

## THIRD DIVISION

[ G.R. No. 219088, June 13, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. RONNIE DELA CRUZ A.K.A. "BAROK," ACCUSED-APPELLANT.**

### DECISION

**MARTIRES, J.:**

This is an appeal from the 22 December 2014 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06397, which affirmed with modification the 26 September 2013 Decision<sup>[2]</sup> of the Regional Trial Court, XXX City (RTC), in Criminal Case No. MC08-2728-FC, finding accused appellant Ronnie dela Cruz (*Dela Cruz*) guilty beyond reasonable doubt of the crime of Rape.

### THE FACTS

In an Information<sup>[3]</sup> dated 19 May 2008, Dela Cruz was charged with the crime of Rape under Article 266-A(a) of the Revised Penal Code (RPC) in relation to Republic Act (R.A.) No. 7610 committed against AAA.<sup>[4]</sup> The accusatory portion of the information reads:

That on or about the 4th day of April 2008, in the City of [XXX], a place within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously commit an act of sexual assault upon the person of [AAA], a minor, 14 years of age, against the latter's will and consent by having carnal knowledge of the said [AAA], thereby affecting the victim's normal growth and development as a child, to her damage and prejudice.

At his arraignment on 27 August 2008, Dela Cruz, with the assistance of his counsel, pleaded "Not Guilty."<sup>[5]</sup>

### ***Evidence for the Prosecution***

The prosecution presented AAA, her 17-year-old aunt BBB, and Dr. Marianne Ebdane (*Dr. Ebdane*) as witnesses. Their combined testimonies tended to establish the following:

On 3 April 2008, at around 10:00 P.M., AAA and BBB were drinking in the house of a certain "Noknok," BBB's boyfriend at that time. Dela Cruz and his friends then arrived and joined them.<sup>[6]</sup> They finished drinking at midnight but stayed in Noknok's house until 2:00 A.M. the following day. BBB noticed that AAA was already sleepy. He asked Dela Cruz if AAA could sleep in his house because AAA did not want to go home as she had a fight with her parents, and Noknok's house was too small to accommodate her.<sup>[7]</sup>

Thereafter, AAA and Dela Cruz went to the latter's house to check the room where she was supposed to stay. BBB stayed behind in Noknok's house because Dela Cruz told them that they would not take long as his house was just around the next corner.<sup>[8]</sup>

Upon arriving at his house, Dela Cruz pointed to an unlit room and told AAA that was where she would be staying; nobody else was in the house. When AAA went inside the room, Dela Cruz followed her and started to kiss her. She pushed him away and told him to stop but he continued to take off her clothes. Once AAA's clothes were removed, Dela Cruz mounted her and inserted his penis into her vagina. AAA cried and pushed him away but he carried on with the sexual intercourse that lasted for about ten (10) minutes.<sup>[9]</sup>

After Dela Cruz was done, AAA got dressed and wanted to leave the room but was afraid that he might pull her back and violate her again. On 4 April 2008, at around 6:00 A.M., she finally left Dela Cruz's house and looked for BBB at Noknok's house. Upon seeing BBB, she told her it was time to go home but she did not yet disclose what happened to her for fear that other people would know. <sup>[10]</sup>

Once she got home, AAA told her aunt about the incident, who in turn informed her parents. Consequently, her mother accompanied her to the authorities to report the incident. After giving her statement, she was subjected to a medical examination which revealed that AAA had fresh lacerations at 8 o'clock position in her hymen suggesting that a blunt object was inserted into her genitalia.<sup>[11]</sup>

### ***Evidence for the Defense***

The defense presented Dela Cruz as its lone witness, whose testimony follows:

On 4 April 2008, Dela Cruz went to the store near Noknok's house to buy cigarettes. On his way, he saw AAA and BBB drinking with Noknok in his house. Dela Cruz joined them to drink after Noknok invited him. At around 5:30 P.M., he brought AAA to his home after BBB requested that AAA spend the night in his house. They were both drunk and as such he could not remember very well what happened once they got home. Nevertheless, Dela Cruz was sure that if something did happen between him and AAA, it was consensual. At around 5:00 P.M., AAA's parents fetched her from his house.<sup>[12]</sup>

### ***The RTC Ruling***

In its decision, the RTC found Dela Cruz guilty of Rape defined and penalized under Article 266-A(a) of the RPC. The trial court ruled that carnal knowledge was sufficiently established, taking into account AAA's testimony as corroborated by the findings of the medical examination conducted on her. It pointed out that Dela Cruz was able to have sexual intercourse with the victim through force because he persisted despite her pleas for him to stop and her efforts to push him away. The RTC noted that the amount of force applied is inconsequential because the same need not be irresistible so long as it was enough to bring about the desired result.

The trial court gave more credence to AAA's testimony because it was categorical and straightforward and made in a spontaneous and candid manner. In addition, it pointed out that no proof of ill motive on her part to falsely testify against accused was offered. As such, the RTC explained that Dela Cruz's defense of denial and alibi

fails to convince in the light of AAA's positive identification of him as her abuser. Nevertheless, the trial court expounded that Dela Cruz was guilty only of rape under the RPC, and not of child abuse under R.A. No. 7610, because the information failed to allege the elements thereof. The dispositive portion reads:

**WHEREFORE**, in view of the foregoing premises, the court finds the accused guilty beyond reasonable doubt of the crime of rape and he is hereby sentenced the penalty of RECLUSION PERPETUA. He is further ordered to pay the offended party the sum of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P30,000.00 as exemplary damages including interest at the rate of six percent (6%) per annum on all damages awarded from the date of finality of this judgment until fully paid.

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

Aggrieved, Dela Cruz appealed before the CA.

### ***The CA Ruling***

In its assailed decision, the CA affirmed the decision of the RTC. The appellate court agreed that AAA's testimony as corroborated by the findings of the medical examination gave sufficient evidence of carnal knowledge. It explained that in rape cases, the force and violence required is relative in that it need not be overpowering. The CA expounded that force should be viewed from the perception and judgment of the victim. The appellate court noted that AAA pushed Dela Cruz away when he tried to kiss her and told him to stop, yet he continued to do so. It highlighted that AAA's intoxication rendered her too weak to run away or to exert sufficient resistance against Dela Cruz.

The CA disregarded Dela Cruz's argument that AAA's testimony was contrary to human experience elaborating that there is no standard on how rape victims should react. The appellate court sustained the trial court's assessment of AAA's credibility considering that it was in the best position to ascertain and measure the spontaneity and sincerity of the witnesses taking into account their demeanor while testifying on the witness stand. It ruled:

WHEREFORE, premises considered, the appeal is DENIED. The Decision dated 26 September 2013 of the Regional Trial Court, National Capital Judicial Region, [XXX], in Criminal Case No. MCOS-2728-FC finding accused-appellant Ronnie dela Cruz alias Barok guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua and to pay the offended party AAA the sums of P50,000.00 as civil indemnity, P50,000.000 as moral damages and P30,000.00 as exemplary damages including interest at the rate of six percent (6%) per annum on all damages awarded from the date of finality of this judgment until fully paid is AFFIRMED with MODIFICATION, in that accused-appellant is not eligible for parole.

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

Hence, this appeal raising:

### **ISSUE**

WHETHER THE ACCUSED IS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.

**THE COURT'S RULING**

The appeal has no merit.

Under Article 266-A(1) of the RPC, rape is committed when a man has carnal knowledge of a woman under any of the following circumstances: (a) through force, threat or intimidation; (b) when the offended party is deprived of reason or is otherwise unconscious; (c) by means of fraudulent machination or grave abuse of authority; or (d) when the offended party is under 12 years old or demented, even if none of the above circumstances are present. In short, the following are the elements of rape: (1) accused had carnal knowledge of the victim; and (2) it was accomplished (a) through force, threat or intimidation; (b) when the victim is deprived of reason; or (c) against a victim below 12 years of age or is demented.

[15]

In the case at bar, there is no dispute that Dela Cruz had carnal knowledge of AAA. In her testimony, she vividly recalled how he had sex with her while they were alone in his house. In addition, AAA's testimony was corroborated by the findings of Dr. Ebdane, who found fresh lacerations in her hymen indicating that it was penetrated by a blunt object such an erect penis. Further, it is noteworthy that Dela Cruz never categorically denied having intercourse with AAA. He merely testified that he could not exactly remember what happened that night and, if indeed he had carnal knowledge with her, it was consensual.

Nevertheless, the circumstances surrounding the sexual act are contested. AAA assails that Dela Cruz forced her to have sex with him even after she pushed him away and told him to stop. On the other hand, Dela Cruz claims that he has no recollection of what transpired that night but assured that if he had sex with AAA it was done without coercion.

***Degree of force in rape is relative.***

Rape is essentially sexual intercourse *sans* consent.<sup>[16]</sup> In her testimony, AAA narrated how Dela Cruz defiled her, notwithstanding her refusal to have sex with him, to wit:

Direct Examination

PROSECUTOR RODRIGUEZ:

Q: When you entered the room, what happened then?

A: When I entered the room, Barok followed me immediately and started kissing me.

Q: And what was your reaction since you were there only to sleep?

A: I told him to stop and I pushed him away from me but he did not stop, ma'am.

Q: What happened after that?

A: He took off my clothes, ma'am.