

SECOND DIVISION

[G.R. No. 206878, August 22, 2016]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARCELINO CAGA Y FABRE, ACCUSED-APPELLANT.**

D E C I S I O N

DEL CASTILLO, J.:

This is an appeal from the February 14, 2012 Decision^[1] of the Court of Appeals (CA) in CA-GR. CR-H.C. No. 04248, The CA Decision affirmed the November 13, 2009 Decision^[2] of the Regional Trial Court (RTC) of Manila, Branch 26 in Criminal Case No. 06-246762, finding the appellant Marcelino Caga y Fabre (Caga) guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua*.

Factual Antecedents

Caga was charged with the crime of rape for having carnal knowledge of "AAA"^[3] after having a drinking spree with her and her boyfriend, *viz.*:

That on or about September 17, 2006, in the City of Manila, Philippines, the said accused, with lewd design, and by means of force, violence and intimidation, commit sexual assault upon "AAA", by then and there, while sleeping, placing himself on top of her ("*pumatong*") and inserting his penis into the vagina of said complainant, did then and there willfully, unlawfully and feloniously succeed in having carnal knowledge with the said "AAA," against her will and consent.

Contrary to law.^[4]

Arraigned thereon, Caga, assisted by counsel, entered a negative plea. After pre-trial conference, trial on the merits followed.

Version of the Prosecution

The prosecution presented the following witnesses: the rape victim herself, "AAA," *Barangay Kagawad* Cresencio Aquino (Aquino), and the Women's Desk Officer, SPO1 Josette Saturnino (SPO1 Saturnino). Their collective testimonies tended to establish the following facts:

On September 17, 2006, "AAA" and her boyfriend, Randy Bomita (Randy), went to Caga's residence at No. 2027 Kahilum II, Pandacan, Manila for a drinking spree. Along with other guests, Caga, Randy, and "AAA" started drinking from midnight of September 17, 2006 until the early hours of the following day. After consuming about four bottles of Red Horse Grande, "AAA" and Randy decided to spend the

night at Caga's house since they were both very intoxicated. In fact "AAA" vomited a couple of times due to her alcohol intake.

Caga was already asleep on a foam cushion on the floor when "AAA" and Randy slept beside him. While still intoxicated and asleep, "AAA" felt someone kiss her vagina. At first, she thought it was her boyfriend Randy who did it. She tried to push him away as she had menstruation at that time, but failed to stop him as this person proceeded to kiss her on the lips and then went on to take undue liberties with her person. Indeed, in no time at all Caga succeeded in mounting her and in penetrating her private parts with his penis. All the while, "AAA" thought that it was her boyfriend Randy who was having coitus with her.

When she ("AAA") slowly opened her eyes, a tiny glimmer of light coming from the window revealed that it was Caga who had copulated with her while she was in a drunken stupor. "AAA" then became hysterical. She started hitting and slapping Caga and accused him of violating her. She also kicked Randy who was still asleep on the floor. She yelled at Randy exclaiming, "*Bakit mo ako pinabayaan?*"

"AAA" immediately reported the incident at the *Barangay* Hall and the Police Station in Pandacan, Manila; and thereafter submitted herself to a medical examination at the Philippine General Hospital (PGH).

During trial, "AAA" positively identified Caga in open court as the person who raped her.

Barangay Kagawad Aquino testified that "AAA" appeared at the *Barangay* Hall where she declared that Caga had raped her. After this, he accompanied "AAA" to the Police Station in Pandacan. Then he (Aquino) went to Caga's house and confronted him with "AAA's" accusation that he (Caga) had raped her. According to Aquino Caga admitted that he did rape "AAA" - an admission that Caga repeated at the Police Station.

SPO1 Saturnine testified that she received a complaint for rape lodged by "AAA" against Caga; and that she conducted an investigation into the complaint for rape. She identified "AAA's" sworn statement and the booking sheet she prepared relative to Caga's arrest and detention.

The prosecution concluded its case with the presentation of the PGH's medical examination report which revealed that "AAA" did sustain physical injuries, and that this was indicative of a possible sexual assault.

Version of the Defense

The defense presented Caga as its sole witness. His testimony tended to establish the following:

On the night of September 17, 2006, he (Caga) was in his house having a drinking spree with some Mends, including his relative, Randy, and his girlfriend, "AAA." Because he was already drunk, he (Caga) slept ahead of Randy and "AAA." He had no idea that Randy and "AAA" would spend the night in his house and he was even surprised upon waking up that the two were sleeping beside him.

He tried to rouse them up so they could transfer to a bed. When "AAA" was awakened, she immediately asked him if he did something wrong to her. He denied doing anything wrong to her. "AAA" nevertheless became hysterical. He (Caga) then roused up Randy who tried to pacify "AAA."

When Randy and "AAA" left his house, he (Caga) cleaned up and ate breakfast outside his house. He had another drinking spree at a friend's house nearby. Upon returning to his house at around 10:00 a.m., he met *Barangay Kagawad* Aquino who invited him to the *Barangay* Hall. From there, the two of them went to the Pandacan Police Station where he was informed that he was accused of a crime. It was during the Inquest proceedings when he learned that he was accused of raping "AAA."

Ruling of the Regional Trial Court

After due proceedings, the RTC of Manila, Branch 263 rendered judgment finding Caga guilty beyond reasonable doubt of the crime of rape punishable under Article 266-A, paragraph 1 of the Revised Penal Code (RPC), and sentencing him to suffer the penalty of *reclusion perpetua*.

The dispositive part of the RTC Decision reads:

PREMISES CONSIDERED, this Court finds accused MARCELINO CAGA y FABRE, GUILTY beyond reasonable doubt of the crime of Rape under the Revised Penal Code of the Philippines, as charged in the Information. He is hereby sentenced to suffer the penalty of Reclusion Perpetua there being no aggravating nor mitigating circumstances, with all the accessory penalties provided by law, and to indemnify private complainant "AAA" the sum of Fifty Thousand (P50,000.00) Pesos by way of moral damages.

Considering that the accused is a detention prisoner, he is hereby credited with the full length of time he has been under detention.

Cost de Oficio.

SO ORDERED.^[5]

Ruling of the Court of Appeals

Against this judgment, appellant appealed to the CA contending that the RTC gravely erred in finding him guilty based only on the incredible, implausible and uncorroborated testimony of "AAA." The CA however, rejected this posture.

Inevitably, on February 14, 2012, the CA disposed of the appeal as follows:

WHEREFORE, the appeal is DISMISSED, The Decision, dated November 13, 2009, of the Regional Trial Court of Manila, Branch 26, in Criminal Case No. 06-246762, finding accused-appellant *Marcelino Caga y Fabre*, guilty beyond reasonable doubt of the crime of rape, is hereby AFFIRMED.

SO ORDERED.^[6]

Caga filed a Motion for Reconsideration^[7] of the CA's Decision, but this was denied in a Resolution^[8] dated August 23, 2012. Undeterred, Caga instituted the instant appeal before this Court.

Assignment of Error

In his Supplemental Brief,^[9] Caga assigns the following error.

I.

THE COURT OF APPEALS GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT FOR THE CRIME OF RAPE DESPITE THE PROSECUTION'S FAILURE TO CONVINCINGLY PROVE HIS GUILT.^[10]

Caga argues that while the Information alleged that force, violence, and intimidation were employed to consummate the alleged rape, the prosecution's evidence failed to establish the existence thereof. He claims that "AAA" did not offer any resistance against his sexual advances, "because she thought that it was her boyfriend (Randy) who was then making love with her."^[11]

Our Ruling

We deny the appeal. We hold that the RTC and the CA correctly found the appellant guilty beyond reasonable doubt of the crime of rape.

Elements of Rape

Under Article 266-A of the RPC, rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force, threat, or intimidation;
2. When the offended party is deprived of reason or is otherwise unconscious;
3. By means of fraudulent machination or grave abuse of authority; and
4. When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

This Court finds that Caga did have sexual intercourse with "AAA" when she was asleep and still under the influence of alcohol. The case thus falls under the second paragraph of rape: "when the offended party is deprived of reason or is otherwise unconscious." It is altogether immaterial that the prosecution's evidence failed to establish the presence of physical force, threat, or intimidation because, as the evidence at bar shows, Caga raped an unconscious and extremely intoxicated woman - a fact that was duly alleged in the Information and duly established by the prosecution's evidence during the trial. In the case at bench, physical force, threat or intimidation is not necessary, for the simple reason that an unconscious and extremely intoxicated woman, cannot freely and voluntarily give her consent to engaging in sexual intercourse.