

THIRD DIVISION

[G.R. No. 225605, July 23, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VENERANDO GOZO Y VELASQUEZ, ACCUSED-APPELLANT.**

DECISION

MARTIRES, J.:

This is an appeal from the 18 June 2015 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06585, which affirmed with modification the 29 November 2013 Decision^[2] of the Regional Trial Court (RTC), in Criminal Case No. 146571 finding accused-appellant Venerando Gozo y Velasquez (Gozo) guilty beyond reasonable doubt of Statutory Rape.

THE FACTS

In an Information dated 2 November 2011, Gozo was charged with the crime of statutory rape committed against AAA.^[3] The accusatory portion of the information reads:

That on or about the 27th day of October 2011, [XXX],^[4] Philippines, and within the jurisdiction of this Honorable Court. the above-named accused, with lewd designs and intent to cause or gratify his sexual desire, did, then and there, wilfully, unlawfully and feloniously have carnal knowledge with one [AAA], 6 years old, a minor, against her will and consent, the said crime having been attended by the qualifying circumstance of minority, to the damage and prejudice of the said victim.

^[5]

During his arraignment on 22 November 2011, Gozo pleaded not guilty.

Version of the Prosecution

On 27 October 2011, AAA was staying in the restaurant where her father BBB^[6] worked as a stay-in cook. When it was time for her to sleep, she went up to the second floor of the restaurant. Thereafter, Gozo, who also worked in the restaurant as a stay-in janitor, decided to follow her inside the room. There, he began his advances and started molesting AAA. At first, Gozo inserted his fingers into AAA's vagina but because his lust was not satiated, he eventually inserted his penis into the victim's genitals. After he was through abusing her, he instructed AAA not to tell anyone because it would cause a fight between him and BBB.^[7]

Nevertheless, AAA immediately told BBB about the incident when he arrived. They then went to the police station to report what happened and proceeded to the hospital for physical examination. The genital physical examination revealed that AAA had fresh shallow lacerations in her hymen at the 3, 6, and 9 o'clock positions.

[8]

Version of the Defense

In October 2011, Gozo was working as a janitor in a restaurant where his good friend BBB also worked. He was surprised when he was arrested for allegedly raping AAA noting that BBB sometimes entrusted her to him to the point that they sometimes slept beside each other. Gozo surmised that the rape case might have been filed due to a fight he had with BBB while they were together under a previous employer. He, however, explained that they again became friendly after BBB reached out to him to ask his help for employment in the restaurant.[9]

The RTC Ruling

In its 29 November 2013 decision, the RTC convicted Gozo of statutory rape. The trial court noted that AAA candidly and convincingly narrated how Gozo had defiled her. It quoted her testimony where she recalled how he had inserted his penis and fingers into her vagina. The RTC disregarded Gozo's contention that AAA may have been convinced to testify against him due to his previous fight with BBB because it was unsubstantiated. It found it absurd that AAA's father would allow his child to be subjected to medical examination and be exposed in a public trial if the fact of molestation were untrue.

Further, the trial court ruled that while the prosecution failed to prove AAA's age, Gozo was still guilty of statutory rape. It observed that AAA, who was presented in court, could not be more than 12 years of age. The dispositive portion read:

WHEREFORE, finding accused Venerando Gozo y Velasquez guilty beyond reasonable doubt of STATUTORY RAPE, this court hereby sentences him to suffer the penalty of Reclusion Perpetua; and to indemnify AAA the amount of Php75,000.00 as civil indemnity, Php75,000.00 as moral damages, and Php30,000.00 as exemplary damages.

SO ORDERED.[10]

Aggrieved, Gozo appealed before the CA.

The CA Ruling

In its assailed 18 June 2015 decision, the CA affirmed the RTC decision with modifications. The appellate court agreed that all the elements of statutory rape were present. It explained that while the prosecution did not present any documentary evidence to prove that AAA was below 12 years old, Gozo never questioned nor disputed the trial court's opinion that AAA could not have been more

than 12 years old. As such, the CA surmised such conclusion or finding of fact was entitled to great weight and should not be disturbed except for strong and cogent reasons.

The appellate court pointed out that AAA positively identified Gozo as the one who raped her and her testimony was corroborated by the physical findings. Further, it posited that there was insufficient evidence to hold that BBB prodded his own daughter to testify against Gozo out of ill will. The appellate court, however, modified the damages awarded by imposing legal interest and clarifying that Gozo was not entitled to parole. It ruled:

WHEREFORE, the present appeal is hereby **DENIED**. The Decision dated November 29, 2013 rendered by the Regional Trial Court, [XXX], in Criminal Case No. 146571, for Statutory Rape is hereby **AFFIRMED with MODIFICATIONS**, in that appellant is not eligible for parole and is hereby ordered to pay interest at the legal rate of 6% per annum on all damages awarded from the date of finality of this judgment until fully paid.

SO ORDERED.^[11]

Hence, this appeal raising the following:

ISSUES

I

WHETHER THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT; AND

II

WHETHER THE COURT A QUO GRAVELY ERRED IN DISREGARDING THE ACCUSED-APPELLANT'S DEFENSE AND IN RELYING HEAVILY ON THE PROSECUTION'S VERSION.^[12]

THE COURT'S RULING

The appeal has no merit.

In convicting the accused for statutory rape, the prosecution has the burden to prove the following elements: (1) **the age of the complainant**; (2) the identity of the accused; and (3) the sexual intercourse between the accused and the

complainant.^[13] In turn, conviction may result on the basis of the victim's sole testimony, provided it is credible, natural, and consistent with human nature and the normal course of things.^[14]

A reading of AAA's testimony shows how she candidly and consistently narrated the abuses she suffered at the hands of the accused, to wit:

COURT

Q: Noong lumipat ka ng higaan doon ka niya inano, ano ang ginawa niya sa iyo?

A: Ni-rape niya po ako.

Q: Hindi ko alam iyong rape, paano ba iyon? Ano ang ginawa niya sa iyo?

A: Ano po... tinusok.

Q: Ano ang tinusok?

A: (Witness demonstrated by the use of her finger).

Q: Saan ka tinusok?

A: Witness pointed to her private parts.

x x x x

Q: AAA, daliri lang ba ang ginamit sa iyo?

A: Hindi po pati dito niya. (Witness pointed to her private part).

Q: Ano iyong pati dito niya, hindi ko naiintindihan iyong pati dito niya?

A: Iyong ano po niya.

Q: Iyong dito niya ang ginamit, alam mo ba ang tawag doon?

A: Hindi po.

Q: Hindi mo alam ang pangalan?

A: Hindi po.

Q: May ipapakita ako sa iyo... iyong tinuturo mo ginamit din sa iyo, tinsuok sa iyo, iyon ba ang ibig mong sabihin o daliri lang?

A: Dalawa po.

Q: Daliri at saka ano?

A: Iyong dito niya (Witness pointed to her private part).

Q: Hindi mo alam ang pangalan noon?

A: Hindi po.

Q: May ipapakita ako sa iyo sasabihin mo sa akin kung alin doon ang tinusok sa iyo ha?

A: Opo.

Q: Nakita mo ba ito. doll ito ha?

A: Opo.

Q: Manika ito ... alam mo ba kung ano ang itsura ng doll na ito, ano itsura niya mukha ba siyang lalaki o babae?

A: Lalaki po.

Q: Eh ituro mo nga sa amin kung alin ang sinasabi mo sa amin kasi hindi ko maintindihan kanina eh?

A: Dito po.

Q: Ano ang ginawa niya dito?

A: Tinusok niya po ... tinsuok niya din po dito sa ano ko.

Q: May ipapakita ako sa iyo, gusto kong makita baka mamaya paa lang pala iyon ... ipapakita ko sa iyo ha?

A: Ayoko po.

Q: Pero ito ang tinusok sa iyo? Manika lang ito, bubuksan ko para ituro mo kasi baka mamaya daliri lang, hindi ko alam eh ... eto diba may daliri, andito sabi mo... ito ang tinusok sa iyo... papakita ko sa iyo kasi manika lang naman ito at hindi naman ito nakakatakot, bubuksan ko ha huwag kang magugulat ha... ngayon, alin diyan, ito ang kamay, alin diyan ang tinusok sa iyo?

A: Dalawa po pati po ito. (Witness pointed to the private part or the anatomically correct doll).

Q: Ano ang sabi mo daliri at saka ito pa?

A: Opo.

Q: So dalawa?

A: Opo. ^[15]