

## FIRST DIVISION

[ G.R. No. 183091, June 19, 2013 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
BERNESTO DE LA CRUZ @ BERNING, ACCUSED-APPELLANT.**

### D E C I S I O N

**SERENO, C.J.:**

Before this Court is an appeal of the December 28, 2007 Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. CR.-H.C. No. 01973<sup>[2]</sup> affirming with modification the July 5, 2003 Judgment<sup>[3]</sup> of the Regional Trial Court (RTC), Branch 61, Gumaca, Quezon in Crim. Case No. 6852-G, entitled *People of the Philippines v. Bernesto de la Cruz @ Berning* finding appellant Bernesto de la Cruz guilty beyond reasonable doubt of the crime of rape with homicide.

On March 19, 2001, an information for the crime of rape with homicide was filed against appellant, to wit:

That on or about the 27th day of May 2000, at Sitio [XXX], Municipality of San Narciso, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named [appellant], armed with a bladed weapon, with lewd design, by means of force, violence, threats and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one [AAA]<sup>[4]</sup>, a married woman, against her will and consent; and that on the same occasion and by reason thereof, said [appellant] with intent to kill and taking advantage of his superior strength, did then and there willfully, unlawfully and feloniously hack and behead with said weapon the said [AAA] and further inflicting upon the latter wounds on various parts of her body, thereby causing her death.<sup>[5]</sup>

On arraignment, appellant pleaded not guilty.<sup>[6]</sup> Trial ensued thereafter.

The Court of Appeals summarized the facts as follows:

[AAA] left her house in Sitio [XXX], San Narciso, Quezon at 6:30 a[.]m[.] of May 27, 2000 to gather gabi in [the] nearby mountain farm about 50 meters away. When she did not return by 9:00 a[.]m[.], [BBB], [AAA]'s sister, went to look for her. Along the way, [BBB] found the gabi gathered by [AAA]. Then she spotted Bernesto de la Cruz, undressed except for his blood-drenched briefs. He was cutting minongga tree branches and covering something with them. He was also rubbing coconut husks on his body. Upon the sight of [BBB], Bernesto ran down the mountain slope towards his house, throwing the bolo he was using. It was after he had

gone that [BBB] found the headless body of [AAA], covered by minongga tree branches. [AAA]'s head lay a few meters away from her body.<sup>[7]</sup>

In her post mortem examination<sup>[8]</sup> of the body of the deceased, Dr. Adoracion Florido, the Medical Officer III of San Narciso Municipal Hospital, Quezon, made the following findings:

1. Whole head and neck was cut
2. Lacerated wound, 4 cm. armpit (L)
3. Lacerated wound, 6 cm. clavicular area (R)
4. Lacerated wound, 5 cm. hand dorsum (R)

Vaginal Examination:

- Old laceration at 3, 6, 9, o'clock position

Laboratory examination:

- Positive for spermatozoa

Dr. Florido stated that AAA had been raped due to the presence of spermatozoa in her vaginal secretion within more or less twenty-four hours prior to her examination and that AAA had passed away ten hours prior to the examination.<sup>[9]</sup>

In his defense, appellant denied the prosecution's allegations. He maintained that he had been working in his farm in Sitio Mabilog, Quezon from 6:30 a.m. to 12:00 noon after which he went home. On his way, he met BBB who asked if he had seen AAA. He denied having seen AAA. He was fully dressed when the conversation occurred.<sup>[10]</sup>

After considering the evidence presented by both parties, the RTC noted the lack of eyewitnesses to the crime. However, it stated that the prosecution was able to establish the guilt of the appellant by circumstantial evidence. It pointed to the confluence of evidence presented before it: BBB saw appellant who was undressed and bloodied and cutting minongga branches to cover up the body of her sister. BBB also saw appellant running away from the scene upon being discovered. Appellant was found in possession of the bolo owned by the victim which he used to cut the minongga branches and which in turn were used to cover the body of AAA. The RTC, thus, rendered the July 5, 2003 Judgment finding appellant guilty of rape with homicide, stating:

WHEREFORE, in view of all the foregoing, the Court finds BERNESO DELA CRUZ guilty beyond reasonable doubt of the crime of Rape with Homicide defined and penalized under Article 335 of the Revised Penal Code as amended by R.A. 7659 and further amended by R.A. 8353 and renumbered as Article 266-A and 266-B of the Revised Penal Code and is hereby sentenced to DEATH.

He is further ordered to pay the amount of P75,000.00 as civil indemnity

to the heirs of [AAA] and the amount of P50,000.00 as moral damages.

[11]

On automatic review, the Court of Appeals in its December 28, 2007 Decision affirmed the RTC's Judgment with modification as to the award of damages. Moreover, the Court of Appeals found BBB to be a credible witness. It said that the minor inconsistencies in her testimony and the testimony of the other witness presented were not significant enough to warrant the acquittal of the appellant. In any event, it stated that appellant's bare denial of his guilt against the positive testimony and categorical assertions of the prosecution's witnesses proved to be worthless since it was uncorroborated.<sup>[12]</sup> The Court of Appeals thus stated:

WHEREFORE, the decision is AFFIRMED with the following MODIFICATIONS:

1. BERNESTO DELA CRUZ alias BERNING shall suffer RECLUSION PERPETUA without eligibility for parole under the Indeterminate Sentence Law;
2. BERNESTO DELA CRUZ alias BERNING is ORDERED to pay to the HEIRS OF [AAA], represented by her husband, [CCC], the sums of P50,000.00 as death indemnity; P50,000.00 as civil indemnity of rape; and P50,000.00 as exemplary damages.

The rest of the decision stands.<sup>[13]</sup>

Appellant filed his notice of appeal on January 30, 2008.<sup>[14]</sup>

After appellant's confinement was confirmed, both the Office of the Solicitor General (OSG) and appellant manifested that they would adopt the pleadings filed in the Court of Appeals in lieu of supplemental briefs.<sup>[15]</sup>

We affirm the December 28, 2007 decision of the Court of Appeals with modification on the award of moral damages and exemplary damages.

Appellant was charged and convicted of the complex crime of rape with homicide. The felony of rape with homicide is a special complex crime, that is, two or more crimes that the law treats as a single indivisible and unique offense for being the product of a single criminal impulse.<sup>[16]</sup> As provided in Articles 266-A and 266-B of the Revised Penal Code:

Art. 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;

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