

## **TWENTY-SECOND DIVISION**

**[ CA-G.R. CR-HC No. 00972-MIN, February 02, 2015 ]**

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
EULOGIO SORONGON, JR. Y AMBO, ACCUSED-APPELLANT.**

### **D E C I S I O N**

**CAMELLO, J.:**

On appeal is the joint Judgment<sup>[1]</sup> promulgated on July 27, 2011 by the Regional Trial Court Branch 12 of Davao City convicting accused-appellant Eulogio Sorongon, Jr. of the three (3) crimes charged in Criminal Case Nos. 55,932-04, 56,619-05 and 56,620-2005.

Appellant<sup>[2]</sup> was charged with Rape under Article 266-A in relation to Article 266-B of the Revised Penal Code, as amended by RA No. 8353 in an Information<sup>[3]</sup> that reads:<sup>[4]</sup>

CRIMINAL CASE No. 55,932-04

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That on or about December 21, 2004, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with force, did then and there willfully, unlawfully and feloniously, had carnal knowledge of AAA, his lawfully wedded wife, against the latter's will.

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Appellant was also accused, in two separate Informations, of two (2) distinct Violations of Section 5, paragraphs (a) and (i) of Republic Act No. 9262, as follows:

CRIMINAL CASE No. 56,619-05<sup>[5]</sup>

The undersigned accuses xxx of the crime of Violation of Section 5, par. (i) of Republic Act No. 9262, committed as follows:

That prior to December 21, 2004, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, willfully, unlawfully and knowingly caused mental and emotional anguish to his wife, complainant AAA, by unleashing his anger at her and forcing her to have sexual intercourse with him while inflicting pain then afterwards becoming affectionate and asking for forgiveness.

CONTRARY TO LAW.

CRIMINAL CASE No. 56,620-2005<sup>[6]</sup>

The undersigned accuses xxx for Viol. Of Sec. 5 (a) of Republic Act No. 9262, committed as follows:

That on or about December 21, 2004, in the City of Davao, Philippines and within the jurisdiction of this Honorable Court, the above-mentioned accused, willfully, unlawfully and knowingly kicked the hips of his (accused) wife while lying on the bed causing her to fall down to the floor; then forcibly made his wife AAA to have sexual intercourse with him (accused) and when the wife refused, accused twisted both her arms and locked both feet with accused knee in order to immobilize the said complainant and further twisted her neck causing the following injuries, to wit: "LINEAR ABRASION, INFRA AURICULAR AREA, SOFT TISSUE CONTUSION RIGHT WRIST AND BOTH KNEES" which injuries required the necessary medical attendance for a period of seven (7) days and incapacitated the said offended party from performing her customary labor for the same period of time.

CONTRARY TO LAW.

To all these charges, the accused pleaded not guilty. The cases were consolidated and heard jointly.

The facts of the case as narrated in the People's brief:<sup>[7]</sup>

Private Complainant AAA is the lawfully wedded wife of appellant Eulogio Ambo Sorongon, Jr. They were married on April 15, 2004 at the Kingdom Hall of Jehova's Witnesses in Cabaguio Avenue, Davao City. At the time of the filing of the criminal complaints against appellant, AAA had been married to him for around ten (10) months.

On December 21, 2004, at around 10:00 o'clock in the evening, AAA was at PAN Bakery, which was owned by her sister-in-law, BBB. AAA was busy cleaning, fixing things thereat and making ice-water. While she was thus engaged, appellant (the manager of the bakery) was drinking beer with his nephew.

An hour later, or around 11:00 o'clock in the evening, after finishing her tasks, AAA called it a night and proceeded to their living quarters on the second floor of the building (on top of the bakery). Once she was in their bedroom, AAA changed out of her work clothes and wore just her underwear, shorts and a bathrobe.

When she had a fallen half-asleep, appellant entered their bedroom around 12:00 o'clock midnight. He was walking around near the bed as though he was worried and uneasy. Upon seeing AAA lying on the bed, he removed his shorts and was wearing only his brief. He went up and down the bed three (3) times, which prompted AAA to tell him to stop pacing around because it was disturbing her and she could not sleep.

Appellant became enraged at AAA for reprimanding him. He stood up and kicked AAA on the thigh, near the hip area. Due to the force of his kick, AAA fell from the bed and she shouted in shock and asked for help.

Appellant grew furious at AAA. He pulled her by the hair and slapped her face. AAA continued screaming for help from the other inhabitants of the house and their neighbors. Appellant then went over to the digital piano in their room and threw the same to the floor, completely shattering it. Not content with destroying the instrument, appellant opened the aparador (closet) and threw out AAA's clothes.

AAA tried to stop appellant from making a mess of their room. However, he prevailed upon her by hitting her on the head and neck then twisting her wrist and thigh. While AAA was crying on the bed, appellant grabbed her by the hair and forced her to lie down. AAA cried out because she could not lie down due to the pain he inflicted on her. Instead of taking pity on his wife, appellant ripped off her dress, pulled down his brief, forcibly pushed his penis inside AAA's vagina and forced her to have sexual intercourse with him even though she was already weak and injured.

When AAA struggled against him, appellant warned her not to report the rape to the elders of their church (i.e. Jehovah's Witnesses) or to her relatives. Otherwise, he would kill her.

Due to the intense fear because appellant had repeatedly struck her and cursed her even before they got married, AAA could only cry after her husband finished raping her. She waited until around 4:00 o'clock in the morning of the next day, or on December 22, 2004, when appellant finally left their bedroom and went down to the bakery.

AAA waited for a few hours, or until around 6:30 o'clock before she mustered the courage to clothe herself again. After a while, or around 7:00 o'clock in the morning. AAA came out of their bedroom and slowly went down the stairs. When she saw that appellant was no longer in the vicinity, she rushed outside and proceeded to Skyline Store, which was owned by her sister, BBB. xxx

Upon arriving at Skyline, BBB noticed that AAA appeared to be sick. The latter could barely walk, move her neck and seemed very weak. This prompted BBB to ask AAA what happened to her. Although she was fearful because of the threat earlier made to her by appellant, AAA tearfully confessed that her husband beat her then raped her the night before. BBB and her family were shocked by AAA's revelation and urged her to report the matter to the police.

That same day, BBB accompanied AAA to the Sta. Ana Police Station where she was advised to have a medical check-up. The sisters proceeded to the Davao Medical Center (DMC), where they were in turn referred to the Women and Children's Protection Unit (WCPU).

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After the intake (preliminary interview conducted by the social worker, Janice Geagania)), Dr. dela Paz conducted a thorough physical examination of AAA. The following indices of physical and sexual abuse were revealed:

Tenderness in the left side of the head, could not move her neck and had difficulty moving left to right; there was also redness on the right forearm; multiple marks, contusions and pressure marks in the right wrist and knees.

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#### ANO-GENITAL EXAMINATION:

Genitalia: Well-estrogenized hymen, (+) complete transaction of hymen at 6:00 position, abrasion at 4:00 to 6:00 position of perihymenal area.

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#### FINDINGS: Definitive for Physical Injury

xxx. In the medical certificate he issued, Dr. Pantaleon stated that AAA had suffered "linear abrasions" or "gasgas" in the infra-auricular area and also soft tissue contusions or "bun-og" on the right wrist and on both knees.

Later, vaginal samples taken from AAA were tested by Dr. Marlon Maramion, the pathologist on-duty at DMC. The laboratory exams revealed the presence of fresh spermatocytes (sperm cells), xxx.

At the Sta. Ana Police Station, AAA executed two (2) affidavits which detailed how appellant mauled and raped her in the late evening of December 21, 2004 until the morning hours of December 22, 2004. She likewise narrated several past instances when appellant hit her and cursed her before and after the celebration of their wedding on April 15, 2004.

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After joint trial following accused's negative pleas to the charges, the lower court rendered Judgment as follows:<sup>[8]</sup>

WHEREFORE, Premises Considered, Judgment is hereby rendered:

#### **AS TO CRIM. CASE No. 55,932-04 FOR RAPE**

The Court finds Accused guilty beyond reasonable doubt of the crime of Rape, defined and penalized under Art. 266-A in relation to Art. 266-B of the Revised Penal Code as amended by RA 8353 and he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to pay AAA

the sum of Seventy Five Thousand (Php 75,000.00) Pesos as civil indemnity and Fifty Thousand (Php 50,000.00) Pesos as moral damages.

**AS TO CRIM. CASE No. 56,619-05 FOR VIOLATION OF SEC. 5 (i),  
RA 9262.**

The Court finds Accused guilty beyond reasonable doubt for Violation of Sec. 5(i) in relation to Sec. 6(f), R.A. 9262 and hereby is sentenced to suffer the indeterminate penalty of SIX (6) MONTHS and ONE (1) DAY OF PRISION CORRECCIONAL in its minimum period as minimum to EIGHT YEARS and ONE (1) DAY of PRISION MAYOR in its medium period as maximum with all the accessory penalties' as provided for by law and to pay AAA Twenty Thousand (Php 20,000) Pesos as moral damages.

**AS TO CRIM. CASE No. 56,620-05 FOR VIOLATION OF SEC. 5 (a),  
RA 9262.**

The Court finds Accused guilty beyond reasonable doubt for Violation of Section 5 (a), in relation to Sec. 6(a), Par. No. 2 of RA 9262, and he is hereby sentenced to suffer the penalty of TWO MONTHS imprisonment.

Under Art. 29 of the Revised Penal Code, the Accused is hereby entitled to the full credit of his preventive imprisonment if he agreed voluntarily in writing to abide by the rules and regulations imposed upon convicted prisoners. If he did not agree, he shall be entitled to 4/5 of his preventive imprisonment.

SO ORDERED.

Aiming for acquittal, accused-appellant brought this appeal upon this lone assignment of error:<sup>[9]</sup>

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE APPELLANT OF THE OFFENSES CHARGED NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The gravamen of the offense of rape is sexual intercourse with a woman against her will or without her consent.<sup>[10]</sup> Appellant argues that the trial court erred in finding that the sexual intercourse between him and AAA was against her will. He further asserts that being AAA's lawfully wedded husband, he could not have raped her as she claimed.

At the time of the rape, Republic Act No. 8353 or the Anti-Rape Law of 1997, which amended Article 335 of the Revised Penal Code and classified rape as a crime against persons - and no longer as one against chastity - was already effective. The new provisions on rape, provided under Articles 266-A, state:

Article 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;