

THIRD DIVISION

[G.R. No. 228260, June 10, 2019]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELMER MOYA, ACCUSED-APPELLANT.

DECISION

PERALTA, J.:

This is to resolve the appeal of appellant Elmer Moya that seeks to reverse and set aside the Decision^[1] dated October 22, 2015 of the Court of Appeals (CA) affirming with modifications the Decision^[2] dated April 8, 2013 of the Regional Trial Court (RTC), Branch 10, Balayan, Batangas, finding the appellant guilty beyond reasonable doubt of Rape and Qualified Rape under Article 266-A, in relation to Article 266-B of the Revised Penal Code (RPC); and violation of Section 5(b), Article III of Republic Act (R.A.) No. 7610.

The facts follow.

On July 20, 2008, AAA,^[3] the victim, then thirteen (13) years old (born on July 25, 1995) and the sister of appellant, was sleeping in the other room of appellant's house. AAA was awakened when appellant entered the room. Appellant then placed his hand on AAA's mouth and started to undress her by removing her shorts and underwear. AAA could not shout for help since appellant had placed his hand on her mouth.^[4]

Thereafter, on July 27, 2008, at around 8:30 p.m., the same incident took place. Appellant placed his hand on AAA's mouth and started to undress her. Afterwards, appellant inserted his penis into AAA's vagina and ejaculated. AAA did not tell anyone about the incident because she was afraid that no one would believe her. Appellant likewise threatened AAA by telling her that she would be killed if someone finds out about the incident.^[5]

Again, on August 3, 2008, at around 8:00 p.m., appellant entered the room of AAA and the former placed his hand on the mouth of the latter. Appellant undressed AAA and, thereafter, appellant ejaculated.^[6]

Then on August 14, 2008, at around 8:30p.m., AAA was in the house of appellant and was awakened when appellant entered her room. Appellant then placed his hand on AAA's face and proceeded to undress her. Thereafter, appellant inserted his finger into AAA's vagina.^[7]

On October 21, 2008, Police Superintendent Roy A. Camarillo, MD, MBA, Medico-Legal Officer, examined AAA. The medico-legal report indicated the following findings and conclusion:

FINDINGS:

Fairly nourished, normally developed, conscious, coherent, ambulatory female subject. Breasts are budding. Abdomen is soft & flat.

There's scanty growth of pubic hair. Labia majora are full, convex and coaptated with light brown and non-hypertrophied labia minora presenting in between. On separating the same is disclosed crescentic type of hymen, thin, with PRESENCE OF DEEP HEALED LACERATION at 9 o'clock position and SHAL[L]OW HEALED LACERATION at 3 o'clock position. The perihymenal, urethra, periurethral area and fossa navicularis have no evident injury noted at the time of examination. There is no discharge noted.

CONCLUSION:

MEDICAL EXAMINATION SHOWS BLUNT HEALED TRAUMA TO THE HYMEN.

THERE ARE NO EXTRA-GENITAL INJURIES NOTED AT THE TIME OF EXAMINATION.^[8]

Hence, four (4) separate Informations were filed against appellant, thus:

Criminal Case No. 6263

That on or about the 27th day of July, 2008, at around 8:00 o'clock in the evening, at [REDACTED], Province of Batangas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there willfully feloniously lie with and have carnal knowledge with one [REDACTED], a thirteen (13) year old minor, accused's sister, against her will and consent, which acts debased, degraded or demeaned her intrinsic worth and dignity, as a human being.

Contrary to law.^[9]

Criminal Case No. 6264

That on or about the 20th day of July 2008, at around 8:00 o'clock in the evening, at [REDACTED], Province of Batangas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there willfully feloniously lie with and have carnal knowledge with one [REDACTED] a thirteen (13) year old minor, accused's sister, against her will and consent, which acts debased, degraded or demeaned her intrinsic worth and dignity, as a human being.

Contrary to law.^[10]

Criminal Case No. 6265

That on or about the 14th day of August 2008, at around 8:00 o'clock in the evening, at [REDACTED], Province of Batangas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there willfully unlawful and feloniously lie with and have carnal knowledge with one [REDACTED], a thirteen (13) year old minor, accused's sister, against her will and consent, which acts debased, degraded or demeaned her intrinsic worth and dignity, as a human being.

Contrary to law.^[11]

Criminal Case No. 6266

That on the 3rd day of August 2008, at around 8:00 o'clock in the evening, at [REDACTED], Province of Batangas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously lie with and have carnal knowledge with one [REDACTED], a thirteen (13) year old minor, accused's sister, against her will and consent, which acts debased, degraded or demeaned her intrinsic worth and dignity, as a human being.

Contrary to law.^[12]

During arraignment, appellant pleaded not guilty to all the charges against him; and after the pre-trial conference, trial on the merits ensued.

Appellant interposed the defense of denial and alibi. According to him, he was not even at his house on the dates of the alleged incidents. Appellant claimed that he was out fishing, together with his co-fisherman and uncle, in Calatagan, Batangas, which is estimated to be more than one (1) kilometer away from his house. The same was corroborated by BBB, appellant and AAA's aunt.^[13]

The RTC found appellant guilty beyond reasonable doubt of the crime of Rape under Article 266-A(1), in relation to Article 266-B, 1st paragraph of the RPC, as amended by R.A. No. 8353, and in relation further to Article III, Section 5(b) of R.A. No. 7610, and Section 3(g) of its Implementing Rules and Regulations; sentenced him to suffer, on each count, the penalty of *reclusion perpetua*, without eligibility for parole; and ordered him to pay AAA the amounts of P50,000.00 as civil indemnity, P75,000.00 as moral damages, and P25,000.00 as exemplary damages, thus:

In view of the foregoing and by proof beyond reasonable doubt, the Court hereby render[s] judgment as follows:

1. In Criminal Case No. 6263, the Court finds accused Elmer Moya guilty beyond reasonable doubt of the crime of Rape as charged and hereby sentences him to suffer the penalty of Reclusion Perpetua without eligibility for parole, and indemnify victim [REDACTED] the amount of Php50,000.00 as civil indemnity, Php75,000.00 as moral damages and Php25,000.00 as exemplary damage[s].

2. In Criminal Case No. 6264, the Court finds accused Elmer Moya guilty beyond reasonable doubt of the crime of Rape as charged and hereby sentences him to suffer the penalty of Reclusion Perpetua without eligibility for parole, and to indemnify victim [REDACTED] the amount of Php50,000.00 as civil indemnity, Php75,000.00 as moral damages and Php25,000.00 as exemplary damages.
3. In Criminal Case No. 6265, the Court finds accused Elmer Moya guilty beyond reasonable doubt of the crime of Rape as charged and hereby sentences him to suffer the penalty of Reclusion Perpetua without eligibility for parole, and to indemnify victim [REDACTED] the amount of Php50,000.00 as civil indemnity, Php75,000.00 as moral damages and Php25,000.00 as exemplary damages.
4. In Criminal Case No. 6266, the Court finds accused Elmer Moya guilty beyond reasonable doubt of the crime of Rape as charged and hereby sentences him to suffer the penalty of Recl tua without eligibility for parole, and to indemnify victim [REDACTED] the amount of Php50,000.00 as civil indemnity, Php75,000.00 as moral damages and Php25,000.00 as exemplary damages.

SO ORDERED.^[14]

According to the RTC, the victim, AAA, spontaneously and without hesitation, identified appellant as the malefactor; and although the victim's testimony suffered some lapses and inconsistencies, the same was understandable, taking into account the nature of the crime committed at her young age. The trial court also held that the incident of rape is corroborated by the medico-legal findings.

The CA affirmed the decision of the RTC with modifications. In Criminal Case No. 6263, appellant was sentenced by the CA to suffer the penalty of *reclusion perpetua*, without eligibility for parole, and ordered him to pay AAA P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages. In Criminal Case Nos. 6264 and 6266, appellant was found guilty of violation of Section 5(b), Article III of R.A. No. 7610 and sentenced to suffer the indeterminate penalty of six (6) months of *arresta mayor*, as minimum, to six (6) years of *prision correccional*, as maximum, and ordered to pay P20,000.00 as civil indemnity, P15,000.00 as moral damages, as well as a P15,000.00 fine. In Criminal Case No. 6265, appellant was found guilty of Qualified Rape by Sexual Assault under Article 266-A, in relation to 266-B of the RPC and sentenced to suffer the indeterminate penalty of imprisonment of six (6) years and one (1) day of *prision mayor*; as minimum, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*, as maximum, and ordered him to pay AAA P30,000.00 as civil indemnity, P30,000.00 as moral damages, and P30,000.00 as exemplary damages, thus:

WHEREFORE, premises considered, the appeal is hereby PARTIALLY GRANTED. The Decision dated April 8, 2013 rendered by Branch 10, Regional Trial Court (RTC) of Balayan, Batangas is hereby AFFIRMED with the following MODIFICATIONS:

1. In Criminal Case No. 6263, [Elmer Moya] is found GUILTY of qualified rape through sexual intercourse under Article 266-A in

relation to 266-B of the Revised Penal Code. [Elmer Moya] is hereby sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole, and ordered to pay AAA P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages.

2. In Criminal Case [No.] 6264, [Elmer Moya] is found GUILTY of violation of Section 5(b), Article III of Republic Act 7610. [Elmer Moya] is meted to suffer the indeterminate penalty of six (6) months of *arresto mayor*, as minimum, to six (6) years of *prision correccional*, as maximum, and ordered to pay P20,000.00 as civil indemnity and P15,000.00 as moral damages to AAA, as well as a P15,000.00 fine.
3. In Criminal Case No. 6265, [Elmer Moya] is found GUILTY of qualified rape by sexual assault under Article 266-A in relation to 266-B of the Revised Penal Code. [Elmer Moya] is hereby sentenced to suffer the indeterminate penalty of imprisonment of six (6) years and one (1) day of *prision mayor* as minimum, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*, as maximum, and ordered to pay AAA P30,000.00 as civil indemnity, P30,000.00 as moral damages, and P30,000.00 as exemplary damages.
4. In Criminal Case [No.] 6266, [Elmer Moya] is found GUILTY of violation of Section 5(b), Article III of Republic Act 7610. [Elmer Moya] is meted to suffer the indeterminate penalty of xxx six (6) months of *arresto mayor*, as minimum, to six (6) years of *prision correccional*, as maximum, and ordered to pay P20,000.00 as civil indemnity and P15,000.00 as moral damages to AAA, as well as a P15,000.00 fine.

SO ORDERED.^[15] (Citation omitted.)

According to the CA, in Criminal Case No. 6265, *prision mayor* is the penalty prescribed for rape by sexual assault under Article 266-B of the RPC, and the penalty is increased to *reclusion temporal* if the rape is committed with any of the ten (10) aggravating circumstances mentioned in said article. The CA further ruled that since the qualifying circumstances of relationship and minority are sufficiently alleged and proven, the penalty, therefore, is *reclusion temporal* which ranges from twelve (12) years and one (1) day to twenty (20) years, and applying the Indeterminate Sentence Law, the penalty next lower in degree is *prision mayor* which ranges from six (6) years and one (1) day to twelve (12) years. Hence, the CA imposed the indeterminate penalty of imprisonment of six (6) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*, as maximum. The CA further reduced the civil indemnity and moral damages to P30,000.00, and increased the award of exemplary damages to P30,000.00, in accordance with existing jurisprudence.

In Criminal Case Nos. 6264 and 6266, the CA ruled that the penalty provided for in Acts of Lasciviousness, in relation to Section S(b), Article III of R.A. No. 7610, is *prision correccional*; and as the crime was committed by the brother of the victim,