

## **THIRD DIVISION**

**[ G.R. No. 227866, July 08, 2020 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.  
TAHIR TAMANO Y TOGUSO, DEFENDANT-APPELLANT.**

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

**GAERLAN, J.:**

This resolves the appeal filed by accused-appellant Tahir Toguso Tamano (Tamano) seeking the reversal of the February 5, 2016 *Decision*<sup>[1]</sup> promulgated by the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 06792, convicting him of two counts of rape.

#### **The Antecedents**

On July 15, 2009, Tamano was charged with two counts of rape committed as follows:<sup>[2]</sup>

##### **CRIMINAL CASE No. 09-431**

That on or about the 13 d1 day of July 2009 in the City of Muntinlupa, Philippines and within die jurisdiction of this Honorable Court, the above-named accused, thru force did then and there willfully, unlawfully and feloniously have carnal knowledge widi "AAA" after giving her a potion as a result of which she felt dizzy and weak thereby depriving her of reason and will to resist the sexual assault of the accused.

Contrary to law.

##### **CRIMINAL CASE No. 09-432**

That on or about the 13 th day of July 2009 in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, die above-named accused, thru force did then and there willfully, unlawfully and feloniously have carnal knowledge with "AAA" after giving her a potion as a result of which she felt dizzy and weak thereby depriving her of reason and will to resist the sexual assault of the accused.

Contrary to law.<sup>[3]</sup>

On September 3, 2009, Tamano pleaded not guilty to the charge. After the completion of the pre-trial conference on October 8, 2009, trial on the merits ensued.

#### **Version of the Prosecution**

In the evening of July 12,2009, AAA went to Metropolis Mall in Muntinlupa City to purchase a liquid crystal display (LCD) for her PlayStation Portable (PlayStation). While roaming the stalls at Metropolis, a man approached her and asked if she wanted to sell her PlayStation. AAA declined the offer, but the man took her PlayStation and placed it inside the glass cabinet in his stall. Vexed, AAA told the man that she had no intention of selling her PlayStation, and tried to get it back. She noticed that the man was signaling a male person from another stall, who turned out to be accused-appellant Tamano.<sup>[4]</sup>

Tamano stood up, and took AAA's PlayStation from the glass cabinet and asked if he could purchase it. AAA refused. Despite AAA's protestations, Tamano put the PlayStation back inside the glass cabinet.<sup>[5]</sup>

Then, Tamano took AAA's Motorola cellphone and asked her if she wanted to sell it. He asked for her name and invited her to go out with him. He said that he would return her PlayStation only if she agreed to go out with him.<sup>[6]</sup>

AAA angrily ran away and boarded a jeepney home. However, she realized that she left her cellphone with Tamano.<sup>[7]</sup>

Seeking to recover her Motorola cellphone, AAA returned to Metropolis Mall at 5 o'clock in the afternoon of July 13,2009. She looked for Tamano, but was informed that he was not there.<sup>[8]</sup> After waiting for quite sometime, AAA asked for Tamano's number from the men at the stalls. She called the number, but there was no answer. She sent a text message to ask where he was. However, she did not receive a reply. She decided to leave.<sup>[9]</sup>

When she was about to go home, her phone suddenly rang. When she answered the call, she realized it was Tamano.<sup>[10]</sup> He told her to be quiet, and not to let the others know that he called her. He instructed her to meet him at Jollibee in Metropolis Mall, and promised to return her Motorola cellphone.<sup>[11]</sup>

AAA obliged. While at the second floor of the mall, Tamano suddenly grabbed her hand. He told her that he had been waiting for her and had been following her. He pulled her inside Jollibee. She followed him to avoid creating a scene. They sat on the farthest table with only a few people. All the while, she kept asking for her cellphone back.<sup>[12]</sup>

Then, a waiter appeared and served two sets of meals with a serving of Coke. Since AAA was parched, she drank the Coke. Immediately thereafter, she felt groggy and weak. Her head ached and she felt dizzy. Her vision likewise turned blurry, and she could not think straight. Tamano grabbed her arm and ordered her to come with him. She struggled but could not resist him.<sup>[13]</sup>

All of a sudden, AAA found herself in a very dark and nasty-looking narrow alley.<sup>[14]</sup> Soon thereafter, she noticed that they were in a place marked with numbers. Then, she was taken to a room where she saw towels, a mirror, a bed and an air conditioning unit.<sup>[15]</sup>

Tamano pulled AAA and threw her on the bed. He removed her clothes and groped her whole body. She fought back by trying to punch him but failed because he was too strong. Tamano pinned down her lower extremity, inserted his penis inside her vagina, and made a pumping motion. She felt extreme pain and pleaded for him to stop. Then, she felt a rush of something hot inside her while Tamano continued moaning. She was crying the entire time.<sup>[16]</sup>

Afterwards, Tamano earned AAA to the floor and continued to touch and kiss her. He bit her breasts and vagina and inserted his fingers inside her organ. He made her kneel in front of him in a crouching position then inserted his penis from behind and made a pumping motion. Again, AAA felt something hot inside of her.<sup>[17]</sup>

Subsequently, Tamano dragged AAA inside the comfort room and made her sit on the toilet. He then washed his penis and her vagina and ordered her to perform oral sex on him. AAA looked away and shut her mouth tight. He rubbed his penis all over her face, while she kept pulling away. Then, Tamano cleaned himself up.<sup>[18]</sup>

Still in a state of shock, AAA crawled outside of the comfort room, grabbed her clothes and dressed up. Tamano forced her outside of the room while carrying her things. Then, they boarded a jeepney and went to Festival Mall. Tamano brought AAA to the fourth floor of the mall, purchased a beverage and ordered her to drink it. She refused and told Tamano that she wanted to go home. Tamano promised to bring her home to a certain "Wawa," and told her that he would give her everything she desires.<sup>[19]</sup>

Fearful that he would not let her out of his grasp, AAA created an excuse to leave by asking to go to the comfort room. Tamano initially refused but eventually acceded under the condition that AAA would leave her things with him.<sup>[20]</sup>

While at the ladies' comfort room, AAA asked for help from the janitress saying that someone was after her. Then, she suddenly fainted. When she regained consciousness, several persons, including Tamano, were surrounding her. She struggled to escape from Tamano's grasp and ran outside of the comfort room. However, she fainted again. When she awoke, she reported to the security guard that Tamano raped her.<sup>[21]</sup>

AAA was taken to the Ospital ng Muntinlupa, where she was treated. She was crying hysterically. She reported the incident as soon as her parents arrived.<sup>[22]</sup>

### **Version of the Defense**

Tamano vehemently denied the charges leveled against him. He related that he met AAA at Metropolis Mall on July 11, 2009. She offered to sell her friend's PlayStation for P5,000.00. However, Tamano made a counter-offer of P1,500.00. She told him that she would have to confer with her friend.<sup>[23]</sup>

The next day, while Tamano was passing by Jollibee at Metropolis Mall, someone tapped him from behind. Turning, he saw AAA. She introduced herself as the one who offered to sell the PlayStation, and invited him for a meal. He acquiesced.<sup>[24]</sup>

Thereafter, AAA told Tamano to accompany her at her friend's house to get the PlayStation. He agreed since he pitied AAA who needed money. However, instead of going to her friend's house, they went to a motel in front of Metropolis. AAA signed a document at the cashier and borrowed five hundred pesos from Tamano. She then pulled his arm and invited him inside a room. She went to the toilet and came out clad in a towel. She unbuttoned his pants, and when he refused her advances, she cried and threatened to shout. He had no choice but to have sexual intercourse with her.<sup>[25]</sup>

After their copulation, they went to Festival Mall to meet AAA's friend. He told AAA that he wanted to go home as he was already tired. AAA asked him to wait for her as she needed to go to the comfort room. After a few minutes, Tamano noticed a commotion at the ladies' comfort room. He peeped and saw AAA unconscious near the faucet and held by a janitress. He rushed to AAA and wiped her face with a wet handkerchief. She temporarily regained consciousness, but did not recognize him.<sup>[26]</sup>

Then, she passed out again. Tamano asked for assistance from the security guards. They rushed AAA to the Ospital ng Muntinlupa. To his surprise, once AAA regained consciousness, she started screaming, asking that Tamano be driven away because he was running after her. He was asked to step out. Then, AAA's mother arrived and slapped him and shouted at him. Thereafter, he was invited to the police station.<sup>[27]</sup>

### **Ruling of the Regional Trial Court**

On December 1, 2013, the Regional Trial Court (RTC) rendered a Decision<sup>[28]</sup> convicting Tamano of two counts of rape.

The RTC opined that AAA credibly and tearfully narrated the ordeal she suffered in the hands of Tamano. Her demeanor in court showed that she was telling the truth.<sup>[29]</sup> According to the RTC, Tamano was "a predator, [who] tricked and trapped her in his web to satisfy his sexual desires."<sup>[30]</sup> He laced AAA's drink with "some chemical" that rendered her weak and dizzy. Tamano took advantage of AAA's weakened state, and brought her to a motel. He succeeded in having carnal knowledge of her, amidst AAA's struggles.<sup>[31]</sup>

The RTC further noted that the circumstances following the rape incident support AAA's claim that she was defiled by Tamano. She tried to get away from him by escaping to the comfort room. Although she momentarily lost consciousness, she immediately sought help as soon as she was lucid. Also, she told the security guard that she was raped by Tamano. The same thing happened at the hospital where upon regaining consciousness, she cried hysterically, asking that Tamano be removed from the premises because he raped her. The RTC held that AAA's statements upon regaining consciousness form part of the *res gestae*.<sup>[32]</sup>

The dispositive portion of the RTC ruling reads:

WHEREFORE:

1. In Criminal Case No. 09-431, the Court finds the accused, Tahir

Tamano y Toguso, GUILTY beyond reasonable doubt of the crime of Rape under Art. 266-A, paragraph 1 (a) of the Revised Penal Code and hereby imposes upon him the penalty of reclusion perpetua. He is also ordered to pay the victim, [AAA] P30,000.00 as moral damages.

2. In Criminal Case No. 09-432, the Court finds the accused, Tahir Tamano y Toguso, GUILTY beyond reasonable doubt of the crime of Rape under Art. 266-A, paragraph 1 (a) of the Revised Penal Code and hereby imposes upon him the penalty of reclusion perpetua. He is also ordered to pay the victim, [AAA] P30,000.00 as moral damages.

In the service of his sentence, the accused shall be credited with the period of his preventive imprisonment.

SO ORDERED.<sup>[33]</sup>

Aggrieved, Tamano filed an appeal with the CA.

### **Ruling of the Court of Appeals**

On February 5, 2016, the CA rendered the assailed Decision,<sup>[34]</sup> affirming the conviction meted by the RTC with modification on the amount of damages awarded.

The CA agreed with the RTC's assessment of AAA's credibility. The CA declared that AAA's acts after the rape do not render her claim dubious. It applied the jurisprudential tenet that there is no standard behavior and response expected from rape victims. According to the CA, what matters is that AAA consistently pointed to Tamano as the person who defiled her.<sup>[35]</sup>

Similarly, the CA found that AAA's statements to the janitress, the security guard and to her mother at the hospital, after she regained consciousness may be admitted in evidence as part of the *res gestae*. She was in shock when she pointed to Tamano as her defiler.<sup>[36]</sup>

The dispositive portion of the assailed C A ruling states:

WHEREFORE, premises considered, the instant Appeal is hereby DENIED. The assailed Decision of the Regional Trial Court (RTC), Branch 206, Mimtinlupa City, dated December 1, 2013 in Criminal Cases Nos. 09-431 and 09-432 holding Accused-Appellant guilty of two (2) counts of Rape under Art. 266-A, are hereby AFFIRMED with MODIFICATIONS in that: 1) the moral damages is increased to P50,000.00; and 2) civil indemnity of P50,000.00, are awarded to the victim. These awards shall be for each count of rape committed against the victim.

The award of damages shall earn interest at the rate of six percent (6%) per annum from the date of finality of the judgment until fully paid.

SO ORDERED.<sup>[37]</sup>