

## THIRD DIVISION

[ G.R. No. 218245, January 17, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESUS EMPUESTO Y SOCATRE, ACCUSED-APPELLANT.**

### DECISION

**MARTIRES, J.:**

This resolves the appeal of accused-appellant Jesus Empuesto y Socatre (*Empuesto*) seeking the reversal and setting aside of the 5 September 2014 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CEB CR HC No. 01680 which affirmed, with modification as to the award of damages, the 23 July 2012 Decision<sup>[2]</sup> of the Regional Trial Court (RTC), ██████████ Bohol, finding him guilty of Rape under Art. 266-A 1(a) of the Revised Penal Code (RPC), as amended.

### THE FACTS

In an Information<sup>[3]</sup> docketed as Crim. Case No. 06-1679, accused-appellant was charged with rape, the accusatory portion of which reads as follows:

That on or about the 3rd day of July 2005 in the Municipality of ██████████, Province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with criminal intent, that is, carnal lecherous desire, with force, threat, and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge with victim AAA by inserting his penis into the vagina of the said victim against her will and consent, to her damage and prejudice in the amount to be proved during the trial.

Acts committed contrary to law, that is, Art. 266-A 1(a) of the Revised Penal Code, as amended.

When arraigned, accused-appellant pleaded not guilty,<sup>[4]</sup> hence, trial proceeded.

### Version of the Prosecution

The prosecution tried to prove its case through the testimony of private complainant AAA,<sup>[5]</sup> BBB, Rebecca Bantilan (*Rebecca*), and ██████████ Municipal Health Officer Dr. Jaime Gregorio L. Salarda (*Dr. Salarda*).

On 1 July 2005, accused-appellant went to Rebecca's house to invite her husband to attend the Parents-Teachers Association (PTA) meeting. Rebecca's husband is the brother of AAA's husband. Because Rebecca's husband was plowing the field at that time, he asked Rebecca to come with accused-appellant instead. At about 2:30 p.m. of that day, when Rebecca and accused-appellant were already in front of AAA's

house on their way to the school to attend the PTA meeting, accused-appellant peeped through the window of AAA's house and called out to ask AAA, "Marehan, is padrehan still in Cebu?" AAA answered that her husband was still in Cebu. Accused-appellant calls AAA "marehan" because AAA's husband is the godfather of his eldest child.<sup>[6]</sup>

On 3 July 2005, at about 1:00 a.m., accused-appellant stealthily entered AAA's house through a hole on the floor. AAA's house had GI roofing but the floor was made of bamboo slats and elevated from the ground. While she and her four children were sleeping inside the mosquito net, AAA heard a noise coming through the floor. To AAA's right was her youngest child and BBB, her eight-year old daughter; while to her left were her two sons. Because the light was on, AAA saw that it was accused-appellant who entered the house. Armed with a bolo, accused-appellant switched off the light and entered the mosquito net. He poked his bolo at AAA and told her not to make any noise, otherwise, he would kill her and her children. He told her that he needed only her. He told AAA to remove her panty but she could not move because of fear. BBB woke up but she likewise did not move because she heard the threat made by accused-appellant to her mother. BBB also heard accused-appellant tell her mother "matagal na kitang gusto."<sup>[7]</sup>

Because AAA's youngest child was crying, accused-appellant told AAA to breastfeed her child. It was while AAA was breastfeeding that accused-appellant removed her panty, placed himself on top of her, and forcefully inserted his penis into her vagina. After his carnal knowledge of AAA, accused-appellant left while AAA just cried out of fear. Thereafter, AAA and BBB found that accused-appellant was able to enter the house through a hole on the floor. She saw a black female panty on the floor which she believed belonged to accused-appellant because whenever she washed clothes at the river she would usually see him there taking a bath and wearing a black panty. She found out that the bolo he used to threaten her with actually belonged to them; she had placed it that night on the floor near where she and her children lay.<sup>[8]</sup>

That same morning, AAA went to the house of her parents-in-law and narrated to them what happened to her. On that same day, she went to the police as advised by her parents-in-law and submitted herself to a medical examination by Dr. Salarda. A medico-legal examination report<sup>[9]</sup> was issued to her after she paid P100.00.<sup>[10]</sup> Due to the filing of this case against accused-appellant, she incurred around P20,000.00 going to the Municipal Circuit Trial Court in Dagohoy. Her husband, who was earning P5,000.00 weekly while working at a furniture company in Banilad, Cebu, also lost his job as a result of the filing of this case.<sup>[11]</sup>

### ***Version of the Defense***

In his defense, accused-appellant, his brother Basilio, and Sanie<sup>[12]</sup> Bautista (*Sanie*) testified.

On 2 July 2005, accused-appellant, a barangay tanod, and Basilio went to the house of Kagawad Dioscoro Lofranco (*Lofranco*) to ask for instructions on what to do for the conduct of a vigil before proceeding to the house of the deceased barangay captain, Pedro Bautista (*Bautista*). Lofranco told accused-appellant to stay at the plaza near the house of Bautista. Accused-appellant and Basilio proceeded to the

plaza to await Bautista's body. Basilio stayed with accused-appellant all the time during the vigil.<sup>[13]</sup>

Sanie arrived at the house of Bautista, his cousin, at around 7:00 p.m. He saw accused-appellant sitting on a bench at the plaza. He also stayed with accused-appellant from 10:00 p.m. until 7:00 a.m. the following day.<sup>[14]</sup>

Because Bautista's body had not arrived, accused-appellant and Basilio went home at around 6:00 a.m. the following day. At around 8:00 a.m., while on his way back to the vigil, accused-appellant was arrested by the police officers and brought to the [REDACTED] Philippine National Police (PNP) station where he was investigated about the rape case filed by AAA. There he saw AAA and Rebecca.<sup>[15]</sup>

### ***The Ruling of the RTC***

The RTC found that the testimony of AAA was straightforward and believable because it was not shown that there was a reason for her to falsely charge accused-appellant with rape if this was not true. The RTC noted that, although BBB did not know how accused-appellant came to their house on 3 July 2005 and threatened her mother, this however did not weaken the case of the prosecution since AAA's testimony was sufficient to prove that she was raped, which was further confirmed by the testimony of Dr. Salarda. Moreover, Rebecca's testimony revealed a circumstantial fact that showed accused-appellant made sure that AAA's husband was not around.<sup>[16]</sup>

The RTC found the alibi of accused-appellant very weak viewed against the positive testimony of AAA. The RTC held that it was not physically impossible for accused-appellant to be at the house of AAA since Bautista's house was just within the neighborhood.<sup>[17]</sup> Hence, the RTC resolved the charge of AAA against accused-appellant as follows:

WHEREFORE. considering the foregoing, the court hereby finds accused Jesus Empuesto y Socatre GUILTY beyond reasonable doubt for the crime of Rape. In accordance with the penalty set forth under Article 266-A of the Revised Penal Code, this court hereby sentences him to suffer the penalty of RECLUSION PERPETUA. He is likewise sentenced to pay civil indemnity to the victim AAA in the amount of FIFTY THOUSAND PESOS (P50,000.00), Philippine Currency.

As it appears on record that the accused is under detention at the [REDACTED] District Jail, said accused shall be credited with the full period of his detention subject to an assessment by the Jail Warden on his demeanor while in said detention center.

SO ORDERED.

### ***The Ruling of the CA***

The CA, Nineteenth Division ruled that AAA's positive and categorical testimony sufficiently established the commission of rape upon her by accused-appellant. The CA found that accused-appellant's contention on the inconsistency of AAA's

testimony as to when she realized he had entered her house cannot overthrow the veracity of her testimony. Moreover, AAA's failure to shout or seek for help cannot destroy her credibility or negate the commission of rape. The CA further held that AAA's credibility was fortified by her acts right after the incident, i.e., seeking help from her parents-in-law and, acting upon their advice, reporting the incident to the police and submitting herself to medical examination.<sup>[18]</sup>

While it affirmed the RTC decision, the CA found the need to award to AAA moral damages and exemplary damages in the amount of P50,000.00 and P30,000.00, respectively, with interest at the rate of six percent (6%) per annum on all the damages awarded from the date of finality of judgment until fully paid.

The dispositive portion of the CA's decision reads:

WHEREFORE, the decision of the Regional Trial Court, [REDACTED] Bohol, dated July 23, 2012, finding accused-appellant Jesus Empuesto y Socatre guilty beyond reasonable doubt of the crime of Rape is hereby AFFIRMED with the following MODIFICATIONS

(1) Moral damages is awarded in the amount of Fifty Thousand Pesos (P50,000.00);

(2) Exemplary damages is likewise awarded in the amount of P30,000.00; and

(3) Interest at the rate of 6% per annum shall be imposed on all damages awarded from the date of the finality of this judgment until fully paid.

### **ISSUE**

**THE COURT A QUO ERRED IN PRONOUNCING THE GUILT OF JESUS EMPUESTO DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.**

### **OUR RULING**

The appeal lacks merit.

***The findings of fact of the trial court are accorded respect by the Court.***

Jurisprudence instructs that the assessment of the credibility of witnesses is a task most properly within the domain of trial courts.<sup>[19]</sup> Trial judges enjoy the advantage of observing the witness' deportment and manner of testifying: her "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath"; all of which are useful aids for an accurate determination of a witness' honesty and sincerity.<sup>[20]</sup> Thus, in a catena of cases, the Court has consistently ruled as follows:

Time and again, this Court has held that questions on the credibility of witnesses should best be addressed to the trial court because of its unique position to observe the elusive and incommunicable evidence of witnesses' deportment on the stand while testifying which is denied to

the appellate courts. Hence, the trial judge's assessment of the witnesses' testimonies and findings of fact are accorded great respect on appeal. In the absence of substantial reason to justify the reversal of the trial court's assessment and conclusion, as when no significant facts and circumstances are shown to have been overlooked or disregarded, the reviewing court is generally bound by the former's findings. The rule is even more strictly applied if the appellate court has concurred with the trial court as in this case.<sup>[21]</sup>

The Court had meticulously examined the records of this case but found no reason to depart from the findings of the trial court, which were affirmed by the CA. Accused-appellant failed to show that both tribunals overlooked a material fact that otherwise would change the outcome of the case or misunderstood a circumstance of consequence in their evaluation of the credibility of the witnesses.<sup>[22]</sup> Conjunctively, the Court had scrupulously applied in this case the three principles that had consistently guided it in reviewing rape cases, *viz*: (a) an accusation of rape can be made with facility, and while the accusation is difficult to prove, it is even more difficult for the person accused, although innocent, to disprove; (b) considering the intrinsic nature of the crime, only two persons being usually involved, the testimony of the complainant should be scrutinized with great caution; and (c) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense<sup>[23]</sup>; and arrived at the unyielding conclusion that the prosecution was able to efficaciously discharge its burden of proving the guilt of accused-appellant beyond reasonable doubt.

### ***The elements of rape were proven.***

For a charge of rape under Article 266-A(1)<sup>[24]</sup> of Republic Act 8353<sup>[25]</sup> to prosper, it must be proved that (1) the offender had carnal knowledge of a woman, and (2) he accomplished such act through force or intimidation, or when she was deprived of reason or otherwise unconscious, or when she was under 12 years of age or was demented.<sup>[26]</sup> The gravamen of rape under Article 266-A (1) is carnal knowledge of a woman against her will or without her consent.<sup>[27]</sup> Moreover, what is decisive in a charge of rape is the complainant's positive identification of the accused as the malefactor.<sup>[28]</sup>

Records will confirm that AAA was able to positively identify accused-appellant as the person who surreptitiously entered her house. She knew accused-appellant because they were neighbors. Her husband was the godfather of accused-appellant's eldest son, thus, he called her "marehan." On the early dawn of 3 July 2005, AAA was roused from her sleep when she heard a noise coming through the bamboo slats floor of her house. Because the room where AAA and her children were sleeping was lighted, she was able to distinctly see accused-appellant armed with a bolo and standing beside the mosquito net. She saw accused-appellant turn off the light and get inside the mosquito net.

Indeed, even if accused-appellant turned off the light, she was sure that it was he who got inside the mosquito net because she clearly recognized his voice, *viz*: when he threatened her not to make any noise, otherwise, he would kill her and her children; when he told her that he needed only her; when he ordered her to remove