

FIRST DIVISION

[G.R. No. 210619, August 20, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CHARLES REYES Y MARASIGAN, ACCUSED-APPELLANT.**

R E S O L U T I O N

REYES, J.:

For review^[1] is the Decision^[2] rendered by the Court of Appeals (CA) on July 10, 2013 in CA-G.R. CR-H.C. No. 04374 affirming *in toto* the Joint Decision^[3] dated November 25, 2009 of the Regional Trial Court (RTC) of Calapan City, Oriental Mindoro, Branch 40 in Criminal Case Nos. C-02-6987 and C-02-6988, convicting Charles Reyes y Marasigan (accused-appellant) of two counts of rape committed

against AAA,^[4] an 11-year old daughter of his common-law wife.

Antecedents

Two separate informations for rape were filed against the accused-appellant before the RTC, viz:

Criminal Case No. C-02-6987

"That sometime in the month of May, 2002, at Barangay Calero, City of Calapan, Province of Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and lewd design, and by means of force and intimidation, willfully, unlawfully and feloniously did lie, and succeeded in having carnal knowledge [of] [AAA], an eleven (11) year-old[-] daughter of his common-law wife, against her will and without her consent, to the damage and prejudice of the latter."^[5]

Criminal Case No. C-02-6988

"That on or about the 5th day of August, 2002, at Barangay Calero, City of Calapan, Province of Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and unchaste design, and by means of force and intimidation, willfully, unlawfully and feloniously did lie, and succeeded in having carnal knowledge [of] [AAA], an eleven (11) year-old[-] daughter of his common-law wife, against her will and without her consent, to the damage and prejudice of the latter."^[6]

When arraigned, the accused-appellant pleaded not guilty to both charges.

During the pre-trial conference, the prosecution stipulated and the defense admitted that the accused-appellant is the common-law husband of AAA's mother, BBB. The defense, on its part, waived the accused-appellant's right to stipulate facts and enter into a plea-bargaining agreement.^[7]

Among the documentary evidence marked and offered by the prosecution were: (a) AAA's birth certificate indicating that she was born on October 31, 1990; (b) the medical certificate, dated August 7, 2002, which was prepared by Dr. Ma. Teresita Nieva-Bolor (Dr. Nieva-Bolor), Rural Health Physician of the Calapan City Health and Sanitation Department; and (c) AAA and BBB's affidavits.^[8] The defense, on its part, offered AAA's birth certificate as sole documentary evidence.^[9]

In the course of the joint trial, AAA, BBB and Dr. Nieva-Bolor testified for the prosecution. On the other hand, the accused-appellant and his 13-year old niece, Princess Ann Sicat (Sicat), were the defense witnesses.

Version of the Prosecution

The Office of the Solicitor General (OSG) summed up the prosecution's version of the events, *viz*:

In 2002, [AAA] was an eleven (11) year old girl, having been born on October 31, 1990. She is living with her mother [BBB] and her common-law husband, [herein accused-appellant,] in their residence in Barangay Calero, Calapan City.

Sometime in May 2002, while [AAA] was alone inside the room of their house, [the accused-appellant] entered the room and touched her breasts, afterwhich, [the accused-appellant] removed her clothes, sando shirt, shorts and panty; she tried to go out of the room but [the accused-appellant] did not allow her to do so. Then, [the accused-appellant] removed his shorts and brief[s], placed himself on top of her and tried to insert his penis into her vagina causing her to feel pain; failing to insert his penis into her vagina, [the accused-appellant] put on his shorts and brief[s] and went out of the house. [AAA] also put on her clothes and proceeded to the house of their neighbor where she watched a television program. At the time of the rape incident, her mother was not in their house because she was instructed by [the accused-appellant] to go to the market; also, the mother of [the accused-appellant], who was living with them, was at the time in the house of their neighbor. Although she was able to talk to her mother after the rape incident, she did not inform her about it because she was afraid of the threat of [the accused-appellant] that the latter will kill her and her mother.

On August 5, 2002, at around four o'clock in the afternoon, [AAA] was again alone in the room of their house when [the accused-appellant] entered the room. He removed her blouse, skirt, sando shirt and panty.

She was not able to do anything because [the accused-appellant] threatened to kill her and her mother. While naked, [the accused-appellant] placed himself on top of her and tried to insert his penis into her vagina. She tried to push [the accused-appellant] away but she was unsuccessful. She felt pain in her vagina when [the accused-appellant] made a push and pull motion. Thereafter, [the accused-appellant] put on his shorts and brief[s] and left her in the room[,] after which, she put on her clothes. At the time of the incident, her mother was in the market while her siblings CCC and DDD were somewhere else. About one hour after the incident, her mother and her two siblings arrived but she was not able to do anything because she was afraid.

At around 8:00 o'clock in the evening, she told her mother about the rape incidents. Her mother and an employee of the Department of Social Welfare and Development (DSWD) accompanied her to the Calapan City Police Station where they reported the rape incidents.

On August 6, 2002, [Dr. Nieva-Bolor] x x x conducted a physical examination on [AAA] and issued a medical certificate with the following findings:

xxx the presence of vulvar erythema, incomplete hymenal laceration and complete hymenal lacerations, possibly caused by insertion of the penis, among others, xxx incomplete healed hymenal laceration at 3:00 o'clock position and complete healed hymenal lacerations at 5, 6, 8 and 9 o'clock positions which were probably caused by masturbation, insertion of hands or objects or the insertion of a hard or erect penis during actual sexual intercourse.^[10] (Citations omitted)

Version of the Defense

The accused-appellant, who was then a 34-year old construction worker when he took the witness stand, vehemently denied the charges against him. He stated that he and BBB maintained a common-law relationship for two years. Thereafter, things turned sour as BBB was unemployed and indulged in gambling using the accused-appellant's earnings. He alleged that on August 5, 2002, he was at home the whole day doing carpentry work. AAA and BBB were there as well, while the former's three siblings were in school. That night, the accused-appellant drove BBB and her children, including AAA, away from the house. The incident earned AAA's ire, which led her to file the complaints against him.^[11]

Sicat, on her part, testified that she was with AAA the entire day of August 5, 2002. The accused-appellant could not have raped AAA at that time as the latter went home late at around 8:00 p.m.^[12]

Ruling of the RTC

On November 25, 2009, the RTC rendered a Joint Decision^[13] convicting the accused-appellant of two counts of rape. The trial court found the motive, which

according to the accused-appellant impelled AAA to file the complaints, was “too shallow, flimsy and insignificant.”^[14] A minor would not have risked undergoing humiliation, anxiety and public exposure if her claims were untrue. Her testimony, as regards the two rape incidents, was likewise detailed and straightforward. Besides, Dr. Nieva-Bolor’s statements to the effect that AAA sustained hymenal lacerations corroborated the latter’s allegations.^[15]

Further, the RTC found Sicat’s testimony as biased and without credence. While claiming that she was with AAA the whole day of August 5, 2002, she also stated that she attended her classes in Calapan Central School.^[16]

The RTC also declared that the accused-appellant’s denial of the charges against him was nothing more than self-serving negative evidence, which pales *vis-à-vis* AAA’s positive testimony.^[17]

The dispositive portion of the RTC’s Joint Decision thus reads:

ACCORDINGLY, finding herein accused **Charles Reyes y Marasigan GUILTY** beyond reasonable doubt as principal by direct participation [in] two counts of Rape, punishable under paragraph 1 (a) of Article 266-A of the Revised Penal Code, said accused is hereby sentenced to suffer the penalty of two **(2) RECLUSION PERPETUA** with all the accessory penalties as provided for by law. Further, the accused is hereby directed to indemnify [AAA] in the amount of One Hundred Thousand Pesos ([P]100,000.00) as civil indemnity, the amount of Seventy-Five Thousand Pesos ([P]75,000.00) as moral damages and the amount of Fifty Thousand Pesos ([P]50,000.00) as exemplary damages.

SO ORDERED.^[18]

The Parties’ Arguments Before the CA

Dissatisfied, the accused-appellant assailed the above disquisition before the CA.

As regards the alleged rape incident in May of 2002, the accused-appellant claimed the absence of proof on the part of the prosecution to show that his penis actually penetrated AAA’s vagina. AAA even testified that the accused-appellant merely tried to insert his organ into hers but was unable to do so.^[19]

Anent the rape incident on August 5, 2002, the accused-appellant pointed out that the medical examination conducted by Dr. Nieva-Bolor two days after yielded no evidence of fresh lacerations. Instead, only an incomplete hymenal laceration at three o’clock position and completely healed ones at five, six, eight and nine o’clock positions were found. How they were incurred was likewise uncertain since a regular insertion of hard objects including an erect penis, self manipulation and severe scratching due to improper hygiene could have caused the lacerations.^[20]

The OSG, on the other hand, refuted the accused-appellant’s claims.

Relative to the rape incident in May of 2002, the affidavit executed by AAA while she was in Calapan City Police Station, and which was offered as part of the prosecution's evidence, categorically indicated that the accused-appellant inserted his penis into the victim's vagina, viz:

13. T Noon bang una kang hindutin ng iyong Daddy ay pumasok ang titi nito sa iyong ari?

S Opo[,] pumasok po iyon.

14. T Ano naman ang naramdaman mo ng ipasok ng iyong Daddy ang kanyang titi sa iyong ari?

S Labis po akong nasaktan.

x x x

x

6. T Maari mo bang isalaysay ang mga pangyayari kung iyong matandaan pa?

S ... pilit niyang ipinasok ang kanyang uten sa aking maliit na puki na ako nga po ay halos mawalan ng malay o ulirat sa ginawa niyang pagpasok ng kanyang uten sa aking puki...^[21] (Citations omitted)

As to the rape incident on August 5, 2002, AAA gave a detailed account of how the accused-appellant undressed and mounted her, then made pumping motions, which caused her to feel severe pain in her vagina.^[22]

Dr. Nieva-Bolor found that AAA had hymenal lacerations, hence, corroborating the latter's claims.^[23] Moreover, at the time of the examination, AAA's vulva was reddish in color and Dr. Nieva-Bolor opined that sexual intercourse was among the possible causes of such condition.^[24]

Ruling of the CA

On July 10, 2013, the CA rendered the herein assailed decision^[25] affirming *in toto* the RTC's judgment based on the following grounds:

[AAA's] testimony has the ring of truth as it was given in a simple but clear and straightforward manner.

On the face of the overwhelming evidence against him, [the] accused-appellant capitalizes on the perceived absence of penetration during the first incident of rape. x x x This contention of the accused-appellant is a lie, in view of the victim's declaration that she felt pain in her private part because [the] accused-appellant, while on top of her and doing a pumping motion, tried to insert his penis into her vagina. It must be emphasized at this juncture that an entry, to the least extent, of the labia or lips of the female organ is sufficient. In fact, remaining a virgin does not negate rape.

x x x [T]he absence of fresh lacerations in the hymen cannot be a firm indication that she was not raped. Hymenal lacerations are not an