

## THIRD DIVISION

[ G.R. No. 233661, November 06, 2019 ]

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

### D E C I S I O N

**ZALAMEDA, J.:**

This is an appeal filed by accused-appellant XXX (accused-appellant) seeking to reverse and set aside the Decision<sup>[1]</sup> dated 21 March 2017 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 08147, which affirmed with modifications<sup>[2]</sup> the Amended Decision<sup>[3]</sup> dated 26 November 2015 rendered by Branch 5, Regional Trial Court (RTC) of Lemery, Batangas, finding him guilty of four (4) counts of lascivious conduct, as defined in Republic Act (RA) 7610, and one (1) count of rape.<sup>[4]</sup>

#### **Antecedents**

Separate Informations were filed against accused-appellant, the accusatory portions of which read:

Criminal Case No. 20-2007

That on or about the 7<sup>th</sup> day of March, 2007, at about 10:00 o'clock in the evening at Barangay [REDACTED], Municipality of [REDACTED], Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, and motivated by lust and lewd design, did then and there willfully, unlawfully and feloniously commit lascivious conduct on one AAA a thirteen year old minor, the daughter of the accused, by touching her breasts, with intent to abuse, humiliate, harass or degrade said AAA and to arouse and gratify his sexual desire, which acts debased, degraded and demeaned her intrinsic worth and dignity as a human being.

Contrary to law.<sup>[5]</sup>

Criminal Case No. 32-2007

That on or about the 28<sup>th</sup> day of February, 2007, at about 11:30 o'clock in the evening at Barangay [REDACTED], Municipality of [REDACTED], Province of Batangas, 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 lie with and have carnal knowledge of one AAA a thirteen (13) year old

minor, accused's legitimate daughter, which acts debased, degraded or demeaned the intrinsic worth and dignity of said AAA, as a human being.

Contrary to law.<sup>[6]</sup>

Criminal Case No. 33-2007

That on or about the 6<sup>th</sup> day of January, 2005, at about 7:30 o'clock in the evening at Barangay [REDACTED], Municipality of [REDACTED], Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, and motivated by lust and lewd design, did then and there willfully, unlawfully and feloniously commit lascivious conduct on one AAA a (sic.) eleven (11) year old minor, the daughter of the accused, by embracing her and touching her breasts, with intent to abuse, humiliate, harass or degrade said AAA and to arouse and gratify his sexual desire, which acts debased, degraded and demeaned her intrinsic worth and dignity as a human being.

Contrary to law.<sup>[7]</sup>

Criminal Case No. 34-2007

That on or about the 12<sup>th</sup> day of June, 2005, at about 8:00 o'clock in the evening, at Barangay [REDACTED], Municipality of [REDACTED], Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, and motivated by lust and lewd design, did then and there willfully, unlawfully and feloniously commit lascivious conduct on one AAA a twelve (12) year old minor, the daughter of the accused, by embracing her and touching her breasts, with intent to abuse, humiliate, harass or degrade said AAA and to arouse and gratify his sexual desire, which acts debased, degraded and demeaned her intrinsic worth and dignity as a human being.

Contrary to law.<sup>[8]</sup>

Criminal Case No. 35-2007

That on or about the 20<sup>th</sup> day of August, 2005, at about 9:00 o'clock in the evening at Barangay [REDACTED], Municipality of [REDACTED], Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, and motivated by lust and lewd design, did then and there willfully, unlawfully and feloniously commit lascivious conduct on one AAA a twelve (12) year old minor, the daughter of the accused, by touching her breasts, with intent to abuse, humiliate, harass or degrade said AAA and to arouse and gratify his sexual desire, which acts debased, degraded and demeaned her intrinsic worth and dignity as a human being.

Contrary to law.<sup>[9]</sup>

Upon arraignment, accused-appellant pleaded not guilty to the charges against him. After pre-trial, trial on the merits ensued.

### **Version of the Prosecution**

The prosecution's version of the facts and its evidence were summarized in this manner:

The prosecution presented AAA, the private complainant as its lone witness. Stripped of non-essentials, AAA testified that on January 6, 2005, she was at the house of her cousin, Ate Brenda, watching television. While she was watching television, the accused, her father, came and called her. AAA approached her father who then brought her to the bathroom of her Ate Brenda's house. While inside, the accused embraced AAA and touched her breast. Thereafter, the accused gave her twenty pesos (P20.00) with a warning not to tell anybody what he did. The accused then left.

On June 12, 2005 at around 8:00 o'clock in the evening, AAA was at home taking a bath when the accused suddenly appeared. The accused covered her mouth and warned her not to tell anybody what he is doing to her. The accused then touched her private part and her breast. Subsequently, the accused warned her again then left.

On August 20, 2005, AAA was at the back of their house watching over her five year old brother who was then taking a dump. The accused, her father, suddenly appeared. The accused ordered her sibling to go inside the house. The accused then embraced her and touched her breast and then leave (sic).

On February 28, 2007, at around 9:00 o'clock in the evening, AAA was sleeping at their house together with her other siblings. She was awakened when someone touched her shoulders. It turned out to be his (sic) father, the accused. The latter then put off the light, removed his pants and underwear. The accused then held AAA's hands and forcibly removed her shorts and panty. AAA was then forced to lie down and the accused inserted his penis into AAA's vagina and started pumping. The accused then warned her not to tell anybody of what happened. After satisfying himself, the accused left and AAA cried.

On March 7, 2007 at about 10:00 o'clock in the evening, AAA was home. The accused again fondled with AAA's breast. This time, however, AAA's mother saw it saw (sic) the latter confronted the accused. But the accused just left. After this incident, AAA told her aunt about what her father did to her so her aunt reported the matter to their barangay captain who accompanied them to the police station. X x x <sup>[10]</sup>

### **Version of the Defense**

For his defense, accused-appellant offered his denial and alibi, to wit:

10. Accused XXX, who was a porter at the Lemery Public Market, worked from 6:00 o'clock in the evening until 2:00 o'clock in the afternoon of the following day. Hence, on the days that he allegedly molested and raped AAA, he was, in fact, at the market, carrying fruits and vegetables with his brother.

11. With regard to the place where he allegedly molested and raped her (sic) daughter, XXX never went to the house of BBB. Also, he is a father of seven (7) children, and together with his wife, they lived in the house of his wife's cousin starting November 2006 until he was arrest (sic) in 2007. The house is measured about five (5) meters by four (4) meters and had one small bedroom. Inside the bedroom are old clothes, containers and fruit boxes. Since this could not accommodate all of XXX's family members, he sleeps outside the room, while his wife and children slept inside.<sup>[11]</sup>

### **Ruling of the RTC**

After trial, the RTC rendered its amended decision disposing all the criminal cases filed as follows:

**WHEREFORE**, premises considered, this Court renders the following judgment:

1. In Criminal Case No. 20-2007 for lascivious conduct, accused, XXX is hereby found guilty beyond reasonable doubt and is hereby sentenced to suffer the penalty of ten (10) years and one (1) day of prision mayor as minimum to 20 years of reclusion temporal as maximum, and is ordered to pay AAA the amount of Twenty Thousand Pesos (P20,000.00) as civil indemnity with a rate of 6% per annum from the time of finality of this judgment;
2. In Criminal Case No. 32-2007 for rape, accused, XXX is hereby found guilty beyond reasonable doubt and is hereby sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole, and is ordered to pay AAA the amount of Seventy Five Thousand Pesos (P75,000.00) as civil indemnity and Seventy Five Thousand Pesos (P75,000.00) as moral damages, both with interest at the rate of 6% per annum from the date of finality of this judgment[;]
3. In Criminal Case No. 33-2007 for lascivious conduct, accused, XXX is hereby found guilty beyond reasonable doubt and is hereby sentenced to suffer the penalty of ten (10) years and one (1) day of prision mayor as minimum to 20 years of reclusion temporal as maximum, and is ordered to pay AAA the amount of Twenty Thousand Pesos (P20,000.00) as civil-indemnity with a rate of 6% per annum from the time of finality of this judgment;
4. In Criminal Case No. 34-2007 for lascivious conduct, accused, XXX is hereby found guilty beyond reasonable doubt and is hereby

sentenced to suffer the penalty of ten (10) years and one (1) day of prision mayor as minimum to 20 years of reclusion temporal as maximum, and is ordered to pay AAA the amount of Twenty Thousand Pesos (P20,000.00) as civil indemnity with a rate of 6% per annum from the time of finality of this judgment; and

5. In Criminal Case No. 35-2007 for lascivious conduct, accused, XXX is hereby found guilty beyond reasonable doubt and is hereby sentenced to suffer the penalty of ten (10) years and one (1) day of prision mayor as minimum to 20 years of reclusion temporal as maximum, and is ordered to pay AAA the amount of Twenty Thousand Pesos (P20,000.00) as civil indemnity with a rate of 6% per annum from the time of finality of this judgment.

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

The RTC found AAA's testimony to be clear, convincing, and without any indication that it was rehearsed or coached. The trial court also observed that AAA had no ill motive to implicate accused-appellant for a crime he did not commit. Further, the RTC was more predisposed to believe AAA's testimony being a young and immature female victim who, despite her vulnerability and the potential embarrassment she was to suffer afterwards, still chose to testify. Finally, the RTC ruled that accused-appellant's uncorroborated denial and alibi cannot overcome the victim's positive testimony.<sup>[13]</sup>

Adamant on proving his innocence, accused-appellant filed his appeal before the CA, imputing the following errors on the trial court's part:

I. THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE DESPITE THE PROSECUTION'S FAILURE TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE IN HIS FAVOR AND INCREDIBILITY OF THE PRIVATE COMPLAINANT'S TESTIMONY.

II. THE COURT A QUO GRAVELY ERRED IN NOT GIVING CREDENCE TO ACCUSED-APPELLANT'S DEFENSE OF DENIAL.<sup>[14]</sup>

**Ruling of the CA**

On 21 March 2017, the CA promulgated its Decision, the dispositive portion of which reads:

**WHEREFORE**, premises considered, the appeal is **DENIED**. The assailed Amended Decision dated 26 November 2015 of the Regional Trial Court Lemery, Batangas Branch 5 in Criminal Case Nos. 20-2007, 32-2007, 33-2007, 34-2007, and 35-2007 is **AFFIRMED with MODIFICATIONS** viz:

1. In **Criminal Case No. 20-2007** for lascivious conduct, accused, XXX is hereby found guilty beyond reasonable doubt of committing acts of lasciviousness as defined under Section 5(b), Article III of Republic Act No. 7610 in relation to Section 2(h) of its Implementing Rules and Regulations. As such, he is hereby sentenced to suffer the penalty of twenty (20) years and one (1) day as minimum to forty (40) years as