

FIRST DIVISION

[G.R. No. 208761, June 04, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO BARAGA Y ARCILLA, ACCUSED-APPELLANT.**

R E S O L U T I O N

REYES, J.:

On appeal is the Decision^[1] dated May 14, 2013 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05304, which affirmed with modifications the Consolidated Decision^[2] dated April 26, 2011 issued by the Regional Trial Court (RTC) of Las Piñas City, Branch 254 in Criminal Case Nos. 07-0685, 07-0861, 07-0862, 07-0863, and 07-0864.

In five separate Informations, accused-appellant Rolando Baraga y Arcilla (Baraga) was charged with three (3) counts of acts of lasciviousness under Section 5(b), Article III of Republic Act (R.A.) No. 7610, otherwise known as the Special Protection of Children Against Abuse, Exploitation and Discrimination Act, and two (2) counts of rape under Article 266-A of the Revised Penal Code (RPC), as amended, committed upon the person of his daughter, AAA,^[3] who was then still a minor. Upon arraignment, Baraga pled not guilty to the crimes charged. After pre-trial conference, a joint trial on the merits ensued.

The prosecution alleged that Baraga committed his initial lascivious conduct towards AAA on April 2, 2007, 11 days before her 12th birthday. It appears that Baraga and AAA's mother are no longer living together. On said date, AAA was at their house when Baraga sat beside her and touched her vagina. AAA relayed her ordeal to her grandmother who then confronted Baraga about the incident.

On the night of August 8, 2007, while AAA and her siblings were sleeping, Baraga approached AAA, held her thigh, and touched her vagina. He then told her not to make any noise. He then brought her to a corner of the room where he removed AAA's shorts and made her sit on his lap. Baraga then inserted his penis into AAA's vagina.

On August 15, 2007, at around 9:00 p.m., Baraga went on top of AAA who was then already sleeping with her other siblings. Baraga then removed AAA's shorts and underwear, removed his clothes, and inserted his penis into AAA's vagina.

On August 19, 2007, while AAA was at home, Baraga again touched AAA's vagina. At that time, AAA's siblings were out playing. Thereafter, AAA had the opportunity to visit her uncle's place. She then relayed to her uncle what her father did to her. Thereupon, AAA's uncle forbade her to return to their house. The matter was subsequently reported to the Women and Children Protection Desk of the Las Piñas City Police Station. Upon medical examination by the Philippine National Police

Crime Laboratory, it was discovered that AAA's hymen had a "shallow healed laceration," which evidences a blunt force penetrating trauma on AAA's hymen.

Baraga denied the allegations against him, asserting that he never touched AAA's vagina nor had carnal knowledge of her. He claimed that he could not have committed the charges against him during the said dates as he was then busy with his work. He alleged that it was a certain Veronica Cruz (Cruz) who influenced AAA to concoct the charges against him. That Cruz wanted to get back at him since he filed a suit against her for demolishing his house.

On April 26, 2011, the RTC rendered a Consolidated Decision, which found Baraga guilty beyond reasonable doubt of two (2) counts of acts of lasciviousness under Section 5(b), Article III of R.A. No. 7610 in Criminal Case Nos. 07-0685 and 07-0864 and two (2) counts of rape in Criminal Case Nos. 07-0861 and 07-0862. However, Baraga was acquitted of the charge of acts of lasciviousness in Criminal Case No. 07-0863 for failure of the prosecution to prove his guilt therefor.

For each count of acts of lasciviousness, the RTC imposed upon Baraga the indeterminate penalty of six (6) years and one (1) day of *prision mayor*, as minimum, to fifteen (15) years, six (6) months and twenty (20) days of *reclusion temporal*, as maximum, and ordered him to pay AAA P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages. Further, the RTC imposed upon Baraga the penalty of *reclusion perpetua* for each count of rape and ordered him to pay AAA P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages.

On appeal, the CA affirmed the RTC's disquisition albeit with a modification on the penalty imposed. As regards the charge of acts of lasciviousness in Criminal Case No. 07-0685, inasmuch as AAA was already 12 years old when the acts alleged therein were committed by Baraga, the CA, applying Article 336 of the RPC, imposed the penalty of six (6) months of *arresto mayor*, as minimum, to six (6) years of *prision correccional*, as maximum.

On the charge of acts of lasciviousness in Criminal Case No. 07-0864, since AAA was merely 11 years old at the time Baraga committed the acts alleged therein, the CA applied Section 5(b) of R.A. No. 7610 and meted the indeterminate penalty of imprisonment ranging from thirteen (13) years, nine (9) months, and eleven (11) days of *reclusion temporal*, as minimum, to sixteen (16) years, five (5) months, and ten (10) days of *reclusion temporal*, as maximum. Further, the CA modified the accessory penalty on the two (2) counts of acts of lasciviousness as follows: (a) fine of P15,000.00; (b) civil indemnity of P20,000.00; (c) moral damages of P15,000.00; and (d) exemplary damages of P15,000.00. On the charge of rape in Criminal Case Nos. 07-0861 and 07-0862, the CA, while affirming the penalty imposed by the RTC, clarified that the same is meted without eligibility of parole.

On appeal to this Court, Baraga maintains that the RTC erred in convicting him since the prosecution failed to prove his guilt of the crimes charged. He faults the RTC for relying entirely on the testimony of AAA notwithstanding that the same is marred by uncertainties and improbabilities.

The appeal is without merit.

It is well-settled that, in a criminal case, factual findings of the trial court are generally accorded great weight and respect on appeal, especially when such findings are supported by substantial evidence on record. It is only in exceptional circumstances, such as when the trial court overlooked material and relevant matters, that this Court will re-calibrate and evaluate the factual findings of the court below.^[4] The Court sees no reason to depart from the foregoing rule.

Criminal Cases Nos. 07-0861 and 07-0862

Article 266-A of the RPC pertinently provides that:

Article 266-A. *Rape, When and How Committed.* – Rape is committed –

1. By a man who **shall have 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 is otherwise unconscious;

c. By means of fraudulent machination or grave abuse of authority;

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. (Emphasis ours)

Under Article 266-B of the RPC, the felony of rape is qualified when the victim is under 18 years of age and the offender is, *inter alia*, a parent.

As aptly ruled by the lower courts, the prosecution was able to establish Baraga's guilt for two (2) counts of qualified rape under Article 266-A, in relation to Article 266-B, of the RPC. After a thorough examination of AAA's testimony, the Court finds that it is spontaneous, clear, candid, and free from serious contradictions. AAA testified that Baraga, on August 8 and 15, 2007, succeeded in having carnal knowledge with her, and, thus, being AAA's father, is presumed to have employed force and/or intimidation.^[5] AAA was only 12 years old at the time when Baraga consummated his bestial acts. The Court maintains that testimonies of rape victims who are young and of tender age are credible. The revelation of an innocent child whose chastity was abused deserves full credence.^[6]

Against AAA's testimony, Baraga was only able to proffer the defense of denial and *alibi*. The Court has time and time again ruled that denial and *alibi* are inherently weak defenses as these are self-serving.

In view of the foregoing, the lower courts correctly imposed upon Baraga the penalty of *reclusion perpetua* without the eligibility of parole, in lieu of the death penalty, pursuant to R.A. No. 9346,^[7] and ordered him to pay AAA the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages.