

THIRD DIVISION

[G.R. No. 189847, May 30, 2011]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ERNESTO
MERCADO, APPELLANT.**

R E S O L U T I O N

BRION, J.:

We resolve in this Resolution the appeal from the July 14, 2009 decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03120. The CA affirmed with modification the decision^[2] of the Regional Trial Court (RTC), Branch 32, Agoo, La Union, finding Ernesto Mercado (*appellant*) guilty beyond reasonable doubt of two (2) counts of rape, and sentencing him to suffer the penalty of *reclusion perpetua* for each count.

AAA^[3] is the fifth child of the appellant and BBB. Sometime in 2000, BBB (AAA's mother) and CCC (AAA's sister), went to Ambalite, Pugo, La Union. AAA, her two other siblings, and the appellant, were left in their house at Rosario, La Union. At around 8:00 a.m., and while AAA was doing her school assignment, the appellant entered her room and sat in a corner. Afterwards, the appellant sat beside AAA, kissed her on the right cheek, and removed her shorts and panty. The appellant threatened to kill AAA if she shouted. The appellant then removed his shorts and briefs, went on top of AAA, and inserted his penis into her vagina.^[4]

AAA also recalled that at around 2:00 p.m. of July 26, 2000, while BBB was at the market and AAA's siblings were at their aunt's house, the appellant again sexually abused her.^[5]

Sometime in 2003, AAA and the appellant were cleaning a banana grove when the latter told her to take a rest. AAA did as instructed, and while she was resting, the appellant embraced her and kissed her on the cheek and lips. The appellant removed AAA's clothes and panty, and laid her on the grass. The appellant took off his own shorts and briefs, went on top of AAA, and inserted his penis into her vagina.^[6]

According to AAA, the appellant sexually abused her five (5) times from 2000 to 2003.^[7]

Dr. Sheila Fe (*Dr. Fe*), a physician at the Rosario District Hospital, conducted a medical examination of AAA on August 3, 2003, and found healed lacerations at 3 and 9 o'clock positions in her private part.^[8]

The prosecution charged the appellant with three (3) counts of rape before the RTC.^[9] The appellant denied the charges against him, and claimed that his brother was

the one who raped AAA.^[10]

The RTC found the appellant guilty beyond reasonable doubt of two (2) counts of rape, and sentenced him to suffer the penalty of *reclusion perpetua* for each count. It also ordered him to pay AAA P75,000.00 and P50,000.00 as moral damages and civil indemnity, respectively, for each count.^[11]

The CA, in its decision of July 14, 2009, affirmed the RTC decision with the following modifications: (1) the civil indemnity was increased to P75,000.00; and (2) the appellant was further ordered to pay the victim P25,000.00 as exemplary damages.^[12]

The CA held that AAA positively identified the appellant as the person who had sexually abused her on different occasions. AAA was firm in her narration, and did not waver despite the rigid cross examination by the defense. In addition, the defense failed to impute any ill motive on her part to falsely testify against her father.

The CA also held that AAA's failure to specify the exact dates of the rapes do not detract from her credibility. The CA explained that it is too much to require from a young girl, who had been raped several times, to mechanically recall the exact dates of each rape.^[13]

The CA further added that AAA's delay in reporting the rape was due to the appellant's threats on her life.

We resolve to **deny** the appeal for lack of merit, but we **modify** the amount of the awarded indemnities.

AAA positively identified the appellant as the person who had raped her on two occasions in 2000 and 2003, respectively. Her testimonies were clear and straightforward; she was consistent in her recollection of the details of her defloration. If the sexual abuses did not happen, we see no plausible reason showing why AAA should testify against her own father, imputing on him the grave crime of rape.

AAA's testimony was also corroborated by Dr. Fe, who found hymenal lacerations on AAA's private part. We have held that when the testimony of a rape victim is consistent with the medical findings, there is sufficient basis to conclude that there has been carnal knowledge.^[14]

We find AAA's testimony regarding the rape that happened on July 26, 2000, to be deficient; it lacked specific details on how the rape was committed. AAA's statement that she had been "*fucked*" [sic] for the second time by the appellant "in the same house," without nothing more, is insufficient to establish carnal knowledge with moral certainty. Every charge of rape is a separate and distinct crime and each must be proved beyond reasonable doubt.^[15] The lower courts were thus correct in convicting the appellant of only two (2) counts of rape.

We find unmeritorious the appellant's argument that AAA's testimony is unreliable due to the inconsistencies in the dates when the rapes were committed.