

FIRST DIVISION

[G.R. No. 222654, February 21, 2018]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO GARIN Y OSORIO, ACCUSED-APPELLANT.

R E S O L U T I O N

DEL CASTILLO, J.:

This is an appeal filed by appellant Romeo Garin y Osorio from the December 4, 2015 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01223-MIN, affirming with modification the April 20, 2013 Judgment^[2] of the Regional Trial Court (RTC) of Butuan City, Branch 1, in Criminal Case No. 14892, finding the appellant guilty beyond reasonable doubt of rape through sexual assault in relation to Republic Act (RA) No. 7610.

The Factual Antecedents

Appellant was charged under the following Information:

That at more or less 1:20 x x x in the afternoon of December 25, 2010 at Butuan City, Philippines and within the jurisdiction of this Honorable Court, above-named [appellant], by means of force, threat or intimidation did then and there willfully, unlawfully and feloniously have carnal knowledge [of] "AAA,"^[3] a four (4) year old minor by inserting his finger into her vagina against her will resulting to mental, emotional and psychological trauma, to the damage and prejudice of said "AAA," x x x.

CONTRARY TO LAW: (Article 266-A, paragraph 2 of the Revised Penal Code as amended by RA 8353 in relation to RA 7610)^[4]

When arraigned, appellant pleaded not guilty to the crime charged.^[5]

During the pre-trial conference, the following facts were stipulated and agreed upon by the parties:

1. The defense admitted the identity of the [appellant] as named in the Information;
2. The defense admitted that the victim "AAA" [was] a 4-year old minor; and
3. The defense admitted the date of the incident on December 25, 2010.^[6]

Version of the Prosecution

During the trial, the prosecution presented the testimonies of "AAA," her mother "BBB," witness "FFF," and Dr. Wenceslina L. Caseñas.

The evidence of the prosecution was as follows:

Private complainant "AAA" is a minor aged four (4) when the crime occurred. She testified that on December 25, 2010 she went out of their house to go to the house of her Auntie "CCC" to see the new bike of her cousin "DDD". The house of her aunt is near the house of her friend "EEE," where appellant x x x was. "AAA" said that she was not able to go to the house of "DDD" to see his bike because appellant took her and placed her on his lap. x x x That while she was on the lap of appellant, the latter put his finger inside her vagina and she felt pain. She ran away but appellant chased her and caught her. Appellant then covered her mouth and boxed her in the stomach. x x x

"BBB," mother of "AAA," testified that she woke up at around 2:30 in the afternoon and found that "AAA" was not home. She asked "FFF" to look for "AAA," and at around 3 o'clock in the afternoon, "FFF" and "AAA" got home. "BBB" immediately realized that something was wrong because her daughter looked pale, was cold to the touch, and looked as if she just cried. When "BBB" asked her what was wrong, "AAA" at first refused to say anything and just cried. "BBB" then embraced "AAA" and asked her again who she was with. "AAA" answered that she was with the [appellant]. "BBB" asked "AAA" if [appellant] did something to her. It was then that "AAA" told her that [appellant] put his finger [into] her vagina. Distraught, "BBB" decided to immediately report the incident to the Women and Children Protection Desk and thereafter brought her daughter "AAA" to the Butuan Medical Center to have her genitalia examined. The doctor-in-charge, Dra. Liong, refused to examine "AAA" because according to her she has a lot of patients. So on December 28, 2010 or three days after the incident "BBB" brought "AAA" again to the Butuan Medical Center where she was examined. x x x^[7]

Version of the Appellant

The defense, on the other hand, presented the testimonies of appellant and his mother.

In his defense, appellant denied the accusation against him and claimed that he was with his friends at the time the alleged incident happened. However, on cross-examination, he admitted that at around 2:00 o'clock in the afternoon of December 25, 2010, when he was on his way home, "AAA," who was in the veranda of the house of "GGG," called him and invited him to play; that while he was playing with "AAA," his mother came and asked for money; that when his mother left, he continued to play with "AAA;" and that after playing with "AAA," "FFF" took "AAA" home.^[8]

Appellant's mother testified that she saw her son playing with the minor victim when she dropped by to ask for money from him; that when she was there, she did not

see "FFF;" that in the evening of that day, three police officers and a policewoman went to their house to look for his son but he was not at home; and that she later learned that her son had been apprehended for stealing money and cellphone from the store of "BBB."^[9]

Ruling of the Regional Trial Court

On April 20, 2013, the RTC rendered a Judgment finding the appellant guilty of the charge against him, the dispositive portion of which read:

WHEREFORE, after weighing carefully the evidence presented, this court finds [appellant] guilty beyond reasonable doubt of the crime of Rape in relation to RA. 7610 as provided under Article 266-A. paragraph 2 of the Revised Penal Code as amended by RA 8353 in relation to RA 7610.

Accordingly, he is sentenced to suffer imprisonment of Reclusion Perpetua and to pay private complainant the sum of P50,000.00 as moral damages, plus P50,000.00 as civil indemnity and exemplary damages of P25,000.00 without subsidiary imprisonment in case of insolvency.

He shall serve his sentence at Davao Prison and Penal Farms, Panabo City, Davao del Norte. In the service of his sentence, he shall be credited with the full time benefit of his preventive imprisonment if he agrees in writing to abide by the same disciplinary rules imposed upon convicted prisoners[;] otherwise[,] if not he shall only be credited with 4/5 of his preventive imprisonment pursuant to Article 29 of [the] Revised Penal Code as amended.

SO ORDERED.^[10]

Ruling of the Court of Appeals

Appellant elevated the case to the CA.

On December 4, 2015, the CA rendered the assailed Decision, affirming appellant's conviction but modifying the penalty and civil indemnity imposed in this wise:

WHEREFORE, the appeal is DENIED. The Judgment dated April 20, 2013 of the Regional Trial Court, Branch 1, Butuan City in Criminal Case No. 14892 finding [appellant] GUILTY beyond reasonable doubt of qualified rape, is hereby AFFIRMED, with MODIFICATION, as follows:

1. [Appellant] is hereby sentenced to suffer the indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to twelve (12) years and one (1) day of *reclusion temporal*, as maximum.

2. He is likewise ordered to pay "AAA" the amounts of P30,000.00 as civil indemnity ex delicto, P30,000.00 as moral damages, and P30,000.00 as exemplary damages for qualified rape through sexual assault.

SO ORDERED.^[11]