

THIRD DIVISION

[G.R. No. 219963, June 13, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE; VS.
RICARDO TANGLAO Y EGANA, ACCUSED-APPELLANT.**

DECISION

MARTIRES, J.:

Accused-appellant Ricardo Tanglao y Egana appeals from the 15 September 2014 Decision^[1] of the Court of Appeals (CA), Special Tenth Division, in CA-G.R. CR.-HC. No. 05567 affirming, with modification as to the award of damages, the 6 January 2012 Decision^[2] of the Regional Trial Court (RTC), XXX City, finding him guilty of Rape defined and penalized under Article (*Art.*) 266-A, paragraph (*par.*) 1(d) of Republic Act (*R.A.*) No. 8353.

THE FACTS

The accused-appellant was charged with violation of R.A. No. 8353,^[3] in relation to R.A. No. 7610,^[4] in an Information docketed as Crim. Case No. C-63671, the accusatory portion of which reads:

That on or about the 14th day of September, 2001 in XXX, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and taking advantage of his superior strength as a father, by means of force, threats, and intimidation employed on the person of AAA,^[5] a minor of seven (7) years old, did then and there wilfully, unlawfully, and feloniously lie with and have sexual intercourse with said minor victim, against the latter's will and without her consent.

Contrary to law.^[6]

When arraigned, the accused-appellant, with the assistance of counsel, pleaded not guilty;^[7] hence, trial proceeded.

To prove its case against the accused-appellant, the prosecution called to the witness stand the following: BBB, AAA's mother; DDD, AAA's older brother; AAA; Dr. Irene Baluyot (*Dr. Baluyot*), a pediatrician at the Philippine General Hospital Child Protection Unit (*PGH-CPU*); and Dr. Cynthia Leynes (*Dr. Leynes*), chairperson of the PGH psychology department and a consultant of the PGH-CPU.

The defense on the one hand presented the accused-appellant and Edsel Pelete (*Pelete*), a special investigator of the National Bureau of Investigation (*NBI*). The testimony of Rosie Ponce, the NBI records and evidence custodian, was dispensed with by the parties after it was stipulated that the records she brought were in the

custody of her office.

Version of the Prosecution

Born to the marriage of the accused-appellant and BBB were CCC, DDD, and AAA. In 1999, the accused-appellant and BBB separated causing AAA to stay with her mother, while CCC and DDD stayed with their father.^[8]

Sometime in September 2001, AAA, who was then seven years old, went to the accused-appellant's house which doubles as a junk shop. When the accused-appellant arrived home on the night of 14 September 2001, he told AAA and DDD to go to sleep, put out the light, and then placed himself between AAA and DDD at the upper portion of a double-deck bed. Suddenly, the accused-appellant covered AAA's mouth, kissed her lips and neck, and forcefully inserted his penis into her vagina causing her so much pain. She wanted to shout but was unable to do so.^[9]

DDD, who was then positioned beside the wall, heard AAA whimpering as if her mouth was covered; so, he asked her what was the matter. AAA did not give any answer and the accused-appellant admonished DDD to go back to sleep. Because he was afraid of the accused-appellant, DDD tried to get some sleep and avoided looking at AAA's direction as the accused-appellant might be doing something to his sister. DDD had a hard time going to sleep because the bed was shaking. With the light coming from the lamppost outside, DDD saw that AAA's legs were quivering and that the accused-appellant seemed to be "malikot" (restless) moving his body back and forth. After a few minutes, AAA left the room to urinate after asking permission from the accused-appellant. The accused-appellant turned on the light and followed AAA^[10] downstairs.

When AAA came back to the room, she and DDD occupied the lower deck while the accused-appellant who came thereafter occupied the upper deck. AAA whispered to DDD "ni rape ako ni papa" (I was raped by papa); thus, DDD suggested they trade places. Later, the accused-appellant got down to the lower deck, carried DDD up to the upper deck, kissed him, touched his penis, and then pushed him away.^[11]

The following morning, as AAA was taking a bath, the accused-appellant saw her bloodied underwear and threw it away. He gave AAA P15.00 to buy spaghetti and soda. On her way to the eatery, AAA saw the helper of Susan, her mother's regular customer as a manicurist. AAA and the helper went to Susan's house where they saw BBB. AAA and BBB proceeded to the barangay hall with the intention of proving that BBB did not kidnap AAA.^[12]

At the barangay hall, AAA told BBB that the accused-appellant had carnal knowledge of her; thus, they proceeded to an aunt's place so that BBB could check on AAA's vagina. BBB saw that AAA's vagina was swollen so they went immediately to the police station to report the incident.^[13] AAA expressed her anger at the accused-appellant and said she wanted him killed.^[14]

On 16 September 2001, the NBI referred^[15] AAA to Dr. Baluyot who, after securing BBB's consent^[16] to conduct a medical examination on AAA, interviewed her. AAA told Dr. Baluyot that she was raped by the accused-appellant. Dr. Baluyot wrote

down her interview with AAA and, thereafter, she examined AAA from head to toe.
[17]

At the PGH, pictures were taken of AAA's anus and genitalia.^[18] Dr. Baluyot wrote her final medico-legal report^[19] containing the following pertinent findings and impressions:

HYMEN: Tanner stage 1, attenuated posterior rim of hymen from 3 to 9 o'clock area, Type of Hymen: annular.

IMPRESSIONS

Genital examination findings suggestive of blunt force or penetrating trauma.

On 14 January 2002, Dr. Leynes met AAA at her PGH-CPU office. In assessing AAA's mental condition, Dr. Leynes conducted a psychological evaluation by interviewing AAA and BBB. Her psychiatric evaluation^[20] of AAA revealed the following:

Psychiatric Diagnosis

x x x

Axis 4:

Sexual abuse

Problems with primary support group

Axis 5:

71-80 - Symptoms are transient and expectable reactions to psychosocial stresses.

Version of the Defense

On 4 September 2001, the accused-appellant saw AAA crying while embracing DDD at his welding shop. When the accused-appellant asked AAA why she came to the shop, she replied that she wanted to complain to him that BBB and her live-in partner, Ronnie Reyes (Reyes), whom she called "demonyo" (*devil*), were hurting her. Consequently, the accused-appellant went to BBB's cousins and confronted them with AAA's complaint. The accused-appellant also went to Roger Santos of Media In Action to complain but he was referred instead to the Department of Social Welfare and Development (DSWD).^[21]

On 5 September 2001, the accused-appellant and AAA went to the DSWD. After an interview with AAA in a separate room, the DSWD employee asked the accused-appellant who EEE was because AAA had claimed that EEE had mounted her. The accused-appellant informed the DSWD employee that EEE was BBB's brother. With the information gathered from the DSWD employee, the accused-appellant and AAA proceeded to the NBI to file a complaint^[22] against BBB, EEE, and Reyes. AAA was medically examined^[23] for her bum marks and hematoma. The accused-appellant was also advised to ascertain the exact address of BBB, EEE, and Reyes and to coordinate with the barangay. When the accused-appellant went to the barangay, he learned that Reyes was a *kagawad* (councilman).^[24]

On 15 September 2001, the accused-appellant reported to the barangay that AAA was missing. AAA's grandmother reported to him that AAA was taken by someone who rode a black vehicle.^[25]

On 17 September 2001, the accused-appellant was arrested by two police officers on the basis of a complaint filed by BBB for the rape of AAA.^[26]

The RTC Ruling

The RTC held that the prosecution was able to competently and sufficiently establish the elements of violation of Art. 266-A of R.A. No. 8353. It pointed out that jurisprudence dictates that in an incestuous rape of a minor, neither actual force nor intimidation need be employed; nor proof of force and violence exerted by the aggressor is essential. It ruled that in a rape by a father of his own daughter, the former's moral ascendancy and influence substitute for violence and intimidation.^[27]

The RTC held that AAA's testimony and positive identification of the accused-appellant as her rapist were further bolstered by DDD's categorical declaration during the trial of what he had heard and observed when his sister was raped by the accused-appellant. The RTC found that, like AAA, DDD would gain nothing from falsely testifying against the accused-appellant. The RTC noted that the inconsistencies as to the dates or events that transpired prior to the rape on 14 September 2001 were inconsequential to the crime charged. On the one hand, the defense of the accused-appellant failed to override the strong, clear, precise, and convincing evidence identifying him as the perpetrator.^[28]

The RTC resolved the case against the accused-appellant as follows:

WHEREFORE, the foregoing considered, this Court hereby finds accused RICARDO TANGLAO y EGANA *GUILTY* beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A, paragraph 1(d) of Republic Act No. 8353 and sentences him to suffer an imprisonment of **Reclusion Perpetua** and to pay the complainant AAA the amount of **Fifty Thousand Pesos** (P50,000.00) as civil indemnity; **Fifty Thousand Pesos** (P50,000.00) as moral damages and **Twenty Five Thousand Pesos** (P25,000.00) as exemplary damages.

SO ORDERED.^[29]

Not satisfied with the disposition of his case, the accused-appellant appealed to the CA.

The CA Ruling

The CA found no merit in the appeal. It held that the accused-appellant's contention that AAA could not have been raped because there was "no evident injury" in her genitalia deserves no consideration. According to the CA, the absence of external injuries does not negate rape and that an intact hymen does not disprove a finding that the victim was actually sexually violated. It further ruled that it will not disturb the findings of the RTC that AAA's testimony deserves full faith and credence especially that there were no facts or circumstances of weight or substance that the

trial court had overlooked, misapprehended, or misinterpreted.^[30]

While the CA affirmed the RTC ruling that the penalty of reclusion perpetua should be imposed upon the accused-appellant, it found the need to modify the award of damages. Thus, the CA resolved the appeal as follows:

WHEREFORE, the instant appeal is **DENIED** for lack of merit. The assailed January 6, 2012 Decision is however **MODIFIED** by **ORDERING** the accused-appellant to pay AAA:

- (1) P75,000.00 as civil indemnity;
- (2) P75,000.00 as moral damages; and
- (3) P30,000.00 as exemplary damages.

SO ORDERED.^[31]

ISSUES

I.

THE TRIAL COURT GRAVELY ERRED IN GIVING CREDENCE TO THE PRIVATE COMPLAINANT'S TESTIMONY.

II.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.^[32]

OUR RULING

The appeal is without merit.

The elements of violation of Art. 266-A of R.A. No. 8353 vis-a-vis the evidence presented by the prosecution

The accused-appellant was charged with violation of Art. 266-A of R.A. No. 8353, which pertinently reads:

Article 266-A. Rape: *When And How Committed*. - Rape is committed:

- 1) By a man who shall have 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 otherwise unconscious;
 - c) By means of fraudulent machination or grave abuse of authority; and