

## THIRD DIVISION

[ G.R. No. 212934, June 07, 2017 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. BLAS  
GAA Y RODRIGUEZ, ACCUSED-APPELLANT.**

### D E C I S I O N

**TIJAM, J.:**

Accused-appellant Blas Gaa y Rodriguez questions the Decision<sup>[1]</sup> dated February 13, 2014 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04906, which affirmed the Decision<sup>[2]</sup> dated February 10, 2011 rendered by the Regional Trial Court (RTC), Branch 62 of Gumaca, Quezon in Criminal Case Nos. 7972-G and 7973-G, finding accused-appellant guilty of two counts of Qualified Rape.

Accused-appellant was charged with two counts of Qualified Statutory Rape under separate Informations, to wit:

#### Criminal Case No. 7972-G

That on or about 8:00 o'clock in the morning of the 4<sup>th</sup> day of April 2001 at Barangay XXX<sup>[3]</sup>, Municipality of Atimonan, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with force and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of one AAA<sup>[4]</sup>, a minor, 9 years old, 5 months and 1 day old, against her will.

That the accused is the legitimate father of the victim AAA.

Contrary to Law.<sup>[5]</sup>

#### Criminal Case No. 7973-G

That on or about the month of March 2003 at Barangay XXX, Municipality of Atimonan, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with force and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of one AAA, a minor, 11 years old, against her will.

That the accused is the legitimate father of the victim AAA.

Contrary to Law.<sup>[6]</sup>

Upon arraignment, the accused-appellant pleaded not guilty to the charges. Trial ensued.

The pertinent facts of the case, as summarized by the CA, are as follows:

For the first count of qualified  
statutory rape, in Criminal Case No.  
7972-G:

On or about 8:00 o'clock in the morning of April 4, 2001, 'AAA' was at their house located at Brgy. XXX, Atimonan, Quezon, together with his father, Blas Gaa. AAA's mother was working in Mandaluyong City while her younger brother was ordered by Blas Gaa to fetch water outside their house. Alone with Blas Gaa, AAA was asked by him to remove her shorts and panty. Blas Gaa also removed his own shorts and brief and placed himself on top of AAA. He tried to insert his penis to AAA's vagina for several times. AAA felt pain because of the poking act of her father but was able to evade his penis. Blas Gaa did not succeed in penetrating AAA's vagina but his penis was in the 'bokana' (sic) of AAA's vagina. Blas Gaa also inserted his fingers inside AAA's vagina and she described this act to be "kinali-kalikot" and "sinundut-sundot". While Blas Gaa was doing this, he told AAA that she should behave and should not stop him from what he was doing. She did not report to anybody the April 4, 2001 incident until April 7, 2003.

After April 4, 2001, AAA repeatedly had the same experience from Blas Gaa. She said that the incident happened many times.

The last incident happened sometime in March 2003.

For the second count of qualified  
statutory rape, in Criminal Case No.  
7973-G:

Sometime in March 2003, AAA was in their bedroom when Blas Gaa threatened to kill her with a bolo. Just like the 2001 incident, Blas Gaa removed his brief and shorts and AAA was able to see his penis. He forced his penis against her vagina while she was in a lying position. She tried to evade him but he was threatening her with his bolo. She is mad at him for what he did to her and cannot forgive him. She first reported the incident to her mother on April 6, 2003 because her younger brother saw Blas Gaa on top of her. He was the one who first told their mother about the incident and AAA's mother asked her if it were (sic) true so she told her it was true. AAA's mother got mad and filed the cases against Blas Gaa.

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On the part of the defense, Blas Gaa testified that on April 4, 2001, between 7-10 a.m., he was in the surroundings of his house cutting grass. He only returned to the house to drink water. He denied raping AAA, his daughter, and threatening to kill her. He also denied the incident which happened sometime in March 2003. He said that the reason that AAA accused him of rape is because his wife was having an affair with another man. He suggested to his wife to have AAA medically examined and that the medical certificate shows a negative result for laceration, spermatozoa, among others.<sup>[7]</sup>

On February 10, 2011, the RTC found accused-appellant guilty beyond reasonable doubt of the charges, viz:

WHEREFORE, Accused Blas Gaa y Rodriguez is found GUILTY beyond reasonable doubt of two counts of qualified statutory rape and he is sentenced to suffer the penalty of reclusion perpetua, without eligibility for parole in each of the two counts of rape. Accused is ordered to pay the victim AAA in each of the two counts P50,000.00 moral damages, P50,000.00 as exemplary damages and another P50,000.00 as civil indemnity:

Costs against the accused.

SO ORDERED.<sup>[8]</sup>

On appeal, the CA affirmed with modification the ruling of the RTC, as follows:

WHEREFORE, premises considered, the RTC Decision dated February 10, 2011 is AFFIRMED, but with MODIFICATION as to monetary awards. The RTC Decision should read, as follows:

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"WHEREFORE, Accused Blas Gaa y Rodriguez is found GUILTY beyond reasonable doubt of two counts of qualified statutory rape and he is sentenced to suffer the penalty of reclusion perpetua, without eligibility for parole in each of the two counts of rape. Accused is ordered to pay the victim AAA in each of the two counts P75,000.00 moral damages, P75,000.00 as exemplary damages and another P30,000.00 as civil indemnity.

Costs against the accused.

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SO ORDERED.<sup>[9]</sup>

Hence, this appeal with accused-appellant raising the following assignment of errors:

**I. THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE BEYOND REASONABLE DOUBT THE RELATIONSHIP BETWEEN THE VICTIM AND THE ACCUSED-APPELLANT.**

**II. THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.**<sup>[10]</sup>

Article 266-A of the Revised Penal Code (RPC) provides that 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 is

otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority;

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.

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Whereas, Article 266-B of the RPC provides the penalties for the crime of rape:

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

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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, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

Statutory rape is committed by sexual intercourse with a woman below 12 years of age regardless of her consent, or the lack of it, to the sexual act. Proof of force, intimidation, or consent is unnecessary as they are not elements of statutory rape, considering that the absence of free consent is conclusively presumed when the victim is below the age of 12. At that age, the law presumes that the victim does not possess discernment and is incapable of giving intelligent consent to the sexual act. Thus, to convict an accused of the crime of statutory rape, the prosecution carries the burden of proving: (a) the age of the complainant; (b) the identity of the accused; and (c) the sexual intercourse between the accused and the complainant.

[11]

The accused-appellant's argument that the prosecution failed to prove his relationship to AAA fails to persuade Us. Here, both the RTC and the CA found that the prosecution had sufficiently proved that the accused-appellant is AAA's father. Such finding is conclusive on this Court for, after all, We are not a trier of facts.

We quote with conformity the finding of the CA that accused-appellant is the father of AAA, to wit:

Accused-appellant admitted, on several occasions, that he is the father of AAA. In his Memorandum dated September 15, 2010, he phrased the issue to be resolved in this manner: 'Whether or not Accused Blas Gaa is guilty of raping his own daughter AAA', a clear admission of his relationship with the victim. There, he did not raise the issue of whether AAA was his daughter. Similarly, as pointed out by the People in its Appellee's Brief, during accused-appellant's cross-examination on September 15, 2009, he admitted that AAA was one of his two children.

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