

SECOND DIVISION

[G.R. No. 216938, June 05, 2017]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. HENRY BENTAYO,
APPELLANT.**

D E C I S I O N

PERALTA, J.:

For consideration of this Court is the appeal of the Decision dated November 14, 2014 of the Court of Appeals (CA) dismissing appellant Henry Bentayo's appeal and affirming the Judgment dated September 2, 2009 of the Regional Trial Court, Branch 20, Tacurong City in Criminal Case No. 3027, convicting the same appellant of the crime of incestuous rape under Article 266-A, paragraph 1, in relation to Article 266-B of the Revised Penal Code (RPC).

The facts follow.

AAA,^[1] the victim, was born on November 11, 1991 to spouses BBB and CCC. When AAA was 7 years old, her father died and, thereafter, her mother re-married. Her new husband, appellant was then a carpenter and charcoal maker upon whom she had two children. Sometime in the morning of September 27, 2006, the victim's mother CCC told the former to accompany, her stepfather, appellant, to the farm at Lagao, Lambayong, Sultan Kudarat to help the latter in making charcoal. Around 10 o'clock in the morning of the same day, appellant and AAA arrived at the farm and, thereafter, appellant told AAA to cook food while appellant was making charcoal. Afterwards, appellant suddenly held the hands of AAA, then covered her mouth, and dragged her. Appellant warned AAA not to shout otherwise he would hack her. AAA tried to resist but was overpowered by appellant's strength. Appellant then laid her on the ground, undressed her, removed her pants and underwear, showed his penis, and masturbated. Thereafter, appellant mounted on top of AAA, spread her legs, inserted his penis into her vagina, and made several coitus movements, all the while oblivious of AAA's pleas.

On November 6, 2007, around 8 o'clock in the evening, appellant raped AAA again at their *kubo* in the farm. While AAA was sleeping, she felt appellant, who was armed with a bolo, touch her face, her breast and then her vagina. Appellant proceeded to undress her, kissed her private parts, and then threatened to kill her if she shouted. Appellant then mounted on top of AAA and inserted his penis into her vagina. Thereafter, appellant further threatened AAA that he will kill her, her mother and her siblings if she told anyone what happened.

Cordero, a neighbor of AAA, on November 29, 2007, heard the latter crying, thus, she immediately went to AAA's house to peep inside and saw appellant beating AAA. When Cordero went near the door, appellant stopped beating AAA and immediately went out of the house and walked away. It was then that AAA confided to Cordero

that appellant was forcing her to go with him to the farm where appellant intends to rape her again. Cordero relayed the matter to AAA's mother. Cordero, thereafter, accompanied AAA to the police station. The medical examination conducted on AAA showed that she has "old, healed lacerations of vagina at 1 o'clock, 3 o'clock; 5 o'clock; 7 o'clock and 11 o'clock."

Hence, an Information was filed against appellant which reads as follows:

That on or about 8:00 o'clock in the evening of November 6, 2007 inside the "kubo" located at Barangay Lagao, Municipality of Lambayong, Province of Sultan Kudarat, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with a bolo, with force, threat and intimidation, did then and there, wilfully, unlawfully and feloniously succeed in having carnal knowledge with his stepdaughter AAA, a fifteen (15) year old girl having been born on November 11, 1991 and daughter of CCC, wife of the accused, against her will and consent, which act of the accused debases, degrades the intrinsic worth and dignity of the child as a human being.

CONTRARY TO LAW, particularly Article 266-A paragraph 1 in relation to Article 266-B of the Revised Penal Code of the Philippines and Republic Act No. 7610.

Appellant pleaded not guilty.

Appellant denied the charge against him and insisted that during the time of the alleged incidents, he was in Barangay Lagao, Lambayong, Sultan Kudarat making charcoal; and that he was alone at that time.

The RTC, Branch 20, Tacurong City found appellant guilty beyond reasonable doubt of the crime of incestuous rape and sentenced him to suffer the penalty of *reclusion perpetua*. The dispositive portion of the Judgment^[2] dated September 2, 2009 reads follows:

Wherefore, upon all the foregoing considerations, the court FINDS the guilt of accused HENRY BENTAYO y VISTA to the crime of Incestuous Rape beyond reasonable doubt and hereby sentences him to suffer the penalty of *reclusion perpetua* and to pay the private complainant the following:

- a. The amount of P75,000.00 as Civil Indemnity;
- b. The amount of P50,000.00 as and by way of Moral Damages;
- c. The amount of P25,000.00 as and by way of Exemplary Damages

Including their interests at twelve (12%) percent per annum computed from April 8, 2008 when the above-entitled case was filed in court and until their full payment.

For being a detention prisoner, the entire period of his preventive

imprisonment shall be credited in the service of sentence imposed on him, provided that he shall abide in writing with the same disciplinary rules imposed upon convicted prisoners, otherwise, with only four-fifths (4/5) thereof.

Pursuant to Supreme Court Circular No. 4-92-A, the accused shall immediately be transferred to the National Bilibid Prisons in [Muntinlupa] City.

IT IS SO ORDERED.

The CA affirmed^[3] the decision of the RTC with modification that appellant must pay AAA the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages, and interest on all damages at the rate of six percent (6%) *per annum* from the finality of judgment until fully paid, thus:

WHEREFORE, the Judgment dated September 2, 2009 of the Regional Trial Court, Branch 20, Tacurong City in Criminal Case No. 3027 is hereby AFFIRMED with MODIFICATION. Accused-appellant Henry Bentayo is hereby found GUILTY beyond reasonable doubt of the crime of incestuous rape and is sentenced to suffer the penalty of *reclusion perpetua*, without the benefit of parole.

Further, accused-appellant is ORDERED to pay AAA the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages and interest on all damages at the rate of six percent (6%) *per annum* from the finality of judgment until fully paid.

SO ORDERED.

Hence, the present appeal.

According to appellant, the prosecution was not able to prove his guilt beyond reasonable doubt.

The appeal lacks merit.

Under paragraph 1 (a) of Art. 266-A of the RPC, the elements of rape are: (1) that the offender had carnal knowledge of a woman; and (2) that such act was accomplished through force, threat, or intimidation. However, when the offender is the victim's father, as in this case, there need not be actual force, threat or intimidation because when a father commits the odious crime of rape against his own daughter, who was also a minor at the time of the commission of the offenses, his moral ascendancy or influence over the latter substitutes for violence and intimidation.^[4] Thus, all the elements are present.

In testifying before the trial court, AAA was able to narrate in detail the crime committed, thus:

x x x x

Q: I heard from you Miss Witness that you said that Mary Ann would take

a statement from you. What was that statement you are referring to?

A: About my father who raped me, sir.

Q: When you say father, you are referring to?

A: My stepfather, sir.

Q: Why, what did your stepfather do to you?

A: He took off my short pants and panty, sir.

Q: Where were you when your stepfather took off your short pants and underwear?

A: At the farm, part of Lagao, your honor.

Q: And when was that if you can recall?

A: I could not remember your honor.

Q: How did it happen that it was in the farm located at Lagao that your stepfather took off your short pants and underwear?

A: Because we were making charcoal there your honor.

x x x x

Q: I heard from you Miss Witness that while you were at Lagao together with your stepfather at the *kubo*, he removed your short pants and panty is that correct?

A: Yes, sir.

Q: And what was your reaction when he made that thing to you?

A: I stood up, sir.

Q: Why Miss Witness when he was removing your [short] pants and panty you were then lying?

A: Yes, sir.

x x x x

Q: You said [that] you stood up. Why did you stand up when he was removing your short pants and panty?

A: He will kill me if I will not concede to what he wants, sir.

Q: And what does your stepfather want?

A: "*Patyon niya ako kung di ko siya patilawon*" sir.

Q: You said that he would kill you if you will not "*patilawon siya*." What does your stepfather really wants that you will give to him?

A: (no answer)

COURT: You shoot another question.

x x x x

Q: And while you were resisting that your short pants and panty could be