

## FIRST DIVISION

[ G.R. No. 225608, March 13, 2017 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ALBERTO ALEJANDRO Y RIGOR AND JOEL ANGELES Y DE JESUS,  
ACCUSED-APPELLANTS.**

### D E C I S I O N

**PERLAS-BERNABE, J.:**

Before the Court is an ordinary appeal<sup>[1]</sup> filed by accused-appellants Alberto Alejandro y Rigor (Alejandro) and Joel Angeles y de Jesus (Angeles; collectively, accused-appellants) assailing the Decision<sup>[2]</sup> dated June 3, 2015 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06495, which affirmed with modification the Joint Decision<sup>[3]</sup> dated August 20, 2013 of the Regional Trial Court of Baloc, Sto. Domingo, Nueva Ecija, Branch 88 (RTC) in Crim. Case Nos. 72-SD(96), 73-SD(96), and 74-SD(96) convicting accused-appellants of the crimes of Simple Rape and Homicide, defined and penalized under Articles 335<sup>[4]</sup> and 249 of the Revised Penal Code (RPC), respectively.

#### The Facts

On March 28, 1996, a total of three (3) separate Informations were filed before the RTC, each charging accused-appellants of one (1) count of Simple Rape and one (1) count of Homicide, viz.:<sup>[5]</sup>

#### **Crim. Case No. 72-SD(96)**

That on or about the 5<sup>th</sup> day of January 1996, at around 2:30 o'clock [sic] in the morning, at Brgy. [Collado], Municipality of [Talavera], Province of Nueva Ecija, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused [Alejandro], with lewd design, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously had carnal knowledge of one [AAA<sup>[6]</sup>] against her will and consent, to the damage and prejudice of the said offended party.

Contrary to law.

#### **Crim. Case No. 73-SD(96)**

That on or about the 5<sup>th</sup> day of January 1996, at around 2:30 o'clock [sic] in the morning, at Brgy. [Collado], Municipality of [Talavera], Province of Nueva Ecija, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused [Angeles], with lewd design,

by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously had carnal knowledge of one AAA against her will and consent, to the damage and prejudice of the said offended party.

Contrary to law.

### **Crim Case No. 74-SD(96)**

That on or about the 5<sup>th</sup> day of January 1996, at Brgy. [Collado], Municipality of [Talavera], Province of Nueva Ecija, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused [Alejandro and Angeles], together with two (2) other persons whose identities are still unknown (John Doe and Peter Doe), conspiring, confederating and mutually helping one another, with intent to kill did then and there willfully, unlawfully and feloniously attack, box, beat and stab one [BBB] on the different parts of her body with the use of a pointed instrument, thereby causing her instantaneous death, to the damage and prejudice of the said victim.

Contrary to law.

Upon Alejandro's arrest, he pleaded not guilty to the charges against him as stated in Crim. Case Nos. 72-SD(96) and 74-SD(96).<sup>[7]</sup>

While Angeles was still at large, the prosecution sought for the amendment of the Informations in Crim. Case Nos. 72-SD(96) and 73-SD(96) to convey a conspiracy between accused-appellants in the rape cases against AAA. The RTC allowed the amendment of the Information in Crim. Case No. 73-SD(96) to include Alejandro therein as a conspirator; however, it disallowed the proposed amendment in Crim. Case No. 72-SD(96) to include Angeles therein as conspirator on the ground that Alejandro had already been arraigned in the latter case.<sup>[8]</sup> The amended Information in Crim. Case No. 73-SD(96) reads:

That on or about the 5<sup>th</sup> day of January 1996, at around 2:30 o'clock in the morning, at Brgy. [Collado], Municipality of [Talavera], Province of Nueva Ecija, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused [Angeles], with lewd design, and in conspiracy with one ALBERTO ALEJANDRO Y RIGOR (a), "JESUS", by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one [AAA] against her will and consent, to the damage and prejudice of the said offended party.

Contrary to law.<sup>[9]</sup>

Eventually, Angeles was arrested and arraigned in connection with Crim. Case Nos. 73-SD(96) and 74-SD(96), to which he pleaded not guilty. Alejandro was likewise arraigned in Crim. Case No. 73-SD(96) and pleaded not guilty as well.<sup>[10]</sup>

The prosecution alleged that on December 12, 1995, AAA joined her co-worker for a vacation in the province of Nueva Ecija as they were both laid off from work, and

they stayed at the one-storey house of the latter's 62-year old mother, BBB. Thereat, AAA would sleep at the *papag* while BBB slept on a mattress on the floor. At around 2:30 in the morning of January 5, 1996, AAA awoke to the sound of BBB's pleas for mercy. Aided by the kerosene lamp placed on the floor, AAA saw BBB being mauled and stabbed to death by Alejandro and Angeles. Thereafter, Angeles approached AAA and restrained her arms, while Alejandro pulled AAA's pants and underwear down and started having carnal knowledge of her. After Alejandro was done, he switched places with Angeles and the latter took his turn ravishing AAA. As AAA was able to fight back by scratching Angeles's back, Angeles punched her on the left side of her face while Alejandro hit her left jaw with a piece of wood. AAA then lost consciousness and woke up in a hospital, while BBB succumbed to her injuries.<sup>[11]</sup>

At the hospital, the police officers interviewed AAA and showed her several mugshots in order for her to identify her assailants. AAA was then able to recognize Alejandro and Angeles from said mugshots and positively identified them as the perpetrators of the crime. Medical records also revealed that AAA was indeed sexually assaulted, while BBB died due to "neurogenic shock" or severe pain secondary to "multiple blunt injury and fracture of the mandibular and facio-maxillary bones."<sup>[12]</sup>

In his defense, Angeles denied the charges against him and presented an alibi. He averred that on the night before the incident, he was at home with his wife and slept as early as eight (8) o'clock in the evening. Upon waking up at seven (7) o'clock in the morning of the next day, he was informed by his brother-in-law of BBB's death. He further averred that his relationship with BBB was like that of a mother and son.<sup>[13]</sup>

Similarly, Alejandro invoked the defenses of denial and alibi. He claimed that at around nine (9) o'clock in the evening prior to the incident, he went home and slept. As testified by Noel Mendoza (Mendoza), Alejandro's relative by affinity, he asked Alejandro to help him irrigate the rice field, but the latter declined. At around midnight, Mendoza went to Alejandro's house to personally fetch Alejandro, but considering that the house was closed, Mendoza peeped through a hole and there he saw Alejandro soundly asleep. Alejandro further claimed that he does not know both AAA and Angeles until the filing of the charges against him.<sup>[14]</sup>

### **The RTC Ruling**

In a Joint Decision<sup>[15]</sup> dated August 20, 2013, the RTC found accused-appellants guilty as charged and, accordingly, sentenced them as follows: (a) in Crim. Case No. 72-SD(96), Alejandro was sentenced to suffer the penalty of *reclusion perpetua* and ordered to pay AAA the amounts of P75,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages; (b) in Crim. Case No. 73-SD(96), accused-appellants were each sentenced to suffer the penalty of *reclusion perpetua* and each ordered to pay AAA the amounts of P75,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages; and (c) in Crim. Case No. 74-SD(96), accused-appellants were sentenced to suffer the penalty of imprisonment for an indeterminate period of six (6) years and one (1) day of *prision mayor*, as minimum, to twelve (12) years and one (1) day of *reclusion temporal*, as maximum, and ordered to pay BBB's heirs the amount of P50,000.00

as civil indemnity for the latter's death.<sup>[16]</sup>

In so ruling, the RTC gave credence to AAA's positive identification of accused-appellants as the perpetrators of the crimes charged, expressly noting that AAA had no ill motive to falsely testify against them. In this light, the RTC found untenable accused-appellants' defenses of denial and alibi, considering too that they have failed to show that it was physically impossible for them to be at the crime scene when the crimes against AAA and BBB were committed.<sup>[17]</sup>

Aggrieved, accused-appellants appealed<sup>[18]</sup> to the CA.

### **The CA Ruling**

In a Decision<sup>[19]</sup> dated June 3, 2015, the CA affirmed the RTC ruling with the following modifications: (a) in Crim. Case No. 72-SD(96), Alejandro was found guilty beyond reasonable doubt of Simple Rape and, accordingly, was sentenced to suffer the penalty of *reclusion perpetua* and ordered to pay AAA the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages; (b) in Crim. Case No. 73-SD(96), Alejandro was found guilty beyond reasonable doubt of one (1) count of Simple Rape, while Angeles was found guilty beyond reasonable doubt of two (2) counts of the same crime, and accordingly, were separately sentenced to suffer the penalty of *reclusion perpetua* and ordered to pay AAA the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages for each count of Simple Rape; and (c) in Crim. Case No. 74-SD(96), accused-appellants were found guilty beyond reasonable doubt of Homicide and, accordingly, were each sentenced to suffer the penalty of imprisonment for an indeterminate period of six (6) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*, as maximum, and ordered to solidarity pay BBB's heirs the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as temperate damages. In addition, accused-appellants are likewise ordered to pay legal interest of six percent (6%) per annum on all monetary awards from date of finality of judgment until fully paid.<sup>[20]</sup>

It held that the prosecution had proven beyond reasonable doubt accused-appellants' complicity to the crimes charged, as they were positively identified by AAA who had an unobstructed view of their appearance when said crimes were being committed. It likewise found the existence of conspiracy in the commission of said crimes, considering that accused-appellants: (a) cooperated in stabbing and mauling BBB, resulting in her death; and (b) took turns in having carnal knowledge of AAA without her consent, while the other restrained her arms to prevent her from resisting.<sup>[21]</sup>

Hence, the instant appeal.

### **The Issue Before the Court**

The core issue for the Court's resolution is whether or not accused-appellants are guilty beyond reasonable doubt of the aforesaid crimes.

### **The Court's Ruling**

At the outset, the Court notes that during the pendency of the instant appeal, Alejandro filed a Motion to Withdraw Appeal<sup>[22]</sup> dated January 19, 2017, stating that despite knowing the full consequences of the filing of said motion, he still desires to have his appeal withdrawn. In view thereof, the Court hereby grants said motion, and accordingly, deems the case closed and terminated as to him. Thus, what is left before the Court is the resolution of Angeles's appeal.

In criminal cases, "an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. 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."<sup>[23]</sup>

Proceeding from the foregoing, the Court deems it proper to modify accused-appellants' convictions, as will be explained hereunder.

Article 249 of the RPC states:

Article 249. *Homicide*. - Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in the next preceeding article, shall be deemed guilty of homicide and punished by *reclusion temporal*.

"To successfully prosecute the crime of homicide, the following elements must be proved beyond reasonable doubt: (1) that a person was killed; (2) that the accused killed that person without any justifying circumstance; (3) that the accused had the intention to kill, which is presumed; and (4) that the killing was not attended by any of the qualifying circumstances of murder, or by that of parricide or infanticide. Moreover, the offender is said to have performed all the acts of execution if the wound inflicted on the victim is mortal and could cause the death of the victim without medical intervention or attendance."<sup>[24]</sup>

On the other hand, pertinent portions of Article 335 of the RPC (the controlling provision as the rapes were committed prior to the enactment of Republic Act No. [RA] 8353<sup>[25]</sup> in 1997) read:

Article 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by *reclusion perpetua*.

Whenever the crime of rape is committed with the use of a deadly