

## THIRD DIVISION

**[ G.R. No. 210752, August 17, 2016 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDDIE  
REGALADO, ACCUSED-APPELLANT.**

**PEREZ, J.:**

On appeal is the September 02, 2013 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05488 affirming with modification the March 14, 2012 Consolidated Judgment<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 60, Iriga City, in Criminal Case Nos. IR-8140, IR-8141 & IR-8142, which found Eddie Regalado (accused-appellant) guilty of three (3) counts of Statutory Rape

Accused-appellant was charged with three (3) counts of Statutory Rape. The accusatory portions of the Informations narrate:

Criminal Case No. IR-8140

"That on or about the 3rd week of June 2007, at xxx, xxx, Iriga City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, with lewd design, did then and there willfully, unlawfully and feloniously lie with and succeed in having carnal knowledge with [AAA]<sup>[3]</sup> a 10 year old minor, against her will and consent and to her damage and prejudice.

ACTS CONTRARY TO LAW."<sup>[4]</sup> (Italics and boldface in the original)

Criminal Case No: IR-8141

"That on or about June, 2007, at xxx, xxx, Iriga City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, with lewd design, did then and there willfully, unlawfully and feloniously lie with and succeed in having carnal knowledge with [AAA], a 10 year old minor, in the presence of her friend, against private complainant's will and consent and to her damage and prejudice.

ACTS CONTRARY TO LAW."<sup>[5]</sup> (Italics and boldface in the original)

Criminal Case No. IR- 8142

"That on or about October 1, 2007 at xxx, xxx, Iriga City, Philippines, and within the jurisdiction of this Honorable Court,

the above-named accused, by means of force, threat and intimidation, with lewd design, did then and there willfully, unlawfully and feloniously lie with and succeed in having carnal knowledge with [AAA], a 10-year-old minor, against her will and consent and to her damage and prejudice.

ACTS CONTRARY TO LAW."<sup>[6]</sup> (Italics and boldface in the original)

On arraignment, accused-appellant entered a plea of NOT GUILTY.<sup>[7]</sup> At the joint pre-trial of the cases, the prosecution and the defense agreed on the following stipulation of facts: (1) the identity of accused-appellant as the accused in the three criminal cases; and (2) that the offended party is a 10 year old minor.<sup>[8]</sup> Trial on the merits ensued thereafter.

### **The Facts**

The facts culled from the records and as summarized by the CA are as follows:

Sometime in June 2007, at around 12 o'clock noon, AAA, a 10-year-old school girl was at the *pansitan* in the public market of Iriga City. She claimed that accused-appellant undressed her and threatened her not to tell anybody or else she will be killed. Afterwhich, accused-appellant inserted his penis into her vagina and AAA kept the incident all to herself.<sup>[9]</sup> Throughout the month of June 2007, the sexual assault was repeated everyday at noontime, at the same place.<sup>[10]</sup> AAA recalled that she was last raped on October 01, 2007, at the same place. <sup>[11]</sup>

AAA testified that there were no people around the place where she was raped, despite it being a public market, because market day was only every Sunday;<sup>[12]</sup> that after each rape incident, accused-appellant would give her thirty pesos (P30.00), and sometimes ten pesos (P10.00);<sup>[13]</sup> that each time accused-appellant committed his bestial acts, he would hold her hands and lock the door; that accused-appellant would undress her and whenever she refused, he would force her to remove her panty or do it himself; that accused-appellant would insert his penis to her vagina; and that accused-appellant would then let her out of the place and warn her not to tell anybody of what he had done to her.

Out of fear, AAA did not tell her guardian-mother BBB about the incident. However, one afternoon after her class, she revealed to her teacher, CCC, what accused-appellant had been doing to her, hoping that the incident will not happen again.<sup>[14]</sup> CCC then relayed the information to BBB that same afternoon. AAA was then brought to The Women and Children's Welfare Desk of the Philippine National Police in Iriga City. The Department of Social Welfare and Development (DSWD) took AAA into custody and for some time, AAA stayed at the DSWD Home for Girls, Sorsogon City. Merly Yanto, a DSWD Social Worker conducted a social case study on AAA and submitted a report to the court.<sup>[15]</sup>

Dr. Angelo Agudo (Dr. Agudo), the doctor who examined AAA, testified that upon examination of the latter's genitalia, he found "*incomplete healed superficial laceration with sharp coaptable borders at 11:00 and 2:00 o'clock positions*"<sup>[16]</sup> which may have been caused "by a blunt object" that may have been a male sex organ.<sup>[17]</sup> The findings were reflected in a certification issued by Dr. Agudo. He concluded that the hymenal lacerations that he noted were compatible with the alleged time of sexual assault which was about two weeks prior to the medical examination.

BBB, the person who stood as AAA's guardian, testified that the biological parents of AAA entrusted the latter to her in 1999 when the child was only a year and nine (9) months old; that she treated AAA as her own daughter; and that the child's attitude towards her changed after the rape incidents. It was also established during the trial that AAA quit school after the last incident of sexual abuse and thereafter stayed with her biological father in XXX, Camarines Sur. AAA also positively identified accused-appellant in court as the perpetrator of the crimes charged.<sup>[18]</sup>

The defense of accused-appellant is one of denial and alibi. Accused-appellant claimed that he could not have possibly raped AAA in June and October 2007 since he was then working for Arce Gamboa (Gamboa). Accused-appellant contended that from April 2007 until November 2008, he stayed in his employer's piggery to take care and feed the latter's sows because he was under strict instructions not to leave the piggery. Accused-appellant vehemently claimed that he never left the farm, save for the two instances when he was asked by his employer to buy dog meat from the public market.<sup>[19]</sup>

In an attempt to discredit AAA's testimony, the defense presented the testimony of one Elsie Diaz (Diaz), the owner of the parlor referred to by AAA as the place where she was repeatedly raped. Diaz claimed that the parlor is closed during weekdays and only open during Sundays. The witness also testified that the parlor was always locked and no person other than herself has a key to the premises.<sup>[20]</sup>

### **Ruling of the Regional Trial Court**

On March 14, 2012, the RTC rendered a Consolidated Judgment finding accused-appellant guilty of three counts of Statutory Rape. The dispositive portion of the decision reads:

**"WHEREFORE**, finding the accused Eddie Regalado guilty beyond reasonable doubt, judgment is hereby rendered convicting him of three (3) counts of Statutory Rape in Criminal Case No. [IR-8140], Criminal Case No. [IR-8141] and Criminal Case No. [IR-8142]. Accordingly, he is sentenced to suffer the penalty of Reclusion Perpetua for each count, and he is further adjudged liable to pay AAA the following:

1. P75,000.00 for each count as moral damages,
2. P30,000.00 for each count as exemplary damages, and
3. the Costs.

**SO ORDERED."**

### **Ruling of the Court of Appeals**

The CA, in its assailed decision dated September 02, 2013, affirmed the judgment of conviction of the RTC. The appellate court foirid no cogent reason to disturb the factual findings of the trial court. Tlie dispositive portion of the decision reads:

"**WHEREFORE**, the appeal is **DENIED**. The assailed *Consolidated Judgment* in Criminal CaseNos. IR-8140, 8141 and 8142 is **AFFIRMED with the MODIFICATION** that accused-appellant EDDIE REGALADO is further ordered to indemnify AAA the amount of P75,000.00 as civil indemnity for each count of rape in addition to the other monetary awards ordered by the trial court.

**IT IS SO ORDERED."**<sup>[21]</sup>

Accused-appellant appealed the decision of the CA. The Notice of Appeal was given due course and the records were ordered elevated to this Court for review. In a Resolution dated February 17, 2014, We required the parties to file their respective supplemental briefs. Both parties manifested that they are adopting all the arguments contained in their respective briefs in lieu of filing supplemental briefs.

### **Our Ruling**

We find no reason to deviate from the findings and conclusions of the courts below as the degree of proof required in criminal cases has been met in the case at bar. Accused-appellant's defenses of denial and alibi are bereft of merit.

### **Statutory Rape**

Articles 266-A and 266-B of the Revised Penal Code, as amended by R.A. No. 8353,<sup>[22]</sup> define and punish Statutory Rape as follows:

Art. 266-A. Rape: *When and How Committed*. - Rape is committed:

1) by a man who shall have carnal knowledge of a woman xxx:

xxxx

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.

Art. 266-B. *Penalty*. - Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

For a conviction for Statutory Rape to prosper, the following elements must concur: (a) the victim is a female under 12 years of age or is demented; and (b) the offender has carnal knowledge of the victim.<sup>[23]</sup> We quote the pertinent disquisition of the CA with approval: