

SECOND DIVISION

[G.R. No. 234190, October 01, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
FERDINAND DE GUZMAN Y BUHAY, ACCUSED-APPELLANT.**

DECISION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal^[1] filed by accused-appellant Ferdinand De Guzman y Buhay (Ferdinand) assailing the Decision^[2] dated June 29, 2017 of the Court of Appeals (CA) in CA-G.R. CR HC No. 08332, which affirmed with modifications the Decision^[3] dated September 15, 2015 of the Regional Trial Court of Antipolo City, Branch 72 (RTC) in Crim. Case Nos. 05-29405 and 05-29406 convicting him of two (2) counts of Statutory Rape, defined and penalized under Article 266-A (1) (d) of the Revised Penal Code (RPC).

The Facts

On March 2, 2005 two (2) separate Informations^[4] were filed before the RTC, each charging Ferdinand with Statutory Rape, the accusatory portions of which read:

Criminal Case No. 05-29405

That on or about the 7th day of May 2003[,] in the City of Antipolo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one [AAA],^[5] a nine (9) year old minor Who is his niece by affinity against the latter's will and consent.

CONTRARY TO LAW.^[6]

Criminal Case No. 05-29406

That on or about the 17th day of June 2003[,] in the City of Antipolo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one [AAA], a nine (9) year old minor who is his niece by affinity against the latter's will and consent.

CONTRARY TO LAW.^[7]

The prosecution alleged that at around four (4) o'clock in the morning of May 7, 2003, AAA was sleeping alone in her room when she was awakened by her aunt's husband, Ferdinand, who was already on top of her. Ferdinand then kissed her,

undressed her, and forcibly inserted his penis into her vagina. After about thirty (30) minutes, Ferdinand went to the comfort room, took a bath, and went to work. According to AAA, she was frightened as Ferdinand threatened to hurt her should she fight back or tell the matter to her parents.^[8] The incident happened again on June 17, 2003 at around four (4) o'clock in the morning. AAA was sleeping in the living room when she felt that somebody carried her to the bedroom. Upon realizing that someone was on top of her, she opened her eyes and saw Ferdinand, prompting her to push him away. However, Ferdinand overpowered her, removed her lower garments, and had carnal knowledge of her. After Ferdinand finished, he again threatened AAA before leaving the scene. Eventually, AAA was able to reveal her ordeal to her parents, resulting in the filing of the rape cases against Ferdinand.^[9]

For his part, while Ferdinand admitted that he is AAA's uncle-in-law and that he lived at AAA's house on the dates when the alleged incidents of rape occurred, he denied the charges against him. He claimed that during those times, he was sleeping with his wife. He added that he does not know of any reason why AAA would file rape cases against him, but nonetheless, wished that AAA forgives him for any ill feelings that the latter might have against him.^[10]

The RTC Ruling

In a Decision^[11] dated September 15, 2015, the RTC found Ferdinand guilty beyond reasonable doubt of two (2) counts of Statutory Rape, and accordingly, sentenced him to suffer the penalty of *reclusion perpetua* for each count, and to pay AAA the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P25,000.00 as exemplary damages, for each count.^[12]

The RTC found that the prosecution, through AAA's positive and categorical testimony, was able to establish that Ferdinand indeed had carnal knowledge of her without her consent. On the other hand, it did not give credence to Ferdinand's defenses of denial and alibi for being self-serving, especially considering that by his own admissions, it was not physically impossible for him to be at the *locus criminis* when the crimes occurred.^[13]

Aggrieved, Ferdinand appealed ^[14] to the CA.

The CA Ruling

In a Decision^[15] dated June 29, 2017, the CA affirmed the RTC ruling with the following modifications: (a) increasing the award of exemplary damages to P75,000.00; and (b) imposing on all monetary awards legal interest at the rate of six percent (6%) per annum from finality of the CA Decision until full payment.^[16] It held that AAA's straightforward and categorical testimony explicitly identifying Ferdinand as the perpetrator prevails over the latter's unsubstantiated defenses of denial and alibi.^[17]

Hence, this appeal.

The Issue Before the Court

The issue for the Court's resolution is whether or not Ferdinand's conviction for two (2) counts of Statutory Rape should be upheld.

The Court's Ruling

The appeal is without merit.

Time and again, it has been held that an appeal in criminal cases opens the entire case for review, and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.^[18] The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.^[19]

Guided by this consideration, the Court finds it proper to modify Ferdinand's conviction to two (2) counts of Qualified Statutory Rape, as will be explained hereunder.

Article 266-A (1) (d), in relation to Article 266-B (1), of the RPC, respectively read:

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:

x x x x

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

x x x x

Article 266-B. *Penalties.* — Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

- 1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim.

x x x x

Statutory Rape under Article 266-A (1) (d) of the RPC is committed by having sexual intercourse with a woman below twelve (12) years of age regardless of her consent, or lack of it, to the sexual act. Proof of force, threat, or intimidation, or consent of the offended party is unnecessary as these are not elements of Statutory Rape, considering that the absence of free consent is conclusively presumed when the victim is below the age of twelve (12). The law presumes that the offended party does not possess discernment and is incapable of giving intelligent consent to the sexual act. Thus, to sustain a conviction for Statutory Rape, the prosecution must establish the following: (a) the age of the complainant; (b) the identity of the accused; and (c) the sexual intercourse between the accused and the complainant.