

FIRST DIVISION

[G.R. No. 199226, January 15, 2014]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROEL VERGARA Y CLAVERO, ACCUSED-APPELLANT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

On appeal is the Decision^[1] dated March 31, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 03772, which affirmed *in toto* the Decision^[2] dated November 26, 2008 of the Regional Trial Court (RTC), Branch 17, Cavite City, in Criminal Case No. 297-04, finding accused-appellant Roel Clavero Vergara guilty beyond reasonable doubt of the crime of simple statutory rape.

Consistent with the ruling in *People v. Cabalquinto*^[3] and *People v. Guillermo*,^[4] the Court withholds the real names of the private offended party and her immediate family members, as well as such other personal circumstances or any other information tending to establish or compromise their identity. The initials AAA shall represent the private offended party.

In the Information dated September 15, 2004, accused-appellant was charged before the RTC with the rape of AAA, thus:

That on or about September 12, 2004, in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then the stepfather of one [AAA], a minor, 9 years of age, with force and intimidation, did, then and there, willfully, unlawfully and feloniously had carnal knowledge with said minor, [AAA], without her consent and against her will.^[5]

When arraigned on October 13, 2004, accused-appellant pleaded not guilty to the charge.^[6]

The prosecution presented the testimonies of AAA,^[7] the private offended party herself, and Dr. Remigio R. Camerino (Camerino),^[8] the physician who physically examined AAA for signs of sexual abuse. The prosecution also submitted several documentary exhibits, particularly: AAA's Certificate of Live Birth,^[9] issued by the Office of the City Civil Registrar of Cavite City, stating that AAA was born on October 20, 1994; AAA's Sworn Statement^[10] dated September 14, 2004 in which AAA recounted how, where, and when accused-appellant raped her; the Letter-Request^[11] for AAA's Medico-Legal Examination dated September 14, 2004; Dr. Camerino's Medico-Legal Report^[12] dated September 15, 2004; the result of AAA's

Pregnancy Test^[13] conducted on September 15, 2004 confirming her pregnancy at only nine years of age; the Certificate of Live Birth^[14] of AAA's son, issued by the Office of the City Civil Registrar of Manila, stating that AAA's son was born on January 16, 2005; and a picture^[15] of AAA's son.

The totality of the prosecution's evidence established the following version of events:

AAA was born on 20 October, 1994. Her parents were not married and got separated when she was five (5) years old. Her mother then lived-in, and begot a child, with [accused-appellant]. Unlike her two other siblings by her biological father, AAA lived with her mother and [accused-appellant].

[Accused-appellant] began abusing AAA as soon as she had her first menstruation in May 2003. By the time AAA was nine (9) years old, [accused-appellant] had sexually molested her five (5) times.

The last incident of rape, which is the subject of this case, happened around 3:00 o'clock in the afternoon of 12 September 2004. The 9-year old AAA was left alone in the house with [accused-appellant] and the latter's 2-year old daughter because AAA's mother was away working as a cook in a restaurant in a nearby place. [Accused-appellant] ordered AAA to go inside his bedroom. When there, he ordered her to embrace him and remove her shirt, pants and panty. Afraid, AAA complied. [Accused-appellant] forced himself on AAA, who pleaded, "*Tama na po!*" (Enough, please). Despite AAA's pleas, however, [accused-appellant] persisted, telling her, "*Eto na ang huli, pumayag ka na.*" (Do as I say because this will be the last.) [Accused-appellant] inserted his penis into AAA's vagina and made a pumping motion for twenty (20) minutes. AAA cried and resisted by punching [accused-appellant] on his shoulders, but to no avail. After satisfying his lust, [accused-appellant] ordered AAA to put on her clothes and warned her not to tell anyone about what happened.

AAA confided her ordeal to her mother's friend, Tita, who helped her report the incident to the police authorities. AAA was also examined by Dr. Remigion R. Camerino, whose findings revealed the following:

">Thin circular hymen with rough edges and previous healed lacerations.

>(-) vaginal lacerations

>(-) bleeding/discharge

>positive pregnancy test (9/15/04)

>uterus enlarged to 4 months age of gestation."

On 16 January 2005, AAA gave birth to a baby boy.^[16] (Citations omitted.)

Accused-appellant^[17] took the witness stand in his own defense, denying that he raped AAA and offering an alibi for the afternoon of September 12, 2004. Accused-appellant's testimony, in sum, was as follows:

In his defense, [accused-appellant] interposed the lone defense of *alibi*, alleging that he was not in their house on the day of the incident but was at work as a cook in a restaurant, less than a kilometer or about a 30-minute walk away from their house. [Accused-appellant] testified that he never had the chance to be with the victim on the day in question since his work was from 3:00 o'clock in the afternoon to 2:00 o'clock in the morning of the following day.

On cross-examination, [accused-appellant] denied having any previous misunderstanding with the victim and admitted that he could not think of a reason why AAA would impute such a serious accusation against him.

^[18] (Citations omitted.)

In its Decision dated November 26, 2008, the RTC convicted accused-appellant for simple statutory rape, and not for qualified rape as charged. The trial court reasoned that it could not appreciate the aggravating or qualifying circumstance of relationship alleged in the Information, particularly, accused-appellant being AAA's stepfather, because, as admitted by the parties and proved during trial, accused-appellant was not legally AAA's stepfather, but merely the common-law spouse of AAA's mother. Hence, the RTC decreed:

WHEREFORE, premises considered, judgment is hereby rendered finding accused ROEL VERGARA y CLAVERO guilty beyond reasonable doubt of the crime of RAPE as defined and punished under paragraph (1), (d) Article 266-A of the Revised Penal Code, as amended by RA 8363, and accordingly sentencing him to suffer the penalty of *reclusion perpetua* and to indemnify the victim [AAA] in the amount of P50,000.00 as civil indemnity, the amount of P50,000.00 as moral damages, and the amount of P25,000 as exemplary damages.^[19]

Accused-appellant sought recourse from the Court of Appeals, anchoring his appeal on a lone assignment of error, to wit:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT.^[20]

The Court of Appeals promulgated its Decision on March 31, 2011, wholly affirming the judgment of conviction rendered by the RTC against accused-appellant. The appellate court upheld the assessment by the RTC of the witnesses' credibility, as well as the conclusion of said trial court that the prosecution was able to establish, beyond reasonable doubt, accused-appellant's guilt for the crime of simple statutory

rape.

Aggrieved, accused-appellant comes before this Court through the instant appeal.

The appeal is bereft of merit.

Under Article 266-A(1) of the Revised Penal Code, as amended by Republic Act No. 8353,^[21] the crime of rape is committed by a man having carnal knowledge of a woman under any of the following circumstances: (a) through force, threat or intimidation; (b) when the offended party is deprived of reason or otherwise unconscious; (c) by means of fraudulent machination or grave abuse of authority; and **(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.**

In *People v. Teodoro*,^[22] the Court clearly explained the elements of statutory rape committed under Article 266-A(1)(d):

Rape under paragraph 3 of this article is termed *statutory rape* as it departs from the usual modes of committing rape. What the law punishes in statutory rape is carnal knowledge of a woman *below twelve (12) years old*. Thus, force, intimidation and physical evidence of injury are not relevant considerations; the only subject of inquiry is the age of the woman and whether carnal knowledge took place. The law presumes that the victim does not and cannot have a will of her own on account of her tender years; the child's consent is immaterial because of her presumed incapacity to discern good from evil. (Citations omitted.)

In the case at bar, the prosecution was able to establish beyond reasonable doubt that accused-appellant had carnal knowledge of AAA in the afternoon of September 12, 2004, when AAA was just nine years old.

In her Sworn Statement dated September 15, 2004 to Senior Police Officer 4 Eloisa B. Ocava, AAA narrated how accused-appellant had been raping her since 2003, and described in great detail the last rape that occurred on September 12, 2004.

AAA subsequently took the witness stand during trial and personally recounted her ordeal in accused-appellant's hands, particularly, the last incident of rape on September 12, 2004. AAA, who was already starting to feel pregnant, finally gained courage soon after the last rape to tell her mother's friend about what accused-appellant was doing to her.

It is settled jurisprudence that testimonies of child victims are given full weight and credit, because when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed. Youth and immaturity are generally badges of truth and sincerity.^[23]

Herein, AAA's testimony is not only consistent and straightforward, but is further corroborated by other evidence. According to AAA's birth certificate, she was born on October 20, 1994, thus, establishing that she was nine years old on September