

THIRD DIVISION

[G. R. No. 175480, October 02, 2007]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CONRADO BARANGAN Y GENERALAO, ACCUSED-APPELLANT.**

D E C I S I O N

CHICO-NAZARIO, J.:

For review is the *Decision*^[1] of the Court of Appeals promulgated on 30 June 2006, in CA-G.R. CR. HC. No. 00198-MIN entitled, "*People of the Philippines v. Conrado Generalao Barangan*," affirming *in toto*, the *Judgment*^[2] dated 25 March 2002, of the Regional Trial Court (RTC), Branch 32, Surigao City, in Criminal Case No. 782.

Accused-appellant Conrado Barangan^[3] y Generalao prays for the reversal of the appellate court's decision, affirming *in toto* the judgment of the trial court, finding him "guilty beyond reasonable doubt as a principal of the crime of rape under Article 266-A, paragraph (1), (a), of the Revised Penal Code, with the aggravating circumstance of dwelling,"^[4] and sentencing him to suffer the penalty of *reclusion perpetua* coupled with the accessory penalties and to indemnify the victim in "the sum of ₱50,000.00 and to pay ₱50,000.00 as moral damages,"^[5] plus the cost of suit.

A thorough review of the records of the case at bar discloses the following:

On 18 January 1999, accused-appellant was charged with the crime of *rape* before the RTC, Branch 32, Surigao City, for allegedly raping AAA,^[6] in an Information^[7] dated 11 December 1998. The accusatory portion thereof states:

That on or about October 20, 1998 at 11:00 o'clock in the evening, more or less in P-1, Brgy. XXX, YYY, ZZZ, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with full freedom and intelligence, deliberate intent and with lewd design and with force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one AAA, a 15 year-old girl against her will much less her consent, thus causing damage and prejudice to the aforesaid AAA in such amount as may be proved during the trial.

CONTRARY to Article 335 of the Revised Penal Code as amended by Republic Act 7659 and further amended by Republic Act 8353 with the aggravating circumstance of dwelling, the crime being committed inside the dwelling of the offended party.

The case was docketed as Criminal Case No. 782.

Upon arraignment, accused-appellant, duly assisted by counsel, pleaded "*Not Guilty*"

to the crime charged. Thus, trial ensued, with the prosecution presenting four witnesses, namely: Dr. Benjamin Cabrera (Dr. Cabrera),^[8] Medical Officer, Rural Health Unit and Family Planning Center, WWW, ZZZ; Cesar Villacencio, the *Punong Barangay* of *Baranggay XXX*;^[9] Paciencia Salumayag, neighbor of the victim;^[10] AAA, the victim and the private complainant;^[11] and EEE, older sister of AAA, to establish accused-appellant's culpability beyond reasonable doubt of the crime charged. On the other hand, to rebut the foregoing evidence, the defense offered the testimonies of accused-appellant;^[12] BBB, the younger sister of AAA;^[13] and Joseph Barangan, the son of accused-appellant.^[14]

The *People's* version of the incident that precipitated this case, as established by the above-named prosecution witnesses, put forward the following antecedents:

As testified to on the witness stand, AAA recounted her harrowing experience in the hands of accused-appellant:

Prosecutor Servillas (conducted the direct examination):

Q: Do you know Conrado Generalao Balagan [Barangan]?

A: Yes, sir.

Q: Do you know him?

A: He is our neighbor.

Q: How long he has been your neighbor?

A: Five years.

Q: How far is his house to your house?

A: 40 meters more or less x x x.

x x x x

Q: Now, if this accused Conrado Generalao will be shown to you, can you identify him?

A: Yes, sir.

Q: Will you please look around?

A: (Witness pointing to a person who upon being asked answered that his name is Conrado Generalao.)

Q: By the way, how old are you last October 20, 1998?

A: 15 years old.

Q: Do you have proof that you are fifteen years old?

A: Yes, sir.

Q: What is your birth date?

A: March 9, 1963.

x x x x

Prosecutor Servillas:

Q: Do you recall where were you last October 20, 1998 at 11:00 o'clock in the evening?

A: I was in our house in barangay XXX, YYY, ZZZ.

Q: Were you alone on that date?

A: I was with my younger sister.

Q: What about your mother where was she on that date?

A: She died already.

Q: What about your father?

A: He is now in Bukidnon.

Q: Now, who is the name of your sister with you on that date?

A: BBB, ten years old.

Q: On last October 20, how old was she?

A: 9 years old.

Q: Now, on that said date October 20, 1998 date and time what were you doing in your house?

A: I was sleeping.

Q: What about your sister?

A: She was also sleeping.

Q: Now, what happened while you...if you recall while she was sleeping on said date and time?

A: At first he entered our house.

Q: Whom do you refer he?

A: Conrado Barangan.

x x x x

Q: Now, this accused Conrado when he entered what did he

do?

A: He kept on touching my private organ.

Q: What were you doing while he was touching your private parts?

A: I woke up and then he immediately covered my mouth with his hand.

Q: Now, what was his attire if any?

A: He was only wearing a brief.

Q: When he entered [your] house and started to touch your private parts what was your position in relation to you?

A: He was kneeling (witness pointing his left hand to an imaginary object as if holding something).

x x x x

Q: Then after he covered your mouth what did you do next?

A: While covering my mouth his other hand is holding my neck.

Q: What happened next he held your neck and covered your mouth?

A: Then he told me to keep quiet [or] I will kill you together with your sister.

Q: What did you do when he told you that thing?

A: I don't (sic) do anything.

Q: Since you don't do anything?

A: I could not do anything.

Q: What did you next?

A: Then he removed my panty, he kept on kissing my face and sucked my nipple.

Q: What did he do next?

A: Then he placed himself between my two legs.

Q: After he placed his legs, himself to your two legs what did he do next?

A: He removed his brief and he placed his.... he inserted his penis to my private part.

Q: Can you demonstrate to this court what was his position and how he placed to your private part?

A: He was lying down.

Q: Then when he inserted to your private part what did he do what was he doing?

A: He make (sic) a push and pull motion against my private part.

Q: Then what did you do when he made a push and pull motion to your private part?

A: I observed that his semen ejaculated inside my private part.

Q: Now, when he was making a push and pull to your vagina what did you do?

A: Nothing.

Q: Why did you not do anything?

A: I could not shout I could not move because he placed himself between my two legs.

Q: Now, what did you feel whether push and pull between your vagina?

A: I felt pain. I felt pain and I was very ashamed of myself.

Q: Because of the shame and pain when he pushed and pull to your vagina what did you feel?

A: Very painful because he inserted his penis to my vagina to my private part.

Q: How long he has been doing a push and pull?

A: Quite a while. I could not determine how long its quite a while.

Q: What about your sister?

A: There was a typhoon and my sister was aslept (sic).

Q: You said it was the accused who assaulted you how do (sic) you recognize it was a nighttime?

A: He is a neighbor and I knew him very well. And I always see his face because I am familiar with him for quiet a long time.