

## FIRST DIVISION

[ G.R. No. 211049, August 06, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO CLOSA Y LUALHATI, ACCUSED-APPELLANT,**

### R E S O L U T I O N

**REYES, J.:**

Appealed in this case is the Decision<sup>[1]</sup> dated August 15, 2013 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05103, affirming with modification the Joint Decision<sup>[2]</sup> dated April 26, 2011, rendered by the Regional Trial Court (RTC) of Calapan City, Oriental Mindoro, Branch 39, in Criminal Case Nos. CR-09-9684, CR-09-9685, CR-09-9686, for Rape. The dispositive portion of the CA Decision provides:

**WHEREFORE**, the Joint Decision dated April 26, 2011 of the Regional Trial Court of Calapan City, Oriental Mindoro, Branch 39, in Criminal Case Nos. CR-09-9684, CR-09-9685, CR-09-9686 is **AFFIRMED WITH MODIFICATION**.

Accused-appellant Romeo Closa y Lualhati is SENTENCED to suffer EIGHT (8) YEARS and ONE (1) DAY of *PRISION MAYOR*, as minimum, to SEVENTEEN (17) YEARS and FOUR (4) MONTHS of *RECLUSION TEMPORAL*, as maximum, **IN CRIM. CASE NO. CR-09-9686**. Also, accused-appellant is **ORDERED** to pay exemplary damages in the amount of P30,000.00 each in Criminal Case Nos. CR-09-9684, CR-09-9685, CR-09-9686.

**IN ALL OTHER RESPECTS**, the said Joint Decision is AFFIRMED.

**SO ORDERED.**<sup>[3]</sup>

### Antecedent Facts

Accused-appellant Romeo Closa y Lualhati (accused-appellant) was charged with two (2) counts of rape and one (1) count of attempted rape of his minor daughter AAA.<sup>[4]</sup> The accusatory portions of the Informations, all dated November 6, 2009, read as follows:

CRIM. CASE NO. CR-09-9684

x x x

That in the year 2006, in Barangay xxx, City of xxx, Philippines, and

within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of the tender age of the complainant and his moral ascendancy over her, he being her father and by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously had carnal knowledge of AAA, his ten (10) year-old daughter, and therefore a relative within the first civil degree and living with him in the same house, against her will and without her consent, act/s which debase, degrade and demean the intrinsic worth and dignity of the said AAA, as a minor, to her damage and prejudice.

x x x

CRIM. CASE NO. CR-09-9685

x x x

That in the evening of the 26th day of October 2009 in Barangay xxx, City of xxx Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of the tender age of the complainant and his moral ascendancy over her, he being her father and by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously had carnal knowledge of AAA, his thirteen (13) year-old daughter, and therefore a relative within the first civil degree and living with him in the same house, against her will and without her consent, act/s which debase, degrade and demean the intrinsic worth and dignity of the said AAA, as a minor, to her damage and prejudice.

x x x.

CRIM. CASE NO. CR-09-9686

x x x

That on or about the 4th day of November 2009, at around 7:00 o'clock in the morning, more or less, in Barangay xxx, City of xxx, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully, feloniously commence the commission of the crime of rape [against] AAA, his thirteen (13) year-old daughter, and therefore a relative within the first civil degree and living with him in the same house, directly by overt acts by removing her garments and going on top of her, but said accused was not able to perform all the acts by removing her garments and going on top of her, but said accused was not able to perform all the acts of execution that would consummate the crime of rape due to some cause other than his own spontaneous desistance; act/s of child abuse which degrade, debase and demean the intrinsic worth and dignity of the said AAA to her damage and prejudice.

[5]

When arraigned on November 11, 2009, the accused-appellant pleaded "not guilty." During the pre-trial, the parties reached no stipulation of facts.<sup>[6]</sup> Trial followed, and

private complainant AAA testified. Born on February 13, 1996 and the eldest of six (6) children of the accused-appellant, AAA was only ten (10) years old and in Grade 2 when the first rape allegedly took place in *Barangay x x x, x x x City*, one night in 2006. Her mother was in Batangas to attend an occasion, and she was asleep with four (4) of her siblings when the accused-appellant, who slept in the *sala*, entered her room, moved aside her baby sister who slept beside her, pulled down her shorts and underwear, mounted her and inserted his penis into her vagina. For 10 minutes he did a pumping motion, causing AAA much pain. Being only ten (10) years old, AAA did not understand the full meaning of what her father did to her. In her fear of her father, she kept silent about it.<sup>[7]</sup>

The accused-appellant continued to rape AAA during the next three years—too many times that she could not recall the dates when they happened. But on October 26, 2009, when she was 13 years old, her mother took one of her sisters to Batangas City for medical check-up. That night, the accused-appellant again entered her room, moved aside the child beside her, removed her undergarments, mounted her and inserted his penis inside her vagina. He pumped for 10 minutes and after he ejaculated inside her he stood up. Afraid of what the accused-appellant might do to her and her mother, AAA chose to keep quiet about the incident.<sup>[8]</sup> AAA became pregnant and eventually pointed to the accused-appellant as the father. She also admitted that she had come to hate her father.

The last incident occurred in the morning of November 4, 2009, while AAA's mother and an aunt were away on a visit. The accused-appellant ordered her to lie down on the bed, removed her undergarments, opened her legs and was about to insert his penis inside her when the dog suddenly barked. Startled, the accused-appellant desisted, got up and left. AAA's mother returned and saw her crying, and AAA told her what happened. AAA's aunt then reported to the police, who came and arrested the accused-appellant.<sup>[9]</sup>

For his defense, the accused-appellant called AAA herself to the witness stand on January 17, 2011. She affirmed that she executed an affidavit of desistance and that she was recanting her previous testimony, saying this time that it was her boyfriend who had impregnated her.<sup>[10]</sup>

On April 26, 2011, the trial court rendered its decision finding the accused-appellant guilty beyond reasonable doubt of two (2) counts of rape and one (1) count of attempted rape. It found that the original testimony of AAA was substantiated by the medical examination conducted on her, whereas her recantation did not show that her previous testimony was vitiated. The trial court also noted that she recanted due to pressures exerted upon her by her family.<sup>[11]</sup> The trial court thus disposed, to wit:

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

1. In Criminal Case No. CR-09-9684, this Court finds the accused ROMEO CLOSA y LUALHATI GUILTY beyond reasonable doubt 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 private complainant AAA the amount of [P]75,000.00 as civil indemnity, [P]75,000.00 as moral damages, [P]25,000.00 as exemplary damages and to pay the costs;

2. In Criminal Case No. CR-09-9685, this Court finds the accused ROMEO CLOSA y LUALHATI GUILTY beyond reasonable doubt 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 private complainant AAA the amount of [P]75,000.00 as civil indemnity, [P]75,000.00 as moral damages, [P]25,000.00 as exemplary damages and to pay the costs;

3. In Criminal Case No. CR-09-9686, this Court finds the accused ROMEO CLOSA y LUALHATI GUILTY beyond reasonable doubt of the crime charged against him in the aforementioned information and hereby sentences him to suffer an indeterminate penalty of TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY OF PRISION CORRECCIONAL as minimum, to EIGHT (8) YEARS and ONE (1) DAY OF PRISION MAYOR as maximum and to pay private complainant AAA the amount of [P]30,000.00 as civil indemnity, [P]25,000.00 as moral damages and [P]10,000.00 as exemplary damages.<sup>[12]</sup>

On appeal to the CA, the accused-appellant assigned a lone error, that the prosecution failed to prove his guilt beyond reasonable doubt, claiming that AAA's testimony was riddled with inconsistencies and that, more importantly, she had retracted her testimony.<sup>[13]</sup> In particular, he claimed that AAA's testimony was attended with numerous misgivings, inconsistencies and contradictions, *i.e.* she could not recall the dates when she was allegedly raped in the years 2007, 2008 and 2009; she said her birth was not registered but later she identified her birth certificate. Also, he claims that AAA was coached or led by the prosecutor as to the date of the second rape, October 26, 2009.<sup>[14]</sup>

The appellate court upheld the RTC's finding of guilt, and rejected the objections of the accused-appellant. In this automatic review before us, both the accused-appellant and the Office of Solicitor General (OSG) waived the submission of a supplemental brief.

### **Our Ruling**

The appeal is bereft of merit.

Only ten (10) years old when she was first raped by her father, and thirteen (13) years old when she testified in court, AAA knew that something shameful had happened to her; yet, she willingly subjected herself to the rigors and humiliation of a public trial, by publicly reliving the outrageous deed done to her by her own father. Her testimony of the remorseless and unrelenting sexual abuse, committed by a person who should have protected her from such a harrowing ordeal, is straightforward and forthright. In *People v. Pangilinan*,<sup>[15]</sup> we stated that: