

THIRD DIVISION

[G.R. No. 212205, July 06, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
OBALDO BANDRIL Y TABLING, ACCUSED-APPELLANT.**

DECISION

VILLARAMA, JR., J.:

On appeal is the September 24, 2013 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR.-H.C. No. 05527 affirming appellant's conviction for three counts of rape and one count of acts of lasciviousness.

Appellant was charged of raping his 14-year-old daughter, AAA,^[2] three times and attempting to rape her at another time. The four Informations read:

[Criminal Case No. CR-08-9204]

That on the month of March 2007, at 11:00 o'clock in the evening, more or less, at Sitio [XXX], Barangay [XXX], Municipality of Victoria, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust, lewd and unchaste desire and by means of force, violence, threats and intimidation and even taking advantage of his moral authority and influence over the private complainant [AAA], his legitimate daughter and who was then fourteen (14) years old, did then and there willfully, unlawfully and feloniously have carnal knowledge of her against her will and without her consent, thereby violating her person and chastity, acts of sexual abuse which debase, degrade and demean the intrinsic worth and dignity of said [AAA] as a child and as a human being, to her damage and prejudice.

In the commission of the offense, the qualifying circumstances of relationship is attendant, the accused being the father of the complainant and the complainant being then under eighteen (18) years [of] age.

Contrary to Law.^[3]

[Criminal Case No. CR-08-9205]

That on the month of June 2007, at 11:30 o'clock in the morning, more or less, at Sitio [XXX], Barangay [XXX], Municipality of Victoria, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust, lewd and unchaste desire and by means of force, violence, threats and intimidation and even taking advantage of his moral authority and influence over the

private complainant [AAA], his legitimate daughter and who was then fourteen (14) years old, did then and there willfully, unlawfully and feloniously have carnal knowledge of her against her will and without her consent, thereby violating her person and chastity, acts of sexual abuse which debase, degrade and demean the intrinsic worth and dignity of said [AAA] as a child and as a human being, to her damage and prejudice.

In the commission of the offense, the qualifying circumstances of relationship is attendant, the accused being the father of the complainant and the complainant being then under eighteen (18) years [of] age.

Contrary to Law.^[4]

[Criminal Case No. CR-08-9206]

That on the month of October 2007, at 8:00 o'clock in the morning, more or less, at Sitio [XXX], Barangay [XXX], Municipality of Victoria, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust, lewd and unchaste desire and by means of force, violence, threats and intimidation and even taking advantage of his moral authority and influence over the private complainant [AAA], his legitimate daughter and who was then fourteen (14) years old, did then and there willfully, unlawfully and feloniously have carnal knowledge of her against her will and without her consent, thereby violating her person and chastity, acts of sexual abuse which debase, degrade and demean the intrinsic worth and dignity of said AAA as a child and as a human being, to her damage and prejudice.

In the commission of the offense, the qualifying circumstances of relationship is attendant, the accused being the father of the complainant and the complainant being then under eighteen (18) years [of] age.

Contrary to Law.^[5]

[Criminal Case No. CR-08-9207]

That in the evening of June 21, 2008, at Sitio [XXX], Barangay [XXX], Municipality of Victoria, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd desire, and with intent to have carnal knowledge of one [AAA], a fourteen (14) year-old-girl, and with the use of force and intimidation, did then and there willfully, unlawfully and feloniously remove her clothes against her will and without her consent, thus commencing the commission of the crime of rape directly by overt acts but did not perform all the acts of execution which should produce the felony by reason of some cause or accident other than his own spontaneous desistance, that is the strong resistance put up by the complainant, [to] the damage and prejudice of said [AAA].

In the commission of the offense, the qualifying circumstances of

relationship is attendant, the accused being the father of the complainant and the complainant being then under eighteen (18) years of age.

Contrary to Law.^[6]

The prosecution established that AAA was born on December 17, 1993. She is the daughter of appellant and BBB. They resided at Sitio XXX, Barangay XXX, Municipality of Victoria, Province of Oriental Mindoro.

Sometime in March 2007, at around 11:00 p.m., while AAA's mother BBB was not in the house, appellant removed AAA's clothes, took his own clothes off and ordered AAA to lie down. Appellant mounted on top of AAA and inserted his penis into her vagina. AAA felt pain. After satisfying his lust, appellant ordered AAA to wear her clothes and walk away. Out of fear of her father's threats, she did not divulge the incident to anyone.

Sometime in June 2007, appellant and AAA were planting coconut seedlings in a coconut plantation in Barangay XXX. Again, appellant removed AAA's clothes and ordered her to lie down on the banana leaf gathered by appellant. Appellant inserted his penis into AAA's vagina and fondled her breast.

Around October 2007, while at a lanzones plantation in Barangay XXX, appellant approached AAA, ordered her to lie down on the grass and took her clothes off. Then appellant inserted his penis into AAA's vagina, fondled her breast and kissed her lips. Thereafter, appellant clothed AAA and ordered her to collect the lanzones.

Sometime in 2008, appellant attempted to rape AAA in their house. He was able to undress her but failed to rape her.

Several months later, BBB noticed that AAA's stomach was getting bigger. BBB took AAA to a *hilot* who told BBB that AAA is eight months pregnant. It was at this time that AAA told BBB that she was raped by her father. AAA gave birth to a baby boy whom they gave away for adoption. AAA said that she wants her father to pay for his crime.

Appellant denied the charges and insisted that they were instigated by some persons unknown to him to destroy his good reputation and character.

In its Decision^[7] dated December 6, 2011, the Regional Trial Court (RTC), Oriental Mindoro, Branch 39, found appellant guilty of three counts of rape and one count of acts of lasciviousness. The *fallo* of the RTC Decision reads:

ACCORDINGLY, in view of the foregoing, judgment is hereby rendered as follows:

1. In Criminal Case No. CR-08-9204, this Court finds the accused *OBALDO BANDRIL y TABLING* **GUILTY** beyond reasonable doubt as principal of the crime charged against him in the aforequoted Information, and hereby sentences him to suffer the penalty of **RECLUSION PERPETUA, WITHOUT ELIGIBILITY FOR PAROLE**, and to PAY the private complainant the amount of

- P75,000.00 as civil indemnity, P75,000.00 as moral damages, P25,000.00 as exemplary damages, and to pay the costs;
2. In Criminal Case No. C-08-9205, this Court finds the accused *OBALDO BANDRIL y TABLING* **GUILTY** beyond reasonable doubt as principal of the crime charged against him in the aforementioned Information, and hereby sentences him to suffer the penalty of **RECLUSION PERPETUA, WITHOUT ELIGIBILITY FOR PAROLE,** and to PAY the private complainant the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages, P25,000.00 as exemplary damages, and to pay the costs;
 3. In Criminal Case No. C-08-9206, this Court finds the accused *OBALDO BANDRIL y TABLING* **GUILTY** beyond reasonable doubt as principal of the crime charged against him in the aforementioned Information, and hereby sentences him to suffer the penalty of **RECLUSION PERPETUA, WITHOUT ELIGIBILITY FOR PAROLE,** and to PAY the private complainant the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages, P25,000.00 as exemplary damages, and to pay the costs;
 4. In Criminal Case No. C-08-9207, this Court finds the accused *OBALDO BANDRIL y TABLING* **GUILTY** beyond reasonable doubt as principal of the crime of ACTS OF LASCIVIOUSNESS, defined and penalized under Article 336 of the RPC, and hereby sentences him to suffer the indeterminate penalty of imprisonment ranging from **SIX (6) MONTHS OF ARRESTO MAYOR, AS MINIMUM, to SIX (6) YEARS OF PRISION CORRECCIONAL, AS MAXIMUM** and to PAY the private complainant the amount of P20,000.00 as civil indemnity, P30,000.00 as moral damages, P30,000.00 as exemplary damages, and to pay the costs;

The aforementioned penalties shall be served by the accused **SUCCESSIVELY.**

SO ORDERED.^[8]

The RTC ruled that the prosecution was able to prove that appellant raped his own daughter AAA sometime in March 2007, June 2007 and October 2007. The RTC noted that AAA categorically testified as to the commission of the rapes and that AAA positively identified appellant as the perpetrator. The medico-legal report stating that AAA has healed hymenal lacerations also confirmed AAA's testimony, said the RTC. The RTC also noted that at the time she was raped, AAA was only 14 years old as she was born on December 17, 1993 per her birth certificate. Aside from appellant's admission that AAA is his daughter, the same certificate also proved the qualifying circumstance of relationship between appellant and AAA. The RTC rejected appellant's denial on the ground that it cannot prevail over AAA's positive testimony. On the charge of attempted rape, the RTC found appellant guilty of acts of lasciviousness. The RTC noted that while appellant was able to undress AAA and tried to sexually assault her, there is no showing that appellant's penis touched any part of AAA's body.

Appellant appealed and claimed that the RTC erred in convicting him despite the prosecution's failure to prove his guilt beyond reasonable doubt. Appellant averred that the RTC is expected to properly evaluate and weigh the testimony of the

witnesses, particularly of the victim herself.

The CA dismissed the appeal and affirmed the RTC Decision with modification in that the award of exemplary damages in the three rape cases was increased to P30,000 and 6% interest per annum was imposed on all the damages awarded. The *fallo* of the assailed CA Decision reads:

WHEREFORE, the appeal is **DISMISSED**. The December 6, 2011 Joint Decision x x x of the Regional Trial Court of Oriental Mindoro, Branch 39 in Criminal Case Nos. x x x CR-08-9204, CR-08-9205, CR-08[-]9206 and 08-9207 are **AFFIRMED** with modifications in that the amount of exemplary damages awarded to "AAA" in Criminal Case Nos. CR-08-9204, CR-08-9205, CR-08[-]9206 is increased to P30,000.00 for each case, and interest at the rate of six percent (6%) per annum is imposed on all the damages awarded from the date of finality of this judgment until fully paid.

SO ORDERED.^[9]

The CA found that AAA was telling the truth when she declared that her father raped her on three separate occasions. The CA said that AAA was consistent in her narration on how she was abused by her father in their own house, in the coconut plantation and in the lanzones plantation. The CA also agreed with the RTC's finding that appellant is guilty of acts of lasciviousness when he removed her clothes and tried to sexually assault her a fourth time. Appellant's acts clearly showed lewdness and are indecent and inappropriate, said the CA.

Hence, this appeal. Appellant filed a manifestation in lieu of a supplemental brief.

We dismiss the appeal for lack of merit. The RTC and CA did not err in convicting appellant for three counts of rape and one count of acts of lasciviousness. On appellant's claim that the RTC was expected to properly evaluate and weigh the testimony of the witnesses, particularly of the victim herself, we note that the RTC properly considered AAA's testimony in ruling that AAA categorically testified as to the commission of the rapes and positively identified appellant as her rapist. In fact, the RTC quoted AAA's testimony in its Decision, to wit:

[Q]: So you remember when was the first time?

A: In March 2007, Ma 'am.

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Q: When your father went on top of you was he nude?

A: Yes, Ma'am.

Q: So when he went on top of you, what did he do next?

A: He already raped me, Ma 'am.

Q: When you say he raped [you], what exactly did he do to you,