

FIRST DIVISION

[G.R. No. 225604, July 23, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DIONESIO ROY Y PERALTA, ACCUSED-APPELLANT.**

D E C I S I O N

DEL CASTILLO, J.:

On appeal is the February 27, 2015 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06582 that affirmed with modification the December 16, 2013 Decision^[2] of the Regional Trial Court, Branch 5, Manila (RTC), finding Dionesio Roy y Peralta (appellant) guilty beyond reasonable doubt of the crime of statutory rape and sentencing him to suffer the penalty of *reclusion perpetua*.

Factual Antecedents

Appellant was charged with statutory rape before the RTC in an Information which reads:

That on or about June 30, 2010, in the City of Manila, Philippines, the said accused, with lewd design and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge upon one [AAA],^[3] a minor, 9 years of age, by then and there pulling her inside a building at Intramuros, this City, covering her mouth so she could not shout for help, removing her shorts and panty, make her sit on his lap, kissing her on the lips and forcibly inserting his penis into her vagina against her will and consent.

Contrary to law.^[4]

Appellant was arraigned and pleaded not guilty. Thereafter, trial on the merits ensued.

The prosecution's evidence, consisting of the testimonies of AAA, the alleged eyewitness, Roger Bartulay (Bartulay), AAA's mother, BBB, and the attending physician, Dr. Merle Tan (Dr. Tan), as summarized by the appellate court, is as follows:

AAA testified that 'around 4 p.m.' of 30 June 2010, she was strolling in Intramuros when somebody dragged her into a break or opening in a wall. She recognized her assailant as the appellant, whom she calls Roy and who lived a block away from her family's house. After dragging her into the opening, appellant allegedly removed her clothes. AAA shouted but appellant covered her mouth and removed his own shorts and briefs. Then he allegedly pulled her hair and made her sit on his lap, facing him.

With her legs spread apart, appellant tried to insert his penis into her vagina. Appellant also held her by the waist and kissed her lips. There was no full penetration; she testified that he only 'dipped' his penis into her organ. Appellant then sensed that someone saw them and he stood up and put on his clothes. A security guard then arrived and handcuffed the appellant.

[Bartulay] testified that 'around 9 in the morning' of 30 June 2010[,] he proceeded from Letran College to San Gabriel Street in Intramuros to urinate. He then saw the appellant, whom he identified in court, and who was at the time of the incident naked and only a meter and a half away from him, sitting undressed with a naked child on his lap. [Bartulay] saw that the appellant had covered the child's mouth while the child appeared to be in pain. [Bartulay] described that the appellant appeared to be pulling out something in front of the child while the latter's legs had stretched out. He reported the ghastly scene to a security guard. On the stand, he also identified his Sinumpaang Salaysay.

AAA's mother, BBB, presented a Certificate of Live Birth showing that her daughter was born on 13 May 2001. She testified that when the alleged rape happened, she was at the inauguration of President Aquino at the Luneta Park. Before attending, she left AAA sleeping at her mother's house in Intramuros. She knew the appellant since she was 18 years old, and testified that she would usually see him near her residence. When she heard that her daughter had been molested, she accompanied AAA to the Philippine General Hospital ('PGH') for examination. With her assistance, AAA executed a sworn statement detailing the crime.

Dr. Merle Tan, the examining physician, testified that she attended to AAA on 30 June 2010. She summarized her findings in a report, which concluded that 'congenital findings are diagnostic of blunt force or penetrating trauma.'^[5]

The defense, on the other hand, presented appellant who gave conflicting answers to the questions propounded. The defense thus prayed for the RTC to refer appellant for psychiatric examination to determine his mental status and level of comprehension which the RTC granted in an Order^[6] dated November 16, 2012.

Appellant's testimony, as well as that of Dr. Grace Punzalan Domingo (Dr. Domingo) of the National Center for Mental Health, who testified on appellant's mental status, as summarized by the appellate court, are as follows:

For the defense, the appellant initially raised the defense of alibi. He testified that while he recognized AAA, he did not rape her. At the time of the alleged rape, he was only defecating, but was inconsistent on whether this was at home or at the hole where he was arrested.

x x x x

Subsequently, Dr. Grace Domingo from the National Center for Mental Health testified on the appellant's mental status. She stated that appellant had undergone a battery of tests and examinations, and

concluded that the results showed appellant to be suffering from imbecility, or moderate mental retardation. She clarified that while this was irreversible, appellant can be taught, and recommended continuous treatment. On cross, she testified that the finding of imbecility only covered the mental status of the appellant at the time he underwent mental evaluation, and not necessarily at the time of the offense, meaning that, at the time of the rape, appellant probably knew what he was doing and the consequences thereof.

On redirect, Dr. Domingo testified that she could not conclude absolutely that appellant was aware of his actions since he was not x x x brought to the Center immediately after the rape. On re-cross, Dr. Domingo maintained her general response.^[7]

Ruling of the Regional Trial Court

In a Decision^[8] dated December 16, 2013, the RTC held that the prosecution was able to discharge its burden of proving the culpability of appellant for statutory rape, particularly, that AAA was only nine years old at the time of the rape incident; that appellant was the perpetrator of the crime; and that the accused had carnal knowledge of AAA. The RTC accorded full faith and credence to the testimony of AAA which was validated by the medical findings of Dr. Tan and corroborated by Bartulay's testimony. The RTC found unavailing appellant's defense of imbecility as there was no clear and competent proof that he had no control over his mental faculties immediately prior to or during the perpetration of the crime. The RTC thus ruled:

WHEREFORE, the court hereby finds the accused DIONESIO ROY y PERALTA, GUILTY beyond reasonable doubt of the crime of Statutory Rape under Article 266-B of the Revised Penal Code and is hereby sentenced to suffer the penalty of *Reclusion Perpetua*.

The said accused is ordered to pay the victim, AAA the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity, Fifty Thousand Pesos (P50,000.00) as moral damages and Thirty Thousand Pesos (P30,000.00) as exemplary damages.

SO ORDERED.^[9]

Aggrieved, appellant appealed to the CA.

Ruling of the Court of Appeals

In his Brief, appellant argued that the prosecution failed to prove his guilt. He maintained that he is exempt from criminal liability due to insanity as he was suffering from moderate mental retardation and possessing the mental age of a seven-year old, as bolstered by the medical report of Dr. Domingo. He further argued that the prosecution failed to prove the employment of force, violence and intimidation in order to consummate the crime of rape, alleging that there was no indication that a weapon was used by appellant to force AAA to submit to appellant's erotic advances.

The Office of the Solicitor General (OSG), on the other hand, asserted that the guilt of appellant was proven beyond reasonable doubt. The OSG argued that proof of force, intimidation, and consent is not necessary for the conviction of statutory rape. It also opined that rape was consummated despite AAA's testimony that there was no full penetration of her genital organ. Furthermore, appellant cannot plead the exempting circumstance of insanity or imbecility as he failed to overcome the presumption of sanity at the time of the commission of the carnal act.

In a Decision^[10] dated February 27, 2015, the CA affirmed the conviction of appellant with modification as to the award of damages. It increased the amounts of civil indemnity and moral damages to P75,000.00 each, but retained the award of P30,000.00 as exemplary damages. The CA found that all the elements of statutory rape had been established beyond reasonable doubt. It held that the issue of the existence of force, violence, and intimidation had become moot for, in statutory rape, the prosecution only has to prove that the accused had carnal knowledge of the offended party who was under 12 years of age and incapable of giving consent. It further held that appellant's defense of insanity and imbecility could not prosper because he failed to establish that he was deprived of reason when he committed the crime charged.

Hence, this appeal. Both parties dispensed with the filing of their respective supplemental briefs.

Our Ruling

After a careful review of the records of the case, we find the appeal to be devoid of merit. The Court finds no reason to reverse the CA in affirming the ruling of the RTC finding appellant guilty beyond reasonable doubt of the crime of rape. However, the amount of exemplary damages awarded should be modified, consistent with prevailing jurisprudence.

The prosecution satisfactorily established the elements of the crime of statutory rape, namely: "(1) the offended party is under 12 years of age; and (2) the accused had carnal knowledge of the victim, regardless of whether there was force, threat, or intimidation or grave abuse of authority. It is enough that the age of the victim is proven and that there was sexual intercourse."^[11] As the law presumes absence of free consent when the victim is below the age of 12, it is not necessary to prove force, intimidation or consent as they are not elements of statutory rape.^[12]

It was established by the evidence on record, specifically AAA's Birth Certificate,^[13] that AAA was only nine years old at the time she was raped by her assailant. We, thus, rule that appellant's claim of absence of evidence of force and intimidation does not militate against the finding of rape.

The Court then gives great weight to the findings of both the lower courts that AAA's testimony was worthy of credence. "It is settled jurisprudence that testimonies of child victims are given full weight and credit, because when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed. Youth and immaturity are generally badges of truth and sincerity."^[14] Both the RTC and the CA held that AAA was a credible witness whose testimony categorically and consistently identified appellant as her