

## THIRD DIVISION

[ G.R. No. 220884, February 21, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
JOSEPH AGALOT Y RUBIO, ACCUSED-APPELLANT.**

### DECISION

**MARTIRES, J.:**

This resolves the appeal of accused-appellant Joseph Agalot y Rubio from the 13 July 2015 Decision<sup>[1]</sup> of the Court of Appeals (CA), Twenty-Second Division, in CA G.R. CR-H.C. No. 01204-MIN which affirmed the 24 April 2013 Judgment<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 7, Dipolog City, in Criminal Case No. 11118 finding him guilty of Rape in relation to Republic Act (R.A.) No. 7610, as amended.

### THE FACTS

Accused-appellant was charged with rape in relation to R.A. No. 7610 committed as follows:

That on April 7, 2002 at about 3:00 o'clock in the afternoon, at Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with lewd design and by means of force and intimidation did then and there willfully, unlawfully, and feloniously have carnal knowledge with one AAA, a girl 12 years of age without her consent and against her will.

CONTRARY TO LAW.<sup>[3]</sup>

When arraigned, accused-appellant pleaded not guilty; hence, trial on the merits ensued.

To prove its case, the prosecution presented AAA and Dr. Ramonita Mandin (*Dr. Mandin*) of the Dr. Jose Rizal Memorial Hospital, Dapitan City.

For the defense, accused-appellant and Nonito Palpagan (*Palpagan*) testified.

### ***Version of the Prosecution***

When her parents separated, AAA,<sup>[4]</sup> who was only six years old, was left by her father at the house of his sister BBB and her spouse CCC to take care of their crippled grandson, DDD. Accused-appellant is the father of DDD.<sup>[5]</sup>

On 7 April 2002 at about 3:00 p.m., AAA, then already twelve years old, was left at home with accused-appellant, DDD, and her nephews and nieces. AAA was taking care of the child of accused-appellant's sister when accused-appellant told her to get

a calendar from his brother's house. AAA complied but unknown to her accused-appellant had followed her to his brother's house. Accused-appellant then told AAA to go upstairs but when she refused, he dragged her upstairs, which incident was witnessed by EEE, a niece. When the accused-appellant and AAA were inside a room on the second floor, DDD told the accused-appellant that he would tell CCC about this.<sup>[6]</sup>

The accused-appellant, then armed with a hunting knife, made AAA lie down and if she refused, he threatened that he would stab her. After AAA lay down, accused-appellant removed his clothes, undressed her, and mounted her. While holding the knife, he inserted his penis into her vagina and made a push and pull movement. AAA cried because she felt pain. After having carnal knowledge of AAA, accused-appellant left.<sup>[7]</sup>

AAA told BBB and CCC that their son, accused-appellant, raped her but they did not believe her. AAA proceeded to accused-appellant's sister, FFF, and told her what had happened. FFF and her husband accompanied AAA to the hospital for a medical examination.<sup>[8]</sup>

The physical examination conducted on AAA by Dr. Mandin showed the following:

P.E. - Linear abrasion at midclavicular line, 4th ICS, left

Perineal Exam:

Vulva - Erythema noted, at rt. and left labia majora

Abrasion noted at 4 o'clock position

Admits examining finger (little finger) with pain

Cervical swab sent for spermatozoa examination

RESULT: Negative<sup>[9]</sup>

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

According to the accused-appellant, on 7 April 2002, at about 3:00 p.m., he was in his house together with his two children, nephews, nieces, and AAA. He was then cooking bananas when he asked AAA to fetch water. She complied but when it took her a long time to come back, he went out and found her at the basketball court where she was playing with her slippers. He got a guava branch which he used to whip her but because she still did not want to go home, he dragged her towards the house.<sup>[10]</sup>

For his part Palpagan testified that CCC was his friend thus, he knew accused-appellant. On 7 April 2002 at about 1:00 p.m., he and the accused-appellant rode a *habalhabal* going to the cockpit. Upon arriving there, he went inside while the accused-appellant stayed outside. At around 5:00 p.m. and after having won at the cockfight, he, together with the accused-appellant and Bernardo Cadoc, proceeded to Bagting to buy chicken feeds and thereafter to a videoke house for drinks. They were done drinking at 9:00 p.m. and by 12:00 midnight they went to the house of his uncle, Melchor Palpagan (*Melchor*), with the intent to continue their drinking spree. A few minutes thereafter, the policemen came and arrested the accused-appellant.<sup>[11]</sup>

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

The RTC held that the prosecution was able to prove that the accused-appellant had carnal knowledge of AAA against her will or without her consent through force. It held the fact that AAA testified that she felt pain when she was raped by the accused-appellant could only mean there was penetration by the penis of her vagina. Moreover, AAA's testimony was corroborated by the findings of Dr. Mandin who conducted the medical examination within twenty-four hours from the time the incident took place. The RTC further held that the prompt filing of the case against the accused-appellant was an indication that AAA's accusation was true. AAA's testimony was consistent throughout the trial and replete with details which only a real victim of sexual assault could narrate.<sup>[12]</sup>

On the one hand, accused-appellant simply denied the accusation against him contrary to the testimony of Palpagan. The RTC resolved the case against accused-appellant as follows:

WHEREFORE, judgment is hereby rendered finding accused Joseph R. Agalot guilty beyond reasonable doubt as principal by direct participation of the crime of simple rape committed against AAA under paragraph (I) (a), Art. 266-A of the Revised Penal Code, as amended. Consequently, he is hereby sentenced to suffer the penalty of *reclusion perpetua*. He is further ordered to pay the private complainant the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages. With costs against the accused.

SO ORDERED.<sup>[13]</sup>

Aggrieved with the decision of the RTC, the accused-appellant appealed to the CA.

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

The CA ruled that the appeal lacked merit. It held that all the elements of the offense charged were sufficiently proven by the prosecution. It held that the evidence on record supports the judgment of conviction of the accused-appellant of the offense charged. Thus, the dispositive portion of the CA's decision reads:

WHEREFORE, the foregoing considered, the appeal is hereby DENIED. The assailed Judgment of the trial court is AFFIRMED *in toto*.

SO ORDERED.<sup>[14]</sup>

### **ISSUE**

**THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.**

### **OUR RULING**

The appeal is without merit.

***The findings of the trial court when affirmed by the appellate court are binding with the Court.***

It is well-settled that the factual findings and evaluation of witnesses' credibility and testimony should be entitled to great respect unless it is shown that the trial court may have overlooked, misapprehended, or misapplied any fact or circumstance of weight and substance.<sup>[15]</sup> The assessment of the credibility of witnesses is a task most properly within the domain of trial courts.<sup>[16]</sup> The rule is even more strictly applied if the appellate court has concurred with the trial court.<sup>[17]</sup> As amply explained by the Court:

Time and again, we have held that when it comes to the issue of credibility of the victim or the prosecution witnesses, the findings of the trial courts carry great weight and respect and, generally, the appellate courts will not overturn the said findings unless the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which will alter the assailed decision or affect the result of the case. This is so because trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying, their demeanor and behavior in court. 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. Trial judges, therefore, can better determine if such witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies. Again, unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case, its assessment must be respected, for it had the opportunity to observe the conduct and demeanor of the witnesses while testifying and detect if they were lying. The rule finds an even more stringent application where the said findings are sustained by the Court of Appeals.<sup>[18]</sup>

Strictly conforming with the three (3) guiding principles 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>[19]</sup> the Court undertook a scrupulous review of the records of this case but found nothing that would validly support a conclusion that the trial and the appellate courts had overlooked, misapprehended, or misapplied any fact or circumstance of weight and substance that would justify it not to accord weight and respect to these courts' factual findings.

***The elements of rape were sufficiently proven by the prosecution.***

For a charge of rape under Article 266-A(1)<sup>[20]</sup> of Republic Act (R.A.) No. 8353<sup>[21]</sup>

to prosper, it must be proven 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. The gravamen of rape under Article 266-A(1) is carnal knowledge of a woman against her will or without her consent.<sup>[22]</sup> On the one hand, jurisprudence<sup>[23]</sup> imparts the following definitions of "force" and "intimidation," to wit:

Force, as an element of rape, must be sufficient to consummate the purposes which the accused had in mind. On the other hand, intimidation must produce fear that if the victim does not yield to the bestial demands of the accused, something would happen to her at that moment or even thereafter as when she is threatened with death if she reports the incident. "Intimidation includes the moral kind as the fear caused by threatening the girl with a knife or pistol." (citations omitted)

That the offender had carnal knowledge of AAA and that he was able to accomplish his act through force and intimidation was established through the following testimony of AAA, to wit:

Q. At about 3:00 o'clock in the afternoon of April 7, 2002, what happened?

A. At that time I was taking care of the baby in the cradle, after that, he told me to get the calendar from the other house.

Q. You mean, there is another house aside from the house you are staying?

A. Yes, sir.

Q. How far is the house from BBB?

A. Very near.

Q. Can you point from where you are sitting?

A. More or less 15 meters away.

Q. And by the way, you said you were taking care of the child, rocking the cradle, whose baby was that?

A. The baby of the sister of Joseph.

x x x x

Q. You said he commanded you to get the calendar from the other house, did you heed his request?

A. Yes, sir.

Q. **When you were there what happened?**

A. **He wanted me to go upstairs.**

Q. **Did you go upstairs?**

A. **No, sir.**

Q. **Why?**

A. **He wanted me to go upstairs but I don't want to go with him but he dragged me towards the back of the house.**