

THIRD DIVISION

[G.R. No. 211028, July 13, 2016]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JONATHAN ARCILLO, ACCUSED-APPELLANT.**

R E S O L U T I O N

PEREZ, J.:

On appeal is the 25 July 2013 Decision^[1] of the Court of Appeals in CA-G.R. CR-EIC No. 01011 affirming the conviction of appellant Jonathan Arcillo for the crime of qualified rape.

The Information^[2] charging appellant with rape reads:

That on the 1st day of November 2004 at 1:00 o'clock in the afternoon, more or less at Sitio Basiao, Barangay Canang, Oslob, Cebu, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with deliberate intent, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with [AAA],^[3] a [16] years old minor, against her will and consent.

Appellant entered a not guilty plea. Trial ensued.

The evidence for the prosecution shows that AAA lived with her grandfather CCC. Appellant is AAA's uncle, he being the husband of AAA's aunt. At around 1:00 p.m. on 1 November 2004, CCC ordered AAA to gather food for the pigs. AAA went near the house of appellant where she filled up the sack with leaves of a tree. Thereat, appellant called AAA from his house but AAA ignored him. Appellant then went out of his house. He approached AAA from behind, wrestled her, tied her mouth with a cloth and threatened to kill her with a *pinuti*, a long bladed weapon. Appellant forced her to lie down and then stripped her of her underwear. Appellant then mounted on top of AAA and inserted his penis into her vagina.^[4]

According to CCC, AAA went home after gathering the feeds. He noticed that she looked weak. CCC did not bother to ask AAA until his daughter, the wife of appellant, informed him that her husband raped AAA.^[5]

Upon learning of the incident, AAA's mother, BBB accompanied AAA directly to the police station, and then they proceeded to the hospital to have AAA examined.^[6]

AAA was born on 7 December 1987 and she was sixteen years old on the date of the

rape incident.

The Medico-Legal Certificate reveals the following findings:

Multiple healed skin lesions upper and lower extremities, The anal genitalia examination showed external genitalia. Medical evaluation suggestive of sexual abuse^[7]

Appellant denied that he raped AAA. Appellant narrated that on the date it was done, he and his wife were on the farm at 8:00 a.m. They went home to have lunch from 11:00 a.m. to 12:00 p.m. They went back to the farm after lunch until 5:00 p.m.. Appellant denied raping AAA and claimed that he does not know her. During the cross-examination, appellant testified that he and his wife were at the cemetery visiting relatives at 8:00 a.m. on 1 November 2004. They went home at 3:00 p.m. The trial court judge asked clarificatory questions which led to appellant admitting that he knew AAA but denied knowing CCC.^[8]

On 16 February 2009, the RTC convicted appellant of rape. The *fallo* of the Decision^[9] reads:

WHEREFORE, in view of the foregoing, this Court finds accused Jonathan Arcillo GUILTY beyond reasonable doubt for the commission of RAPE and hereby sentences him to suffer the following penalty of RECLUSION PERPETUA which carries an accessory penalty of civil interdiction for the duration of the period of the sentence and perpetual disqualification, lie is also liable to pay moral damages to the private complainant in the amount of Php75,000.00 and exemplary damages in the amount of Php25,000.00.^[10]

The RTC found that the positive assertion of AAA is more credible than the denial of appellant. The trial court also observed that appellant's alibi has two versions: first, that he was on the farm; and second, he was at the cemetery. The trial court noted that appellant failed to present his wife to corroborate his statement.

Appellant filed a Notice of Appeal but on 25 July 2013, the Court of Appeals affirmed the trial court's ruling but modifying it as to damages, to wit:

WHEREFORE, premises considered, the appeal is **DENIED**. The *Decision* dated February 16, 2009 of the Regional Trial Court (RTC), Branch 62, Oslob, Cebu in Criminal Case No. OS-05-371 finding accused-appellant Jonathan Arcillo ("*Arcillo*") guilty beyond reasonable doubt for the crime of Rape in relation to Republic Act (RA) No. 7610, is hereby **AFFIRMED** with the **MODIFICATIONS** as to damages.

Accused-appellant Jonathan Arcillo is ordered to pay victim AAA Fifty Thousand Pesos (P50,000.00) as civil indemnity, Fifty Thousand Pesos (P50,000.00) as moral damages and Thirty Thousand Pesos (P30,000.00)

as exemplary damages, all with interest at the rate of 6% per annum from the date of finality of this judgment. No costs.^[11]

The Court of Appeals found no reason to deviate from the prior assessment of the RTC on the credibility of AAA. According to the Court of Appeals, the testimony of AAA is supported by the physician's finding of penetration. The Court of Appeals convicted appellant of simple rape because the qualifying circumstance of relationship was not present when CCC admitted that appellant's wife is only his niece, thus, appellant cannot be AAA's uncle by affinity within the third civil degree.

In his Brief,^[12] appellant maintains that the prosecution failed to prove his guilt beyond reasonable doubt. He insists that the testimony of AAA is improbable and incredulous. According to appellant, AAA's claim that she was raped in an open field is impossible because many people pass by the area to gather feeds and would have seen them. Appellant claims that AAA's failure to shout for help is suspicious and her failure to immediately inform her grandfather of the alleged rape should render her story impossible.

We dismiss the appeal.

The RTC found AAA's testimony to be credible and noted that it was positive, direct and straightforward. The Court of Appeals agreed that AAA's testimony was straightforward and categorical. The determination by the trial court of the credibility of witnesses, when affirmed by the appellate court, as in this case, is accorded full weight and credit as well as great respect, if not conclusive effect.

Indeed, AAA clearly testified that she was raped:

FISCAL ELESTERIO:

Q: Can you still recall, where were you on the afternoon of November 01, 2004, at 1:00 o'clock in the afternoon?

A: Yes, I was getting feeds for the pigs.

Q: Now, where was that place when you got the feeds for the pig;

A: Near the house of Jonathan.

Q: This Jonathan Arcillo the one accused in this case?

A: Yes, sir.

Q: Is he inside the Court room now?

A: Yes, Sir.

Fiscal Elesterio (to witness)

Q: Will you please point to us this Jonathan Arcillo?

A: At this juncture, the witness is pointing a person in an orange CPDRC uniform when he (sic) asked his name he answered Jonathan Arcillo.

Q: Now, Madam witness when you were at the place near the house of Jonathan Arcillo, what happened there?

A: He wrestled me.

Q: After the accused wrestled you what happened next?

A: He tied out my mouth.

Q: With what Madam witness?

A: A cloth, Sir.