

SECOND DIVISION

[G.R. No. 196970, April 02, 2014]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENE SANTIAGO, ACCUSED-APPELLANT.

R E S O L U T I O N

DEL CASTILLO, J.:

Appellant Rene Santiago was charged with two counts of rape. The Informations^[1] read as follows:

Criminal Case No. 3541:

That on December 25, 2004 at around 12:30 in the morning in Brgy. Pingit, Municipality of Baler, Province of Aurora and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously, by means of threats and intimidation, [have] carnal knowledge of "AAA",^[2] who was then an eleven[-]year old girl, by inserting his penis into her vagina against her will and consent and effectively prejudicing her development as a child.

CONTRARY TO LAW.

Criminal Case No. 3542:

That on January 21, 2005 in Brgy. Zabali, Municipality of Baler, Province of Aurora and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously, by means of threats and intimidation, [have] carnal knowledge of "AAA", who was then an eleven[-]year old girl, by inserting his penis into her vagina against her will and consent and effectively prejudicing her development as a child.

CONTRARY TO LAW.

When arraigned on March 24, 2006, appellant entered a plea of not guilty.^[3] Appellant's defense of denial and alibi was not given any credence by the trial court for being self-serving and unsubstantiated and considering his positive identification by "AAA". Consequently, on June 7, 2007, the Regional Trial Court of Baler, Aurora, Branch 96, rendered a Joint Decision^[4] convicting appellant of two counts of simple rape, viz:

WHEREFORE, premises considered, the Court finds accused Rene Santiago GUILTY beyond reasonable doubt of two counts of the crime of RAPE, defined under Article 266-A(1)(a) and penalized under Article 266-B of the Revised Penal Code, and hereby sentences him to suffer the penalty of reclusion perpetua for each of the two cases and to pay the victim "AAA", for said two counts of rape, the amount of One Hundred Thousand Pesos (Php100,000.00) as civil indemnity, the amount of One Hundred Thousand Pesos (Php100,000.00) as moral damages, and Fifty Thousand Pesos (Php50,000.00) as exemplary damages.

SO ORDERED.^[5]

Aggrieved, appellant appealed to the Court of Appeals.^[6] In its Decision^[7] of October 21, 2010, the appellate court affirmed *in toto* the trial court's ruling, viz:

WHEREFORE, premises considered, the appealed decision is wholly AFFIRMED.

SO ORDERED.^[8]

Hence, this appeal.^[9]

In a Resolution^[10] dated July 13, 2011, we required both parties to file their Supplemental Briefs. However, they opted to adopt the briefs they filed before the Court of Appeals as their Supplemental Briefs.^[11]

Appellant argues that "AAA" did not resist his sexual advances,^[12] neither were they against her will.^[13] Interestingly, by arguing in this manner, appellant changed the theory of his defense, *i.e.*, from denial and alibi to consensual intercourse, to his utter detriment. As correctly observed by the Court of Appeals:

From a complete denial of the occurrence of the rape incidents when he testified before the trial court, appellant now makes a sudden turn-around by admitting in the present appeal having had sexual intercourse with AAA that were, however, consensual as the latter never resisted his advances. But he offered no reason why AAA would consent to having sexual liaison with him. Albeit, a change in theory merely accentuates the accused's lack of credibility and candor. Changing the defense on appeal is an indication of desperation on the part of the accused-appellant, due to the seeming inadequacy of his defense adopted in the first instance.
^[14]

Appellant next claims that the prosecution failed to establish that he intimidated or coerced "AAA" into having sexual intercourse with him.

We are not persuaded.