

# FIRST DIVISION

[ G.R. No. 248016, December 02, 2020 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ALBERTO "BERT" MARTINEZ A.K.A. "ALBERTO BELINARIO",  
ACCUSED-APPELLANT.**

## DECISION

**CAGUIOA, J:**

This is an appeal filed under Section 3(c), Rule 122 of the Rules of Court from the Decision<sup>[1]</sup> dated February 27, 2019 (Decision) of the Court of Appeals, Special Second Division (CA), in CA-G.R. CR-HC No. 10062. The CA affirmed the Decision<sup>[2]</sup> dated August 8, 2017 of the Regional Trial Court of La Trinidad, Benguet, Branch 9 (RTC), in Criminal Cases Nos. 11-CR-8289, 11-CR-8290, and 11-CR-8291 finding accused-appellant Alberto Martinez, also known as Alberto Belinario (accused-appellant), guilty of three counts of rape under Article 266-A of the Revised Penal Code (RPC), as amended.<sup>[3]</sup>

### **The Facts and Antecedent Proceedings**

Accused-appellant was charged with rape under the following Informations:

#### Criminal Case No. 11-CR-8289

That on or about the P1<sup>st</sup> day of January 2010, x x x Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, did [then] and there willfully, unlawfully and feloniously have carnal knowledge with one [AAA],<sup>[4]</sup> a minor being eleven (11) years[,] eleven (11) months and twenty[-]three (23) days of age at the time of the commission of the crime, by grabbing her hand and laid her down on his bed, undressed her, fondled her breasts, licked her vagina and inserted his penis into her vagina against her will and consent, which deeds debase, degrade and demean the intrinsic worth and dignity of the said [AAA] as a human being, to her great damage, prejudice and mental anguish.

CONTRARY TO LAW.<sup>[5]</sup>

#### Criminal Case No. 11-CR-8290

That on or about the 2<sup>nd</sup> day of October 2010. x x x Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, did [then] and there willfully, unlawfully and feloniously have carnal knowledge with one [AAA], a minor being twelve (12) years of age at the time of the commission of the crime, by calling her to his room and once inside, he locked the door

and brought her to his bed, undressed her, sucked her breast, licked her vagina, and inserted his penis into her vagina against her will and consent, which deeds debase, degrade and demean the intrinsic worth and dignity of the said [AAA] as a human being, to her great damage, prejudice and mental anguish.

CONTRARY TO LAW.<sup>[6]</sup>

Criminal Case No. 11-CR-8291

That on or about the 3<sup>rd</sup> day of October 2010, x x x Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did [then] and there willfully, unlawfully and feloniously have carnal knowledge with one [AAA], a minor being twelve (12) years of age at the time of the commission of the crime, by bringing her to the common comfort room and once inside, he brought down her pant[s] and panty, licked her vagina and brought out his penis and touched her vagina against her will and consent, which deeds debase, degrade and demean the intrinsic worth and dignity of the said [AAA] as a human being, to her great damage, prejudice and mental anguish.

CONTRARY TO LAW.<sup>[7]</sup>

During arraignment, accused-appellant pleaded not guilty to each of the charges.<sup>[8]</sup> Thereafter, pre-trial and trial on the merits ensued.<sup>[9]</sup> The RTC summarized the version of the prosecution as follows:

As culled from the evidence of the prosecution, it was shown that [AAA] was born on January 8, 1998 to [BBB] and [CCC]. She has five other siblings, the birth order of which is: [DDD], [EEE], [FFF], [GGG], [AAA] and [HHH]. The family is living in a one[-]story house with six rooms, five of which are being rented out to boarders and the sixth room was occupied by them. In one of these rooms, [accused-appellant] and his live-in partner were renting.

[AAA] narrates that from the time she was in Grade 1, [accused-appellant,] whom she refers to as Bert[, ] would often ask her [for] favor[s], like buying food or kerosene for him. It was also then that he would usually abuse her. She remembers that during the first incident, [accused-appellant] called her inside his room. When inside, he held her breast and injected something on her upper right arm. She felt dizzy and lost consciousness. When she regained consciousness[, ] she saw [accused-appellant] sitting on the bench watching television and she felt pain on her breast. She sat up, put on her clothes which [accused-appellant] removed and he gave her money so she will not report the incident. Another incident happened when [AAA] was in Grade 2. [Accused-appellant] would call her inside his room and he would insert his finger in her vagina. This was usually in the early mornings after his live-in partner would leave the house and occurred every three or four times a week. In Grade 3, the abuses continued and escalated. He would call [AAA] to his room, remove her clothes, lick her breast and put oil in his penis and insert the same into her vagina.

In January 2010, while they were celebrating the New Year, [accused-appellant,] who was under the influence of liquor, again called [AAA] in his room. When they were inside, he locked the door, grabbed her hand and laid her down. He undressed her, fondled her breast, and licked her vagina. He then undressed his lower garment and inserted his penis inside her vagina. After the act, he gave her [P]50.00 not to tell anyone.

At noon of October 2, 2010, the same incident happened inside his room when he called her and he was able to suck her breast, lick her vagina and insert his penis into her vagina. Finally, on October 3, 2010, at around 6:00 or 7:00 o'clock in the evening, [accused-appellant] called [AAA] inside the comfort room because his live-in partner was in their room and he put down her undergarments to her knees, licked her vagina and touched his penis to her vagina. During all these incidents, she could not prevent him doing all these things to her because he would create trouble in their residence and tell them that she was going out with somebody. However, on October 4, 2010 when [accused-appellant] was again calling for her to enter her [(sic)] room, [AAA] refused despite the trouble that he was creating by telling stories about her. Alarmed why [accused-appellant] was acting this way towards [AAA], [BBB] confronted her daughter as to the actuations of [accused appellant]. It was then that [AAA] revealed to her what [accused appellant] had been doing to her since she was in Grade 1. They then filed a case against [accused-appellant].

When she was examined, it was found by Dr. Josefa Bentayen that there was an absence of hymenal tissue on the labia of [AAA] and there were healed injuries at the 4:00 o'clock position. Because of the condition of the injury, she stated that these injuries could have been occurred [(sic)] a year prior to her examination on November 24, 2010.

Further tests were conducted on [AAA] by the Municipal Social Welfare Officer of La Trinidad, Benguet who prepared the Social Case Study report of [AAA] and by Psychologist who diagnosed the cognitive functioning of [AAA] to be within a mild retardation level with a mental age of seven years and one month oId.<sup>[10]</sup>

On the other hand, the CA summarized the version of the defense as follows:

[Accused-appellant] denied the actuations hurled against him. He proffered no knowledge why AAA charged him of the crime of rape. [Accused-appellant] claimed that from 2001-2010, he and his live-in partner Claudia Carantes, were renting a room in the house of AAA's father, CCC. [Accused-appellant] also averred that on [November 6, 2010], while he was drinking with CCC and AAA's other sibling, EEE, the older sister of AAA, got angry and threw a stone at him because EEE said he was always mentioning AAA's name. As the stone did not hit him, he just went to his room so as not to aggravate the situation. [Accused-appellant] further alleged that the only reason he can think of for them filing these criminal suits against him is because he refused to vacate his rented room after he was asked to leave the same.<sup>[11]</sup>

### **Ruling of the RTC**

In its Decision dated August 8, 2017, the RTC found accused-appellant guilty of three counts of rape and rendered judgment as follows:

WHEREFORE, from the foregoing, there being proof beyond reasonable doubt that accused committed the crimes charged, ALBERTO "BERT" MARTINEZ, also known as ALBERTO BELINARIO is hereby found GUILTY of three (3) counts of rape as penalized under Article [6]6-A paragraph 1. He is hereby sentenced to suffer the penalty of imprisonment of *Reclusion Perpetua*.

He is further directed to pay [AAA] the following for each case:

- a. Civil indemnity of [P]75,000.00;
- b. Moral damages of [P]75,000.00;
- c. Exemplary damages of [P]75,000.00; and
- d. All monetary award for damages to earn interest at the legal rate of 6% [per annum] from the finality of this Decision until fully paid.

SO ORDERED.<sup>[12]</sup>

The RTC held that the prosecution was able to prove, through the clear and straightforward testimony of AAA, the elements of the crime: 1) that accused-appellant had carnal knowledge of the offended party and 2) that the offended party is under 12 years of age.<sup>[13]</sup> As against AAA's positive assertions, the RTC refused to give credence to accused-appellant's bare denial,<sup>[14]</sup> which is an inherently weak defense.

In fact, the RTC noted that AAA's younger sister testified that she witnessed several instances when accused-appellant would be on top of AAA "doing the pumping motions."<sup>[15]</sup> She likewise stated she saw accused appellant placed his finger in the vagina of AAA and that she went to tell her mother but the latter did not believe her.<sup>[16]</sup> Although the specific criminal acts charged in the aforementioned Informations were not witnessed by AAA's younger sister, the RTC reiterated the threshold principle that "[i]n rape cases, the accused may be convicted solely on the testimony of the victim, provided the testimony is credible, natural, convincing, and consistent with human nature and the normal course of things."<sup>[17]</sup>

The RTC noted, however, that AAA had already turned 12 years old at the time when the other incidents occurred. Nevertheless, the RTC held that although AAA had already reached the age of 12 years, the prosecution proved that she had a mental age of seven years and one month. Accordingly, the RTC held that the accused-appellant may still be convicted for statutory rape.<sup>[18]</sup>

### **Ruling of the CA**

On appeal, the CA affirmed accused-appellant's conviction in its Decision dated February 27, 2019 *in toto*. The dispositive part of the Decision reads:

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

Accordingly, the *Decision dated 08 August 2017* of the Regional Trial Court, Branch 9, La Trinidad, Benguet, in Criminal Cases Nos. 11- CR-8289, 11-CR-8290 and 11-CR-8291, finding accused-appellant Alberto

Martinez also known as Alberto Belinario guilty beyond reasonable doubt of three (3) counts of the crime of rape, sentencing him for each count to the penalty of *reclusion perpetua*, and ordering him to pay civil indemnity, moral damages and exemplary damages in the amount of [P]75,000.00 each, is hereby **AFFIRMED in toto**.

The Division Clerk of Court of this Court is directed to prepare the Mittimus for the immediate transfer of said accused-appellant from the Benguet Provincial Jail at La Trinidad, Benguet, to the New Bilibid Prisons at Muntinlupa City, Metro Manila. **SO ORDERED.**<sup>[19]</sup>

In affirming the RTC, the CA held that AAA was able to clearly, positively, and convincingly narrate her miserable ordeal in the hands of accused-appellant.<sup>[20]</sup> The CA quoted the threshold principle that the testimonies of child-victims are generally given full weight and credence as a young woman would not concoct a story of defloration, endure the embarrassment and humiliation of a public disclosure that she had been ravished, allow an examination of her private parts, and undergo the ordeal of a public trial if her story was not true.<sup>[21]</sup> Hence, this appeal.

### **Issue**

Whether the CA erred in finding accused-appellant guilty for three counts of Rape under Article 266-A of the RPC.

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

The appeal has partial merit. Article 266-A of the RPC reads:

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;

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

In *People v. Biala*,<sup>[22]</sup> the Court explained:

The gravamen of the offense of rape is sexual congress with a woman by force and without consent. If the woman is under 12 years of age, proof of force is not an element, as the absence of a free consent is conclusively presumed as the law supposes that a woman below this age does not possess discernment and is incapable of giving intelligent consent to the sexual act. Conviction will therefore lie, regardless of proof