighbor in Nagtagaan, to join them for Christmas celebrations in their house in Agoo. On the same day, AAA was with CCC in Nagtagaan for festivities thereat. It was on this occasion that BBB learned from Julieta Flores the perfidious acts committed by the appellant. Flores told her that sometime a few years back, she had seen appellant drag AAA to a dark place behind his house. Although it was almost dusk, she could see that appellant kissing AAA. When she saw them in that position, she made a coughing sound which prompted the appellant to look back and bring AAA to the front of his house.^[21]

BBB was unnerved by her talk with her *kumadre*. Thus, on 27 December 1993, she went to Nagtagaan to see her daughter. When she asked her daughter about what

she had heard, it was then that AAA broke down and told her mother about what appellant had been doing to her.^[22]

The following day, on 28 December 1993, BBB took AAA to the Doña Gregoria Memorial Hospital.^[23] The medical examination conducted on AAA revealed that AAA's genitalia bore reddish discoloration, with "old hymenal lacerations at 9 and 3:00 o'clock positions."^[24]

Dr. Elflida Bautista (Dr. Bautista), who examined AAA, testified that she examined AAA when the child was just eleven (11) years old and found old lacerations of the hymen which could have been obtained two (2) months to two (2) years prior to the examination. Dr. Bautista opined that the two lacerations she found on the hymen of AAA are not normal to an 11-year old child whose hymen should still be intact.^[25]

In his defense, appellant, on the other hand, unsurprisingly espoused an altogether different scenario. He presented the following witnesses to bolster his claims: (1) DDD,^[26] great-grandmother of AAA and mother-in-law of the appellant; (2) Cipriano Lagao, teacher at Damortis Elementary School; (3) Gloria Carpio, wife of appellant and half-sister of CCC; (4) Lydia Mapalo, friend of appellant; (5) Bartolome De Mesa, owner of a cockpit in Aringay, La Union; (6) Santiago Reyes, manager of a cockpit in Sto. Tomas, La Union; and (7) EEE,^[27] sister of BBB. Appellant likewise testified on his behalf.

The defense of appellant consisted of denial and alibi. He asserted that in 1991, AAA was staying in the house of Gloria Dumo, sister of BBB, and the former's husband Alfredo Dumo, in Damortis, Sto. Tomas, La Union. He further maintained that AAA stayed with the Dumo couple from the time she was in Grade 1 until Grade 4.^[28] Appellant denied that he raped AAA in 1991 in their *nipa* hut and house in Nagtagaan.^[29]

Appellant endeavored to prove that he was a *sentenciador* in four (4) cockpits within the La Union area, presenting several certifications to that effect. He explained that he would report for work between 9 o'clock and 9:30 in the morning and would leave work at 5 o'clock in the afternoon.^[30] Therefore, although AAA would frequently visit his house from 1991 to 1993 to play with his daughter, he was never home or that he would not talk to her and leave the house.^[31] His duty at the cockpits would be from Thursday to Sunday. On Mondays to Wednesdays, the appellant claims to have been in the house of Gregorio and witness Lydia Mapalo where they played *mahjong*.^[32] This was corroborated by the testimony of appellant's wife, Gloria Carpio, who averred that whenever she would see AAA, her husband would either be playing *mahjong* or working at the cockpit. Moreover, although she was a barangay official, her work did not require her to be constantly present at the barangay hall. Thus, she would be home everyday to care for the house and her small child.^[33]

Appellant theorizes that the charges against him might have been propelled by the quarrel between the victim's mother and his wife. This alleged quarrel happened more than a decade past, sometime in 1980, with BBB purportedly uttering the words, "*I will make an accusation against your husband.*"^[34]

Appellant further implicates another relative, Alfredo Dumo, as the possible perpetrator of the rapes imputed to him. Alfredo Dumo is the husband of BBB's sister, and an uncle by affinity of AAA. Appellant claims that after he was apprehended and detained in the provincial jail of San Fernando, La Union,^[35] he was visited by his mother-in-law, DDD, who then told him that it was Dumo who had raped AAA.^[36] This claim was attested to by DDD in her testimony before the trial court. She narrated that after she was hospitalized, she stayed in the house of CCC for three (3) months in 1993.^[37] During one of her stays in the house of CCC, at around 12 o'clock in the evening, she witnessed Alfredo Dumo, in his briefs, bending and walking towards AAA, who was asleep in the sala of the house with CCC and the former's cousin. Allegedly, Alfredo went under AAA's blanket, on top of the victim and started the "push and pull" movement.^[38]

Notwithstanding, the trial court found appellant guilty of rape on both counts and sentenced him in each case to *reclusion perpetua*, to indemnify the victim for damages in the amount of P50,000.00, and to pay costs of the proceedings.^[39]

Conformably with this Court's decision in *People v. Mateo*,^[40] appellant's appeal by way of automatic review was transferred to the Court of Appeals. On 17 October 2005, the appellate court rendered its decision affirming the appellant's conviction, but with modification as to damages awarded to the private complainant. The dispositive portion of the said decision states:

"WHEREFORE, the decision of the Regional Trial Court of Agoo, La Union, in Criminal Case Nos. A-2758 and A-2759, finding accused-appellant Gregorio Carpio guilty beyond reasonable doubt of the crime of statutory rape and sentencing him to suffer the penalty of *reclusion perpetua* in each case is hereby AFFIRMED with MODIFICATION that accused-appellant is ordered to pay P50,000.00 as civil indemnity and another P50,000.00 as moral damages in each case.

SO ORDERED."^[41]

Appellant maintains that the court *a quo* gravely erred: (1) in giving weight and credence to the incredible and inconsistent testimonies of the prosecution witnesses; and (2) in convicting the accused-appellant of the crime charged despite the fact that his guilt was not proven beyond reasonable doubt.

In the Appellant's Brief,^[42] appellant reiterates his innocence of the crimes charged. He argues that in rape cases, the victim's testimony must be clear, convincing and free from material contradictions.^[43] Contrariwise, appellant maintains that private complainant's testimony lacks elements of truthfulness.

Particularly, appellant points out that AAA's "recollection of her ordeal in the hands of the accused-appellant and with her uncle Alfredo Dumo is very uniform and without difference in the way the alleged acts were committed."^[44] He underscores the fact that the crimes were alleged in the Informations to have been committed sometime in the year 1991 and sometime in the month of June to the middle of August 1993, yet private complainant could not even remember the precise dates

when the dastardly acts were committed.^[45]

Moreover, appellant asserts that while AAA readily revealed to her mother that appellant allegedly raped her, she was afraid to reveal her same experience with Alfredo Dumo.^[46]

It is apparent that appellant advocates that the actual violator of AAA was not himself, but Alfredo Dumo. He finds it significant to point out that his wife and Alfredo's wife are both called Glory. Appellant seeks to cast doubt on the credibility of the alleged eyewitness account of Julieta Flores because in her testimony, BBB confirmed that the exact words said to her by the former was that she "saw AAA and the husband of Glory behind the house."^[47] He likewise capitalizes on the failure of the prosecution to put Julieta Flores on the witness stand.

Any review of a rape case begins with the settled reality that accusing a person of this crime can be done with facility. Thus, the testimony of the complainant must always be scrutinized with great caution. It may not be easy for her to prove the commission of rape; yet it is even more difficult for the accused, though innocent, to disprove his guilt. This principle must be viewed in relation to that which holds that the evidence for the prosecution must stand or fall on its own merits; it cannot draw strength from the weakness of the evidence for the defense.^[48]

After a judicious and painstaking study of the arguments of the parties and of the records *a quo*, we reach the inescapable conclusion that the prosecution has effectively established its case and as thus, appellant's contentions deserve scant consideration.

Findings of facts of trial courts carry great weight and will not be disturbed on appeal unless shown to be contrary to facts or circumstances of weight and substance in the record. For generally, the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by trial courts, because of their unique opportunity to observe the witnesses and their demeanor, conduct and attitude, especially under cross-examination.^[49] In this case, we find no cogent reason to depart from this settled rule. The evidence fully sustains the trial court's findings and conclusions.

AAA was all of nine (9) years old when her sufferings began. It is ludicrous to believe that a child of such tender years would concoct such grave accusations against her granduncle if the same were not true. Even more, it is preposterous to imagine that a child of her age would already have such intimate knowledge of the sexual acts she described in her testimony, with such clarity and coherence, unless the same were borne of personal experience.

During direct examination, AAA recounted the crime against her in particular detail, and with obvious distress testified that:

x x x x

Q When you were still in Grade 4[,] what did the accused Gregorio Carpio do to you?

A He called for me to remove his earwax from his ear and