

# FIRST DIVISION

[ G.R. No. 227841, August 19, 2020 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
JOSEPH MANLOLO Y GANTE, ACCUSED-APPELLANT.**

## DECISION

**REYES, J. JR., J.:**

Before us is an appeal assailing the Decision<sup>[1]</sup> dated May 17, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07134, which affirmed *in toto* the Decision<sup>[2]</sup> dated July 21, 2014 of the Regional Trial Court (RTC) Branch 81, Romblon, Romblon, convicting appellant Joseph Manlolo y Gante (Manlolo) of the crime of rape in Criminal Case No. 2975.

### Factual Antecedents

Manlolo was charged with the crime of rape, as penalized under Article 266-A, paragraph (par.) I(d) of the Revised Penal Code (RPC), as amended by Republic Act (R.A.) No. 8353, in relation to the provisions of R.A. No. 7610, as follows:

Crim. Case No. 2975

That on or about the 10th day of August 2011, at around 5:30 o'clock in the afternoon at Barangay Camantaya, Municipality of San Agustin, Province of Romblon, Philippines, and within the jurisdiction of this Honorable Court, the said accused, through force, threat and intimidation and by taking advantage of the minority and lack of education of AAA,<sup>[3]</sup> did then and there willfully, unlawfully and feloniously had carnal knowledge of AAA, who is 6 years old minor, without her consent and against her will and that the commission of this crime of rape demeans, debases and degrades the intrinsic worth and dignity of said AAA as human being.<sup>[4]</sup>

With additional aggravating/qualifying circumstance that the above-named accused is the father of the said victim, AAA, is attendant to this crime of rape.

### Version of the Prosecution

The following are the facts of the case as summarized by the CA.<sup>[5]</sup>

The prosecution's evidence came chiefly from the testimonies of private complainant AAA, her mother, BBB, and Dr. Deogracias Muleta (Dr. Muleta).

AAA, in her direct examination, testified that Manlolo ravished her several times

when she was six years old. She recalled that Manlolo would first insert his finger into her vagina, followed by insertion of his sex organ into hers, causing her to feel so much pain. She also recounted that the rape incidents happened in their own house, always during night time, and every time her mother BBB was away "looking for food." She further contended that after every sexual assault, Manlolo warned her not to disclose the incident to her mother BBB. With regard to the rape incident in question, although AAA cannot recall the exact year and month, she was certain that it happened on a Wednesday. During cross-examination, she admitted having been coached by her mother BBB, but insisted that she was not telling a lie or making false stories.

BBB, AAA's mother and wife of Manlolo, meanwhile, testified that upon arriving at their house on August 10, 2011, she noticed AAA silently sulking in the corner in a moody condition. When asked about her grumpiness, AAA answered by moving her head from left to right. When BBB asked AAA the second time, the latter retorted that her vagina was "*tusok* by her papa." Even though shocked by AAA's answer, BBB still managed to control herself and thought of an alibi of going to town to join a singing competition. Three days later, on August 13, 2011, BBB, together with Manlolo and AAA and the other children, went to the house of her mother, to whom she, unbeknownst to Manlolo, discreetly confided what had befallen AAA. After having been advised by her mother, BBB went with AAA to the police station to blotter the rape incident. From the police station, BBB, AAA and a Social Worker Officer, went to the Municipal Health Office for the medical examination of AAA.

Dr. Muieta, the Municipal Health Officer who conducted medical examination on AAA, testified as to the existence of lacerations in AAA's hymen at 12:00 o'clock and 6:00 o'clock positions. She also declared that the ano-genital examination of AAA revealed that "there was clear evidence of blunt force or penetrating trauma like that of a male organ."

### **Version of the Defense**

Manlolo denied sexually assaulting AAA. Narrating a different story which was corroborated by his sister, Joan [Manlolo], Manlolo, averred that on August 10, 2011, he was in the house of his mother-in-law collecting payment of debts starting from around 8:00 o'clock in the morning until 1:00 o'clock in the afternoon. From there, he went to AAA's school to fetch her. At 3:30 in the afternoon, Manlolo, by himself and without AAA, proceeded towards home, where, upon arriving thereat, he saw BBB and his three other children. Later, at around 5:00 o'clock in the afternoon, Manlolo and his mother had a talk while BBB left the house to buy their "needs." At about 6:00 o'clock in the afternoon, Manlolo went out of the house to gather *tuba*, leaving the children with his sister, Joan. When he came back, BBB was already at the house with their children, including AAA.

Manlolo also claimed that on August 13, 2011, at 8:00 o'clock in the morning, he went to the house of his mother-in-law, along with BBB and their children. About 4:30 in the afternoon, BBB, accompanied by AAA, left for town to join a singing competition. When BBB and AAA did not return that night, Manlolo went around town to look for them. Failing in his search, Manlolo decided to go home when he met two policemen who invited him to the police station. At the police station, Manlolo was investigated and was later detained for the charge of raping his

daughter AAA.

### **The Ruling of the Trial Court**

The RTC rendered its Decision dated July 21, 2014, finding Manlolo guilty beyond reasonable doubt of the crime of rape, the dispositive portion reads:

**WHEREFORE**, in view of the foregoing, this [c]ourt hereby finds accused **JOSEPH GANTE MANLOLO, GUILTY** beyond reasonable doubt of the crime of **RAPE in relation to R.A. 7610** and is sentence[d] to suffer the penalty of **RECLUSION PERPETUA**. He is also ordered to pay [AAA] the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P25,000.00 as exemplary damages plus costs.

x x x x

**SO ORDERED.**<sup>[6]</sup>

Dissatisfied, Manlolo interposed an appeal alleging that the RTC erred: (i) in disregarding the version of the defense; and (ii) in giving weight and credence to the prosecution witnesses' improbable testimonies.

As summarized by the CA, the crux of Manlolo's defense was that the testimonies of private complainant AAA and her witnesses were so incredible in that they cannot in any way justify a conviction. Manlolo specifically assailed the testimony of private complainant AAA that she was raped at around 5:30 to 6:00 p.m. of that fateful day of [August 10, 2011]. He pointed out that he could not have raped AAA on the said date and time as his sister, Joan Manlolo, was inside their house watching over his three other children. Manlolo also claimed that AAA's testimony contained serious inconsistencies and contradictions as to how she was coached and rehearsed before she testified in court. Manlolo likewise argued that AAA even failed to give a detailed account on how she was sexually abused as she merely stated that he, allegedly, inserted his penis and finger inside her vagina. Manlolo further contended that AAA's declaration that she was raped was belied by the testimony of Dr. Muleta that no spermatozoa was found in the slides taken from AAA, which slides were brought to the hospital for examination. Lastly, Manlolo asserted that his wife BBB just used their daughter AAA to indict him of a crime of rape, which he did not commit, because she (BBB) has been harboring ill-feelings against him for their frequent quarrels and misunderstandings.

The CA in its Decision dated May 17, 2016, denied the appeal and affirmed *in toto* the decision of the RTC, to wit:

**WHEREFORE**, all premises considered, the instant appeal is hereby **DENIED**.

Accordingly, the *Decision dated [July 21, 2014]* of the Regional Trial Court, Branch 81, Romblon, Romblon, in Criminal Case No. 2975, finding accused-appellant Joseph Manlolo y Gante guilty beyond reasonable doubt of the crime of rape is hereby **AFFIRMED in toto**.

**SO ORDERED.**<sup>[7]</sup>

Dissatisfied, Manlolo then appealed to this Court. Both parties adopted their respective Briefs filed with the CA as their Supplemental Briefs.<sup>[8]</sup>

### **The Court's Ruling**

We find the appeal unmeritorious.

The crime of rape is defined and penalized under Article 266-A of the RPC, viz.:

ART. 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;

b) When the offended party is deprived of reason or otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority; and

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

x x x x

For purposes of imposing the death penalty in cases of qualified rape, Article 266-B of the RPC provides:

ART. 266-B. *Penalty.* — x x x x x xx

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

x x x x

"The elements of qualified rape are: (1) sexual congress; (2) with a woman; (3) done by force and without consent; (4) the victim is under 18 years of age at the time of the rape; (5) the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.<sup>[9]</sup>

We find that all the elements of qualified rape are present and sufficiently proved by the prosecution.

In this case, the age of AAA and her relationship to Manlolo have been properly

alleged in the Information, established by evidence and undisputed. Since AAA is a 6-year old minor, proof of force, intimidation or consent is unnecessary. For the absence of free consent is conclusively presumed when the victim is below the age of 12.<sup>10</sup> Further, when the offender is the victim's father, as in this case, there need not be actual force, threat or intimidation because when a father commits the odious crime of rape against his own daughter, who was also a minor at the time of the commission of the offense, his moral ascendancy or influence over the latter substitutes for violence and intimidation.<sup>[11]</sup>

The RTC and the CA gave weight to the testimony of private complainant AAA. The CA noted that it was candid, clear, and sincere that no one could justifiably doubt that it sprang from an honest mind and flowed out of innocent lips, thus:

PROSECTOR BUFFE:

Q. Miss Witness, please tell us the reason why you are testifying before us today?

A. Yes, ma'am.

Q. Please tell us.

A. In order to send, imprison my father to jail.

Q. Why would you like your father to be sent to jail or imprisoned?

A. Because he is raping [sic] me and he is [sic] hurting me.

Q. Do you know the name of your papa or father?

A. Yes, ma'am.

Q. Tell us the name of your *papa*.

A. Joseph Gante Manlolo.

Q. Is your *papa* inside the courtroom?

A. Yes, sir.

Q. Can you point [him] to us?

A. Yes, ma'am.

Q. How did your papa rape you or how did your papa do in raping you?

A. He pointed...

x x x x

A. He "*tuslok ang akon puki*."

Q. How did your papa "*tuslok ang imo puki*"? What did your papa use in "*pagtuslok sa imo puki*"?

A. His hand.

Q. What else did he use[?] [Y]ou mentioned that he [first] used his first [sic] hand in "*pagtuslok*" your vagina[.] [U]sing your hands[,] what particular fingers of your hands did your papa use?