

THIRD DIVISION

[G.R. No. 182687, July 23, 2009]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
WARLITO MARTINEZ, ACCUSED-APPELLANT.**

D E C I S I O N

VELASCO JR., J.:

The Case

This is an appeal from the October 9, 2007 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00217 entitled *People of the Philippines v. Warlito Martinez* which held accused-appellant Warlito Martinez guilty of qualified rape. The assailed Decision affirmed the January 29, 2003 Decision^[2] in Criminal Case Nos. 98-297, 98-298, and 98-299 of the Regional Trial Court (RTC), Branch 68 in P.D. Monfort North, Dumangas, Iloilo.

The Facts

The spouses Warlito and BBB live in Janipaan, Mina, Iloilo. They have six children: the three elder daughters have left home, while the three younger ones, a mentally retarded daughter and two sons, live with them. AAA^[3] is their mentally retarded daughter.

In the early morning of November 8, 1997, BBB went to Iloilo City to procure a ship ticket for her trip to Manila. At around eight o'clock in the morning, AAA, then 13 years old, was tasked to cook rice while her brothers gathered firewood in a distant place. While AAA was cooking, Warlito approached her. Without a word, Warlito removed AAA's clothes and panties. He then forced his naked daughter to lie down on a bed just two arms length away from the kitchen. Thereafter, he stripped off his shirt, pants, and underwear. He parted AAA's thighs, went on top of her, and inserted his penis into AAA's vagina. AAA could only cry in pain.^[4]

After the molestation, Warlito threatened to kill AAA if she would reveal the incident to her mother. Thereafter, Warlito left AAA. AAA then walked away from their home. After about an hour, AAA returned.

Around noontime, while AAA's brothers were playing outside the house, Warlito again forced AAA to lie down on the bed. After removing his clothes, he undressed AAA and went on top of her. He then inserted his penis into her vagina. When he was done, he put on his clothes and left her. AAA then put on her clothes and went out of the house. She kept the incident a secret.^[5]

In the evening of November 8, 1997, Warlito went to the room where his children were sleeping together. Inside, he saw his two sons sleeping on the left side of AAA. He went beside AAA, removed her clothes and underwear, and likewise, removed his clothes. He, thereafter, went on top of AAA and inserted his penis inside her vagina. AAA cried in pain but Warlito muffled her cries by covering her mouth. After which, Warlito dressed up and went downstairs to sleep. AAA likewise got dressed and fell asleep.^[6]

Remembering her father's threat, AAA did not tell her mother that her father had raped her. When AAA's mother left for Manila a few days later, AAA had to endure her father's weekly assault on her virtue.^[7]

On March 11, 1998, AAA's grade one teacher, Lorline Siccio, noticed AAA leaning dizzily on her desk. She also observed that AAA appeared to be unusually weak, hardly having the strength to move. Alarmed, Lorline reported the matter to the officer-in-charge of the Janipaan Elementary School. Aware of the fact that Warlito had sired two children from AAA's elder sister, Lorline asked AAA if her father had raped her. AAA answered in the affirmative. The teachers then reported the matter to the Department of Social Welfare and Development.^[8]

On March 15, 1998, BBB returned to Janipaan, Mina, Iloilo from Manila. She then learned that her husband had sexually abused AAA. Unable to contain her outrage over Warlito's assault on their mentally retarded daughter, she and AAA filed a complaint against him.

Dr. Flaviano Nestor Tordesillas, a resident physician at the Iloilo Provincial Hospital in Pototan, Iloilo, physically examined AAA. His medical report stated that AAA suffered "[o]ld healed hymenal lacerations at 7:00, 10:00 and 3:00" positions and that her vagina admitted "one examining finger with ease."^[9] Dr. Flaviano noted that the lacerations could have been caused by sexual intercourse or by trauma caused by large blood clots during the menstrual period, or masturbation and insertion of an object.^[10]

Dr. Japheth Fernandez, a psychiatrist, conducted a psychological test on AAA. She confirmed AAA's mental retardation and concluded that AAA's intelligence quotient is equivalent to that of a four (4) years old child.^[11]

Warlito was then charged with three counts of qualified rape. Except for the dates of the commission of the crime, the three Informations contained the same allegations, thus:

That on or about the 8th day of November, 1997, in the municipality of Mina, Province of Iloilo, Philipines, and within the jurisdiction of this Honorable Court, the above-named accused by means of force did then and there willfully unlawfully and feloniously did lie and succeed in having carnal knowledge of [AAA], his 14 year old daughter, for the first time, against her will and consent.^[12]

In his defense, Warlito raised denial and alibi. He claimed that it was impossible for

him to rape his daughter because he was at the river about 50 meters away from their house during the times that the alleged rape took place.^[13] Moreover, he faulted AAA's teachers for maliciously imputing the charge against him and for forcing BBB to file the complaint.

On January 29, 2003, the RTC rendered a Decision, the dispositive part of which reads:

WHEREFORE, in view of the foregoing, the court finds the accused WARLITO MARTINEZ GUILTY beyond reasonable doubt of three (3) counts of rape under Art. 395 of the Revised Penal Code as amended in relation to Republic Act No. 7695 and imposes on him the extreme penalty of death on each of the three (3) counts of rape he committed. It is further ordered that on each count of rape, the accused must pay the victim the sum of SEVENTY FIVE THOUSAND (PhP 75,000.00) PESOS as civil indemnity; FIFTY THOUSAND (PHP 50,000.00) PESOS as moral damages; and TWENTY THOUSAND (PhP 25,000.00) as exemplary damages.

SO ORDERED.

The case was appealed to the CA.

The Ruling of the CA

Convinced of AAA's credibility, the appellate court affirmed the trial court's decision. It emphasized that AAA's mental retardation alone is not a ground for her disqualification as a witness. It stressed that the qualification of a witness is anchored on the ability to relate to others the event that was witnessed. In this case, although AAA's intelligence quotient is equivalent to that of a four years old child, the CA found her testimony to be credible, clear, and convincing.

The *fallo* of the October 9, 2007 CA Decision reads:

WHEREFORE, premises considered, the decision of the Regional Trial Court, Branch 68, P.D. Monforth North, Dumangas, Iloilo, finding accused Warlito Martinez guilty beyond reasonable doubt of three (3) counts of rape is hereby AFFIRMED with the following MODIFICATIONS: (i) the amount of moral damages for each count of rape is [PhP] 75,000.00; (ii) in view, however, of Republic Act No. 9346 prohibiting the imposition of the death penalty, appellant is hereby sentenced to suffer the penalty of *reclusion perpetua* for each count of rape filed against him without the benefit of parole.

Hence, we have this appeal.

The Issues