

SPECIAL FOURTH DIVISION

[CA-G.R. CR-HC NO. 05996, May 29, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODOLFO BLEN Y PALULAN, ACCUSED-APPELLANT.**

D E C I S I O N

TOLENTINO, A.G., J.:

On appeal is the decision^[1] dated February 1, 2013 of the Regional Trial Court (RTC) of Pasig City, Branch 70 finding the accused-appellant guilty beyond reasonable doubt of the crime of rape.

The relevant antecedents of the case are as follows:

Rodolfo Blen y Palulan (accused-appellant) was charged with rape in an Information,^[2] which reads:

“That on or about the 3rd day of August 2009, in the City of Taguig, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, and intimidation did, then and there willfully, unlawfully and feloniously have sexual intercourse with AAA,^[3] a mentally and physically deficient person who cannot give her consent to have carnal knowledge or to physically defend herself, the crime having been attended by the qualifying circumstance that the offender knew of the said victim's disability, emotional disorder and/or physical handicap, to the damage and prejudice of the said victim.

CONTRARY TO LAW.”

Upon arraignment, the accused-appellant pleaded not guilty to the offense charged.^[4] Thereafter, trial ensued.

The prosecution presented the following witnesses, to wit: 1) AAA, and 2) BBB.

1) AAA testified that on August 3, 2009, she went out to buy coffee from a store beside their house; that while she was buying coffee, the accused-appellant pulled her hand; that she was not able to fight back; and that the accused-appellant took her to his bedroom where he removed her shorts and had sexual intercourse with her.

AAA demonstrated how the accused-appellant opened her legs and placed his hands on her mouth. AAA further said that the accused-appellant inserted his penis in her vagina; that she felt pain because it was her first time to have sexual intercourse; that, after having intercourse with her, the accused-appellant warned AAA not to tell her sisters or else he will kill her, and gave AAA P20.00; and then AAA went home afterwards.

On cross-examination, AAA testified that her family learned of the incident because her granddaughter, BBB, saw them; that her sister took the P20.00; and that she and the accused-appellant are neighbors but not friends.

2) BBB, 12 years old, testified that she is the granddaughter of AAA; that on August 3, 2009 at around 8:00 o'clock in the morning, she went out to buy coffee from the store of the accused-appellant; that she knocked on the store but nobody answered; that she peeped into a hole and saw that the accused-appellant and AAA are on top of each other and having sex; that the accused-appellant was forcing AAA to have sex with him; that she only peeped through the hole for about a minute because her mother called her; that she told her mother to go to the store of the accused-appellant; that the accused-appellant and AAA came out; and that AAA was screaming at that time.^[5]

On the other hand, the accused-appellant testified that AAA is his neighbor; that he sees AAA everyday; that, on August 3, 2009 at around 8:30 o'clock in the morning, he was with his wife arranging the vegetables; and that nothing unusual transpired during that time.^[6] He further testified that AAA went to his house on that day to ask for some coffee, rice and viand; that, while AAA was sipping her coffee, he left to fetch water from a well, which was just 3 meters away from his house to take a bath; that, after taking a bath, he entered the house and saw AAA already inside their bedroom and searching for something; that he asked AAA what she was doing but the latter did not answer; that AAA was startled and scared when she saw him enter the bedroom; and that, at around 2:00 o'clock in the afternoon, he was arrested by the barangay tanod who brought him to the police station; that he was detained because he was accused of raping AAA; that AAA is a sister of the barangay tanod; that they merely wanted to extort money from him but he did not have any money so they filed the case against him; and that he has no idea as to how much money that they are asking from him.^[7]

On February 1, 2013, the RTC rendered a decision, the relevant portions of which read:

"The court has observed that the private complainant AAA was suffering from mental disability. She likewise did not undergo any sort of formal education. This sordid state was apparent when she gave her testimony in open court. There is likewise no question that she is physically handicapped. She limps and one of her hands is sort of impaired. But despite those deficiencies, physical and mental, the private complainant was able to give her testimony in a convincing and consistent manner. She was straightforward in her narration.

'x x x (I)n resolving rape cases, the victim's credibility becomes the primordial consideration. If a victim's testimony is straightforward, convincing and consistent with human nature and the normal course of things, unflawed by any material or significant inconsistency, it passes the test of credibility and the accused may be convicted solely on the basis thereof.'

The victim's testimony was further corroborated by Marlita Calderon. Marlita likewise appears to be a very credible witness. She has the character of the innocent youth. She is merely twelve years old and has

given her testimony without any bias and ill-motive. She had no reason to lie.

On the other hand, the accused offers only for his defense his bare denials. 'Denial like alibi is inherently weak defense and cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime. As between a categorical testimony which has a right of truth, on one hand, and a bare denial on the other, the former is generally held to prevail.'

The defense likewise exerted efforts to show that this case of rape was filed with the end in view of extorting money from the accused. The accused testified that the reason why this case of rape was filed against him is because they wanted to extort money from him. But since he did not have enough money, he was not able to meet the demand. But even the accused did not give a clear account on this. Instead, he gave contradicting statements, In his direct examination, the accused testified, thus:

'Q – What do you think was the reason why they filed a case against you, then, Mr. Witness?

A – They want to extort money from me, ma'am but I have no money to give him.

Q – How can you say that they would like to extort money from you?

A – Because I heard them talking that I will pay everything that they have spent, ma'am.

Q – Do you have any idea how much they would be asking from you?

A – I don't know the amount ma'am.'

But on cross-examination, the accused testified, thus:

'Q – But when you were asked, if you know how much they were asking from you, you said no.; yes or no?

A – No sir.

Q – So how did you come to that conclusion that they were extorting money from you if they were not asking any amount?

A – Because they were telling then One Hundred Thousand Pesos, ma'am.

Q – So now you are changing your answer that you know, a while ago you said you have no idea?'

Very confusing, It only served to further erode the accused's credibility.

By and large, AAA's and BBB's testimonies bear the hallmarks of truth. Their testimonies are 'spontaneous, convincing and highly credible.' They were able to prove that sometime in the morning of August 3, 2009 in the City of Taguig, the accused, Rodolfo Blen, with the use of force and intimidation was able to have sex with the private complainant the accused knowing fully well that the offended party was suffering from mental disability and physical handicap at the time of the commission of the crime.

WHEREFORE, in view of all the foregoing, the Court hereby finds RODOLFO BLEN GUILTY beyond reasonable doubt of the crime of rape defined and penalized under [Art. 266-a:1 (a) and (d) in relation to Art. 266-B (10) both of the Revised Penal Code as amended by Republic Act 8353 and is further ordered to indemnify the private complainant the sums of P50,000.00 as civil indemnity and P50,000.00 as moral damages.

SO ORDERED.”^[8]

Aggrieved, the accused-appellant interposed the instant appeal raising the sole Assignment of Error, to wit:

“THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE DESPITE THE PROSECUTION'S FAILURE TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE IN HIS FAVOR.”^[9]

THE APPEAL IS NOT MERITORIOUS.

The accused-appellant basically reiterates his defenses of denial and alibi, i.e. that he did not rape the victim and that he left AAA and took a bath; and that, upon returning, he saw AAA rummaging their closet. The accused-appellant alleged that AAA was startled when he confronted and asked AAA as to what she was doing but AAA simply left.

Likewise, the accused-appellant questions the credibility of the prosecution witnesses. The accused-appellant alleges that AAA is suffering from mental disability and emotional disorder, and that AAA does not even know her own age and whether she went to school or not. He likewise avers that, if BBB indeed saw him raping AAA, BBB should have shouted at him to stop for it is the normal reaction in such a situation but BBB did not. Instead, BBB had to ask the help of her mother to stop the alleged rape. The accused-appellant also assails the medico-legal report because it was not properly identified by the medico-legal officer.

Thus, the accused-appellant contends that his guilt beyond reasonable doubt was not established by the prosecution.

We are not persuaded.

First, it is well-settled that the defenses of denial and alibi are inherently weak defenses. Such defenses cannot prevail over the positive identification by the victim.^[10] In the case of ***People of the Philippines vs. Castillo***, the Supreme Court held:

“Denial and alibi are inherently weak defenses and, unless supported by clear and convincing evidence, the same cannot prevail over the positive declaration of the victim, who in a simple and straightforward manner, convincingly identified the appellant who sexually molested her.”

In the case at bench, AAA positively identified the accused-appellant as her rapist, viz:

“Q Who had sexual intercourse with you, Madam Witness?