

## THIRD DIVISION

[ G.R. No. 232071, July 10, 2019 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BBB,  
ACCUSED-APPELLANT.**

### D E C I S I O N

**PERALTA, J.:**

For consideration of the Court is the appeal of the Decision<sup>[1]</sup> dated February 9, 2017 of the Court of Appeals (CA) in CA-G.R. CR HC No. 01441-MIN which affirmed, with modification, the Joint Judgment<sup>[2]</sup> dated August 27, 2015 of the Regional Trial Court (RTC) of ██████████ City, Misamis Oriental, finding accused-appellant BBB guilty beyond reasonable doubt of two (2) counts of rape under Article 266-A, paragraph 1(a) of the Revised Penal Code (RPC), in relation to Republic Act (R.A.) No. 7610, as amended by R.A. No. 8353, otherwise known as the *Anti-Rape Law of 1997* and two (2) counts of child abuse in violation of Section 10, in relation to Section 3, of R.A. No. 7610.

The antecedent facts are as follows.

In four (4) separate Informations, BBB was charged with two (2) counts of rape under Article 266-A, paragraph 1(a) of the RPC, in relation to R.A. No. 7610, and two (2) counts of child abuse in violation of Section 10, in relation to Section 3, of R.A. No. 7610, the accusatory portions of which read:

#### **Criminal Case No. 2012-4969**

That sometime on April 17, 2012, at more or less 9:00 o'clock in the evening, in XXX, ██████████ City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused who is the grandfather of the victim, by means of force, violence and intimidation, did then and there [willfully], unlawfully, and feloniously have carnal knowledge with (sic) [AAA], 16 years old, minor, by inserting his penis into the latter's vagina and have (sic) sexual intercourse for the first occasion, against her will and without her consent. With the aggravating circumstances of that (sic) the victim is under eighteen (18) years of age and the offender is a grandfather of the said victim within the third degree of consanguinity; and minority.

Contrary to and in violation of Article 266-A, paragraph 1(a) of the Revised Penal Code, in relation to R.A. 7610, as amended by R.A. 8353, otherwise known as the *Anti-Rape Law of 1997*.

#### **Criminal Case No. 2012-4970**

That sometime on June 10, 2012, at more or less 10:00 o'clock in the morning, in XXX, [REDACTED] City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused who is the grandfather of the victim, by means of force, violence and intimidation, did then and there [willfully], unlawfully, and feloniously have carnal knowledge with (sic) [AAA], 16 years old, minor, by inserting his penis into the latter's vagina and have (sic) sexual intercourse for the second occasion, against her will and without her consent. With the aggravating circumstances of that (sic) the victim is under eighteen (18) years of age and the offender is a grandfather of the said victim within the third degree of consanguinity; and minority.

Contrary to and in violation of Article 266-A, paragraph 1(a) of the Revised Penal Code, in relation to R.A. 7610, as amended by R.A. 8353, otherwise known as the Anti-Rape Law of 1997.

**Criminal Case No. 2012-4972**

That sometime on July 20, 2012, at around 10:00 o'clock in the evening, more or less in XXX, [REDACTED] City, Misamis Oriental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused who is the grandfather of the private offended party and a relative within the third civil (sic) by consanguinity, and taking undue advantage of the victim's minority, with violence and intimidation, did then and there, knowingly, unlawfully and criminally sexually molest private offended minor (sic) [AAA] who is sixteen years (sic) (16) years old and a minor, by removing her clothes, and caressing her breasts, sucking her nipples, and touching the other parts of her body, against her will, thereby debasing, degrading and demeaning the intrinsic worth and dignity of the private offended minor, as child and which acts are detrimental and prejudicial to her development as a normal human being, to the damage and prejudice of the said victim as may be allowed by law. (sic)

Contrary to law and in violation of Section 10, in relation to Section 3 of Republic Act 7610.

**Criminal Case No. 2012-4973**

That sometime on July 21, 2012, at around 12:00 noon, more or less in XXX, [REDACTED] City, Misamis Oriental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused who is the grandfather of the private offended party and a relative within the third civil (sic) by consanguinity, and taking undue advantage of the victim's minority, with violence and intimidation, did then and there, knowingly, unlawfully and criminally sexually molest private offended minor (sic) [AAA] who is sixteen years (sic) (16) years old and a minor, by removing her clothes, and caressing her breasts, sucking her nipples, and touching the other parts of her body, against her will, thereby debasing, degrading and demeaning the intrinsic worth and dignity of the private offended minor, as child and which acts are detrimental and prejudicial to her development as a normal human being, to the damage and prejudice of the said victim as may be allowed by law. (sic)

Contrary to law and in violation of Section 10, in relation to Section 3 of Republic Act 7610.<sup>[3]</sup>

On September 11, 2012, BBB was arraigned and pleaded not guilty to the charges filed against him. Subsequently, trial on the merits ensued. The prosecution presented victim AAA<sup>[4]</sup> and Dr. Marlene K. Coronado as witnesses.

It was established by the prosecution that AAA was born out of wedlock on June 29, 1996. After the death of her father, her mother remarried. Consequently, AAA was left to be raised by her maternal grandparents - grandfather BBB and grandmother CCC at ██████████ City.

At about 9 o'clock in the evening of April 17, 2012, while CCC was on vacation in Cebu, AAA was awakened when BBB came close to her. AAA was lying on the bed when BBB kissed her lips, mounted her and pulled up her sleeveless shirt. He, thereafter, kissed her stomach up to her neck, squeezed her breasts, and kissed her nipples. As BBB threatened AAA that he will not send her to school anymore if she will not let him use her, he removed her short pants and underwear and removed his as well. Then, he sat on her, inserted his finger in her organ many times, and thereafter inserted his penis in her vagina. After satisfying his lust, BBB went back to sleep with AAA's 2-year-old nephew between them.<sup>[5]</sup>

On June 10, 2012, CCC was sewing clothes at the living room with only a cabinet dividing it from the sleeping area. At 10 o'clock in the morning of said day, AAA was looking after her sleeping nephew on the hammock at the sleeping area with BBB. BBB then asked AAA to sit on his lap, but AAA refused. Despite this, BBB pulled her close to him, removed her short pants and underwear, and made her sit on his penis while he was seated upright. After having coitus with AAA, BBB put his pants back on.<sup>[6]</sup>

On July 20, 2012, at around 10 o'clock in the evening, while CCC was sewing clothes at a *nipa* hut right outside their house, AAA was left again with BBB and her nephew in the sleeping area. BBB then touched AAA's breasts, raised her sleeveless shirt while she was lying down and kissed her nipples. BBB, thereafter, went outside the house while AAA went to the kitchen.<sup>[7]</sup>

On July 21, 2012, while AAA was cooking lunch, BBB hugged her from behind, inserted his hand in her shirt, and squeezed her breasts. BBB, thereafter, walked away. AAA did not shout as she was scared of her grandfather. After lunch of the same day, AAA went to her aunt, DDD, to tell her what happened. Consequently, DDD brought AAA to the Barangay Kagawad, YYY, to seek for help. BBB was immediately arrested and was detained at ██████████ City Police Station. The next day, AAA was brought to Misamis Oriental Provincial Hospital in ██████████ City for medical examination conducted by Dra. Marlene K. Coronado who found that AAA's genitalia showed an old laceration at 3 o'clock and that her hymen was no longer intact.<sup>[8]</sup>

For its part, the defense presented the lone testimony of BBB who denied the accusations against him. According to BBB, it was only him and AAA's nephew who were in the house in the evening of April 17, 2012. His wife, CCC, was then in Cebu

while AAA was in [REDACTED] City. He said that AAA left in the morning of April 15, 2012 to look for a job and returned only on April 24, 2012. Pacaria further testified that he could not have sexually molested AAA on June 10, 2012 and July 20, 2012 because there were several persons in the house and that he and CCC were busy taking turns with the sewing. As for the July 21, 2012 incident, BBB alleged that he was not at home the entire day since he left for the Iglesia ni Cristo Church at 5:00 a.m. and went home at 5:00 p.m.<sup>[9]</sup>

On August 27, 2015, the RTC rendered its Joint Judgment finding BBB guilty of the crimes charged, the dispositive portion of which provides:

WHEREFORE, premises considered, judgment is hereby rendered, the Court finds accused, [BBB], GUILTY beyond reasonable doubt of two (2) counts of qualified rape and two (2) counts of sexual abuse under Section 5(b), Article III, of Republic Act No. 7610.

In Criminal Case No. 2012-4969, he is hereby sentenced him (sic) to suffer the penalty of *reclusion perpetua* without the benefit of parole, and 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 No. 2012-4970, he is hereby sentenced him (sic) to suffer the penalty of *reclusion perpetua* without the benefit of parole, and 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 No. 2012-4972, he is hereby sentenced to suffer the indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to eighteen (18) years of *reclusion temporal*, as maximum; to pay a fine of P15,000.00; and to pay [AAA] P20,000.00 as civil indemnity and P15,000.00 as moral damages.

In Criminal Case No. 2012-4973, he is hereby sentenced to suffer the indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to eighteen (18) years of *reclusion temporal*, as maximum; to pay a fine of P15,000.00; and to pay [AAA] P20,000.00 as civil indemnity and P15,000.00 as moral damages.

In the service of his sentences, the accused is hereby credited with the full time during which he has undergone preventive imprisonment, provided that he agreed voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.<sup>[10]</sup>

In its Decision dated February 9, 2017, the CA affirmed, with modification, the RTC ruling, and disposed of the case as follows:

WHEREFORE, the Joint Judgment dated 27August 2015 issued by Branch 27 of the Regional Trial Court, [REDACTED] in Criminal Cases Nos. 2012-4969 (for Rape), 2012-4970 (for Rape), 2012-4972 (for Child Abuse) and 2012-4973 (for Child Abuse) is hereby AFFIRMED with MODIFICATION.

In Criminal Cases Nos. 2012-4969 and 2012-4970, the awards of civil

indemnity ex delicto, moral and exemplary damages against AAA are hereby increased to Php 100,000.00 each in both cases.

In *Criminal Cases Nos. 2012-4972 and 2012-4973*, the accused-appellant [BBB] is hereby sentenced to suffer the penalty of *reclusion perpetua*, without eligibility of parole, in both cases. He is likewise ordered to pay the private offended party [AAA], in both cases, as follows: P15,000.00 as fine, P20,000.00 as civil indemnity, P15,000.00 as moral damages and P15,000.00 as exemplary damages.

The accused-appellant [BBB] is further ordered to pay interest on all damages awarded at the rate of 6% *per annum* from finality of this decision until fully paid.

SO ORDERED.<sup>[11]</sup>

Now before Us, BBB manifested that he would no longer file a Supplemental Brief as he has exhaustively discussed the assigned errors in his Appellant's Brief.<sup>[12]</sup> The Office of the Solicitor General (OSG) similarly manifested that it had already discussed its arguments in its Appellee's Brief.<sup>[13]</sup> BBB insists that AAA's credibility as a witness is objectionable considering that she failed to immediately disclose to her aunt, DDD, whom she usually confides in, the alleged sexual assaults committed by him. He added that her contradicting testimonies failed to overturn the constitutional presumption of innocence in his favor. Thus, the judgment should be reversed.

After a careful review of the records of this case, however, the Court finds no cogent reason to reverse the ruling of the CA. Time and again, the Court has ruled that the trial court's factual findings, especially its assessment of the credibility of witnesses, are accorded great weight and respect and binding upon this Court, particularly when affirmed by the CA.<sup>[14]</sup> To determine the innocence or guilt of the accused in rape cases, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense. Accordingly, in resolving rape cases, the primordial or single most important consideration is almost always given to the credibility of the victim's testimony. When the victim's testimony is credible, it may be the sole basis for the accused person's conviction since, owing to the nature of the offense, in many cases, the only evidence that can be given regarding the matter is the testimony of the offended party. A rape victim's testimony is entitled to greater weight when she accuses a close relative of having raped her.<sup>[15]</sup>

Here, BBB contends that he should be acquitted since AAA's testimony contains inconsistencies and contradictions. But as We have consistently ruled, a rape victim cannot be expected to mechanically keep and then give an accurate account of the traumatic and horrifying experience she had undergone. Inaccuracies and inconsistencies in her testimony are generally expected. Thus, such fact, alone,