

FIRST DIVISION

[G.R. No. 214771, August 09, 2017]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. RUBEN
"ROBIN" BONGBONGA Y NALOS, ACCUSED-APPELLANT.**

DECISION

CAGUIOA, J:

This is an Appeal^[1] filed under Section 13(c), Rule 124 of the Rules of Court from the Decision^[2] dated February 26, 2013 (questioned Decision) of the Court of Appeals, Twelfth Division (CA), in CA-G.R. CR HC No. 04851, which affirmed the Judgment^[3] dated July 12, 2010 of the Regional Trial Court of Urdaneta City, Pangasinan, Branch 49 (RTC), in Criminal Case Nos. U-11324, U-11325, and U-11326, convicting accused-appellant Ruben N. Bongbonga (Ruben) for the crimes charged therein.

The Facts

Three (3) separate Informations were filed in the RTC, charging Ruben with two (2) counts of Rape and one (1) count of Acts of Lasciviousness, as follows:

CRIMINAL CASE NO. U-11324

That on or about April 26, 2000 at Brgy. [XXX], Binalonan, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, armed with a kitchen knife, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with [AAA],^[4] a minor, 11 years and 11 months of age^[5] against her will and without her consent to her damage and prejudice.

CONTRARY to Art. 335, Revised Penal Code, as amended by R.A. 8353 and R.A. 7659.^[6]

CRIMINAL CASE NO. U-11325

That on or about May 29, 2000 at Brgy. [XXX], Binalonan, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with [AAA], a minor, 12 years of age against her will and without her consent to her damage and prejudice.

CONTRARY to Art. 335, Revised Penal Code, as amended by R.A. 8353 and R.A. 7659.^[7]

CRIMINAL CASE NO. U-11326

That on or about October 16, 2000 at Brgy. [XXX], Binalonan, Pangasinan and within the jurisdiction of this Honorable Court, the above named accused, by means of force and intimidation with lewd design, did then and there willfully, unlawfully and feloniously perform lascivious conduct upon [AAA], minor, 12 years of age, by kissing her lips, mashing her private parts against her will and without her consent, to the damage and prejudice of [AAA].

CONTRARY to Article 336, Revised Penal Code, in relation to Sec. 5, par. b, R.A. 7610.^[8]

As summarized by the CA in the questioned Decision, the facts are as follows:

AAA, a minor of about 16 years of age at the time she testified on February 4, 2003, declared that on April 26, 2000, while she was seated in a chair reading a pocketbook in the yard of their house, appellant came. Since no one was at home except for the two of them, he carried her inside the house up to the second floor where he laid her down the bamboo floor. After removing his clothes, appellant then removed the shirt, pajamas, panty and bra of the victim. She wanted to shout, but the accused wielded a "balisong". The appellant then went on top of AAA and forcibly had carnal knowledge with her and mashed her breast. AAA tried to kick appellant but he was too strong for her. After the ordeal, appellant warned AAA not to tell anyone. AAA did not tell anyone out of fear of appellant.

The second incident took place on May 29, 2000. While AAA was playing with her siblings, BBB, CCC, and appellant's daughter Ruby Ann and niece Julie Ann Bongbonga, in the yard of their house, appellant arrived thereat. While playing, appellant called AAA and told her they were going to his mother Crising Bongbonga's house some 200 meters away. Appellant allowed AAA to watch "Eat Bulaga" in their living room for about an hour. Thereafter, appellant brought AAA inside one of the bedrooms and locked the door. Armed with a "*balisong*", appellant again had carnal knowledge of AAA. When appellant was finished, he stood and dressed up. AAA put her clothes on and was told by appellant not to tell her parents about what happened between them. Thereafter, they left the premises. AAA did not tell her parents what happened because she was afraid that Ruben might kill her.

The third incident was on October 16, 2000, when AAA, BBB, CCC and their other playmates, went to the river to go swimming. While the group was playing in the water, appellant arrived. Thereafter, AAA's group went home. After doing some household chores, AAA and her siblings went to the sugar cane field to gather sugar cane for eating. Appellant followed the group to the sugar cane field. The group went home while AAA stayed behind because she was told by the appellant "May gagawin tayo." Appellant carried AAA to the middle of the field, undressed her and laid her down. Appellant undressed himself, went on top of AAA, kissed her lips and for the third time, had carnal knowledge with the victim. After such incident, AAA was again warned by the appellant not to tell her parents. However, this time AAA told her parents about the incident and her parents got mad and whipped her.^[9]

Thereafter, a medical examination conducted on AAA revealed deep healed lacerations in AAA's genitalia, which allegedly could have been caused by strenuous activities, the insertion of a foreign body (e.g., a hardened penis), or a viral disease.
[10]

Pleading his innocence, Ruben denied the accusations against him on the claim that he and AAA were live-in partners and that their sexual encounters were consensual.
[11] Ruben further claimed that the charges against him were filed at the instance of AAA's Aunt, possibly due to feelings of disapproval as Ruben was still married to another woman.
[12] Ruben's defense was corroborated by his daughter, Ruby Ann, during her testimony before the RTC.
[13]

Upon arraignment, Ruben entered separate pleas of "not guilty" to the separate Informations.
[14] Trial on the merits thereafter ensued.
[15]

Ruling of the RTC

On July 12, 2010, the RTC rendered a Judgment of even date, finding Ruben guilty beyond reasonable doubt of the crimes charged. The *fallo* of the said Judgment reads:

WHEREFORE, this Court finds the accused RUBEN "ROBIN" BONGBONGA Y NALOS GUILTY beyond reasonable doubt of Rape (2 counts) and Acts of Lasciviousness.

IN CRIMINAL CASE NO. U-11324

- (1) Accused is sentenced to suffer the penalty of reclusion perpetua;
- (2) He is ordered to pay the offended party civil indemnity of Fifty Thousand Pesos (P50,000.00) and moral damages of Fifty Thousand Pesos (P50,000.00);

IN CRIMINAL CASE NO. U-11325

- (1) Accused is sentenced to suffer the penalty of reclusion perpetua;
- (2) He is ordered to pay the offended party civil indemnity of Fifty Thousand Pesos (P50,000.00) and moral damages of Fifty Thousand Pesos (P50,000.00);

IN CRIMINAL CASE NO. U-11326

- (1) Accused is sentenced to suffer the indeterminate penalty of imprisonment of four (4) months and one (1) day of arresto mayor as minimum up to four (4) years and two (2) months of prision correccional as maximum;
- (2) He is ordered to pay the offended party moral damages of Twenty Thousand Pesos (P20,000.00).

Accused is ordered committed to the New Bilibid Prison, Muntinlupa City without unnecessary delay.

NO COSTS.

SO ORDERED.^[16]

Ruben then appealed to the CA via Notice of Appeal dated August 26, 2010.^[17] Both parties accordingly filed their respective Briefs dated October 5, 2011^[18] and February 8, 2012.^[19]

Ruling of the CA

On February 26, 2013, the CA issued the questioned Decision of even date, giving credence to the positive and specific testimony of AAA as against Ruben's claims.

In this regard, it was observed by the CA that although the evidence on record indicates that Ruben had carnal knowledge of AAA on the third occasion in October 2000, contrary to AAA's *Sinumpaang Salaysay* dated January 16, 2001 which only described lascivious conduct by Ruben,^[20] the fact of the matter is that the Information for Criminal Case No. U-11326 only charged Ruben with Acts of Lasciviousness.^[21] Accordingly, the CA could only convict Ruben for the crime of Acts of Lasciviousness:

However, We cannot impose the penalty of rape upon appellant on the third incident that transpired on October 16, 2000 because the Information only spoke of the crime of acts of lasciviousness. It is a basic constitutional right of the accused to be informed of the nature and cause of accusation against him. It would be a denial of appellant's constitutional right to due process if he was charged with acts of lasciviousness but subsequent proof suggested rape. Nevertheless, the prosecution established that appellant was motivated by lewd design on October 16, 2000 when after AAA's companions left, he brought AAA in the middle of the sugarcane field and thereafter kissed AAA and touched her private parts.^[22]

In affirming the findings of the RTC, the CA modified the award of damages, to wit:

WHEREFORE, premises considered, accused-appellant Ruben Bongbonga's **APPEAL** is hereby **DENIED**. Hence, the Decision dated July 12, 2010 for two counts of **RAPE** and **ACTS OF LASCIVIOUSNESS** is hereby **AFFIRMED with modification** insofar as the amount of civil indemnity which is hereby increased to Php75,000.00 and moral damages to Php75,000.00 for each count of rape, plus Php30,000.00 as exemplary damages. Concerning the award of moral damages for acts of lasciviousness, it is hereby increased to Php30,000.00.

SO ORDERED.^[23]

Thereafter, Ruben lodged the instant Appeal before the Court via Notice of Appeal dated March 6, 2013.^[24] In a Resolution dated January 26, 2015, the Court notified the parties of their option to file supplemental briefs.^[25] The parties subsequently

filed Manifestations in lieu of supplemental briefs respectively dated April 6, 2015^[26] and September 8, 2015.^[27]

Issue

For our resolution is the issue of whether the CA erred in affirming the conviction of Ruben for two (2) counts of Rape and one (1) count of Acts of Lasciviousness.

The Court's Ruling

Ruben assigns the following errors on the part of the RTC, as upheld by the CA: (i) the RTC gravely erred in giving weight and credence to the private complainant's testimony, and (ii) the RTC gravely erred in finding him guilty beyond reasonable doubt of the crimes charged.^[28] In particular, Ruben claimed that the alleged incidents of rape were consensual as they were "live in partners."^[29] Ruben further discredits AAA's testimony by pointing out her "unnatural behavior" during trial, *i.e.*, that she was hesitant in giving her answers and seemed indecisive in her narration of details relating to the incidents.^[30]

The Court is not convinced.

It is settled that in assessing the credibility of a witness, the findings of the trial court carry great weight and respect due to the unique opportunity afforded them to observe the deportment of the witness while undergoing the rigors of examination.^[31] Hence, it is a settled rule that appellate courts will not overturn the factual findings of the trial court unless there is a showing that the latter overlooked facts or circumstances of weight and substance that would affect the result of the case.^[32] Such rule finds an even more stringent application where the findings of the RTC are sustained by the CA, as in the case at bench.^[33]

In this case, Ruben failed to show any misappreciation by the CA of the facts or circumstances so as to warrant a reversal of the questioned Decision. In the same vein, Ruben's arguments were already considered and thoroughly addressed by the courts below.

As correctly observed by the CA, Ruben's flimsy defense of consensual sexual congress pales in comparison to the testimony of AAA, which was delivered in a clear and straightforward manner:

On the basis of the record of this case, We can hardly agree with appellant's belief that there was cogent reason to deviate from the findings of the lower court that appellant had carnal knowledge with AAA. **The testimony of AAA was clear, straightforward and consistent in her recollection of the details of the defloration. She positively identified the appellant and she vividly recounted the three incidents of sexual assault she suffered in April, May and October of 2000 and these declarations were corroborated by the findings of Dr. Ramilo.** The doctor examined the victim and found deep healed lacerations in AAA's hymen which was caused by forcibly inserting a foreign body. When the consistent and forthright testimony of a rape victim blended (*sic*) with medical findings, there is sufficient basis to warrant a conclusion that the essential requisites of carnal knowledge have been established.