

TWENTY-SECOND DIVISION

**[CA-G.R. CR HC NO. 00970-MIN, December 09,
2014]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RENANTE C. MANDELMA, ACCUSED-APPELLANT.**

REPORT

PEREZ, J.:

This is an Appeal from the Decision^[1] of the Regional Trial Court of Malaybalay, Branch 6, dated 1 June 2010, finding all the accused Gabriel Mandelma y Mandin, Renante Mandelma y Casa and Fernando Wado y Lazaga guilty beyond reasonable doubt for the crime of rape defined under Article 266-A of the Revised Penal Code (RPC) as amended by Republic Act No. 8353. Among the three accused, only Renante Mandelma y Mandin (accused-appellant) filed this appeal.

Accused-appellant was originally charged with Rape in two Informations docketed as Criminal Cases No. 12720-02 and 12721-02, to wit:

For Criminal Case No. 12720-02:

That on or about the 30th day of September 2002, at dawn, at Barangay Old Kibawe, province of Bukidon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, prompted by lewd design with the use of force and intimidation on the person of SONIA ABEGANDO, a twenty-one (21) year old woman, then and there willfully, unlawfully and criminally brought the latter at Old Kibawe Elementary School Stage and while thereat, accused RENANTE MANDELMA y CASAS took off her panty and henceforth, when SONIA ABEGANDO was naked, accused GABRIEL MANDELMA y MANDIN @ LICLIC forcibly inserted his penis into the vagina of SONIA ABEGANDO and have sexual intercourse with the latter, while the other two (2) accused, RENANTE MANDELMA y CASAS and FERNANDO WADO y LAZAGA helped in one way or another for the satisfaction of the lustful desire of GABRIEL MANDELMA y MANDIN @ LICLIC, against the will of SONIA ABEGANDO, to the damage and prejudice of SONIA ABEGANDO in such amount as may be allowed by law.

Contrary to and in violation of Article 266-A of the Revised Penal Code as amended by R.A. 8353.

For Criminal Case No. 12721-02:

That on or about the 30th day of September 2002, at dawn, at Barangay

Old Kibawe, province of Bukidon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, prompted by lewd design with the use of force and intimidation on the person of SONIA ABEGANDO, a twenty-one (21) year old woman, then and there willfully, unlawfully and criminally brought the latter at Old Kibawe Elementary School Stage and while thereat, accused RENANTE MANDELMA y CASAS took off her panty and henceforth, when SONIA ABEGANDO was naked, accused GABRIEL MANDELMA y MANDIN @ LICLIC forcibly inserted his penis into the vagina of SONIA ABEGANDO and have sexual intercourse with the latter, while the other two (2) accused, RENANTE MANDELMA y CASAS and FERNANDO WADO y LAZAGA helped in one way or another for the satisfaction of the lustful desire of GABRIEL MANDELMA y MANDIN @ LICLIC, against the will of SONIA ABEGANDO, to the damage and prejudice of SONIA ABEGANDO in such amount as may be allowed by law.

Contrary to and in violation of Article 266-A of the Revised Penal Code as amended by R.A. 8353.

During arraignment on 4 May 2010, appellant pleaded "not guilty" to the offenses as charged. The two cases were consolidated, and joint pre-trial and trial ensued thereafter.

The Facts

Private complainant Sonia Abegando (Sonia) testified that on 30 September 2002, at more or less 4:30 o'clock at dawn, while she was on her way home to the house of her employer, the three accused Gabriel Mandelma (Gabriel), Renante Mandelma (Renante) and Fernando Wado (Fernando) followed her, held her hand and pulled her towards the stage of the school at Old Kibawe. At the stage of Kibawe Elementary School, accused Fernando held her arms and accused-appellant Renante held her legs, while co-accused Gabriel was on top of her. Gabriel started raping her by pumping up and down, and inserting his penis to her vagina. She could not shout for help because they were threatening her with a gun. When she was about to get up, she was prevented by Renante and Gabriel boxed her. Gabriel carried her and made her lie down on the floor. Thereafter, her sister Hermigilda and a certain Gaga Labawan (Gaga) caught up with them, and the three accused ran away.^[2]

Sonia's testimony was corroborated by four (4) other witnesses which include Hermigilda Abegando, Victor Limit, Rolando Paeg and Dr. Helen Rose P. Tubog.

Hermigilda Abegando (Hermigilda), the sister of Sonia, recalled that at around 4:00 o'clock early dawn on 30 September 2002, she noticed that Sonia was no longer in the disco dance. When she and her companion tried to look for her, she saw the three accused in the school stage and heard the voice of her elder sister Sonia. They sought help from bantay bayan Victor Limit who then accompanied them to the place where the incident took place.^[3]

Victor Limit (Victor) testified that at around 4:00 o'clock early dawn, Hermigilda and Gaga asked help from him and they proceeded to the elementary school of Kibawe, particularly at the stage where he saw a man wearing a brief and two men fleeing

away from the incident towards the sugarcane plantation. When he got near the stage, he saw Sonia crying and she told him that she was raped by the three accused.^[4] Rodolfo Paeg (Rodolfo), the barangay captain of Old Kibawe, testified that together with two police officers and one barangay tanod, they roamed around the sugarcane plantation because of the information they got that the accused ran towards that direction. He was then told that the three accused were apprehended on that same day.^[5]

All the accused including appellant herein denied participation in the commission of the two counts of rape.

On 4 June 2010, the lower court rendered a Decision^[6] finding all the accused guilty beyond reasonable doubt of rape. The dispositive portion of the Decision reads:

WHEREFORE, Judgment is issued finding accused Gabriel Mandelma y Mandin Alias Liclic, Reynante Mandelma y Casas, Fernando Wado y Lasaga guilty beyond reasonable doubt of the crime of Rape and imposes upon each of them, for Criminal Case No. 12720-02, the penalty of reclusion perpetua and to pay the victim the sum of P75,000.00 for moral damages, P75,000.00 civil damages and P25,000.00 actual damages.

The second information for Criminal Case No. 12721-02 is dismissed for failure to allege the acts and omissions committed after the first rape.

They shall serve the penalty in the national penitentiary of Davao penal colony.

SO ORDERED.

Aggrieved, appellant raises before Us the following assignment of errors:

THE LOWER COURT ERRED IN ITS FAILURE TO APPRECIATE AND CONSIDER THE AFFIDAVIT OF DESISTANCE DULY EXECUTED BY PRIVATE COMPLAINANT; AND

THE LOWER COURT ERRED IN CONVICTING ACCUSED RENANTE MANDELMA, GIVING CREDENCE TO THE INCREDIBLE TESTIMONIES OF PRIVATE COMPLAINANT WHICH IS INCONSISTENT AND IRRECONCILABLE WITH THE PROSECUTION'S WITNESS TESTIMONIES.

The Court's Ruling

The appeal is without merit.

Appellant herein, along with two other accused, were charged and convicted with the crime of rape under paragraph 1(a) of Article 266-A of the Revised Penal Code which states:

ART. 266-A. Rape; When and How Committed. - Rape is committed -

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat or intimidation;

xxx

Accordingly, the elements of rape under par. 1(a) of Art. 266-A of the Code are the following: (1) that the offender is a man; (2) that the offender had carnal knowledge of a woman; and (3) that such act is accomplished by using force or intimidation.

After a careful perusal of the records, this Court is convinced by the evidence forwarded by the prosecution that accused-appellant is guilty of the crime of rape beyond reasonable doubt.

Note worthy it is that 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.^[7] Considering that rape is essentially committed in relative isolation or secrecy, it is most often only the victim who can testify with regard to the fact of forced coitus.^[8]

Sonia was able to give a detailed and clear narration on how the accused succeeded in raping her. She firmly testified that accused Gabriel had carnal knowledge of her through force or intimidation with the help of appellant Renante and the other accused Ferdinand. The pertinent portions of her testimony, We quote:

Q: Now Sonia, while on your way home to the house of your employer, what happened, if there was any?

A: I was followed by the three.

Q: Who were those three that were following you?

A: Liclic Mandelma, Renante Mandelma and Fernando Wado.

Q: They were the same accused whom you just pointed awhile ago.

A: Yes.

Q: Now, when you were followed by these three, what happened next, if any?

A: They held my hand and pulled me towards the stage of the school at Old Kibawe.

Q: Now, were you able to arrive at the stage of Kibawe

Elementary School?

A: Yes.

Q: Who of the three pulled you?

A: Renante Mandelma.

Q: When you were already at the stage of Kibawe Elementary School, what happened next, if any?

A: Renante then removed my clothing and my pants.

Q: You were wearing then a denim pants during that time?

A: Yes.

Q: After Renante removed your pants, what happened next, if any?

A: He also removed my panty.

Q: After your panty was removed, what happened next, if any?

A: I was then made to lay down on a concrete.

Q: Who made you lay down to the concrete?

A: Liclic Mandelma.

Q: You mean this Gabriel Mandelma alias Liclic?

A: Yes.

Q: After you were already lying down on a cement floor, what happened next, if any?

A: He then did something to me.

Q: Who did something to you?

A: Liclic.

Q: Meaning Gabriel Mandelma?

A: Yes.