

## FIRST DIVISION

[ G.R. No. 200329, June 05, 2013 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
RICARDO PIOSANG, ACCUSED-APPELLANT.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

For Our resolution is the appeal of the Decision<sup>[1]</sup> dated April 28, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04303, which affirmed with modifications the Decision<sup>[2]</sup> dated November 26, 2009 of the Regional Trial Court (RTC) of Quezon City, Branch 94, in Criminal Case No. Q-99-82565, finding accused-appellant Ricardo Piosang, *alias* Ricric, guilty of raping AAA, <sup>[3]</sup> a minor.

Upon the sworn complaint of AAA's mother, the City Prosecutor of Quezon City filed with the RTC an Information dated January 8, 1999, charging accused-appellant with rape, committed as follows:

That on or about the 8<sup>th</sup> day of July 1998 in Quezon City[,] Philippines, the above-named accused thru force and intimidation did then and there wilfully, unlawfully and feloniously commit acts of sexual abuse upon the person of one [AAA] a minor 4 years of age by then and there inserting his penis into the vagina of said complainant and thereafter had carnal knowledge of her.<sup>[4]</sup>

When arraigned on April 24, 2000, accused-appellant pleaded "not guilty."<sup>[5]</sup>

At the trial, the prosecution presented the testimonies of (1) AAA,<sup>[6]</sup> the victim; (2) BBB,<sup>[7]</sup> the mother of AAA; (3) CCC,<sup>[8]</sup> another minor who witnessed the rape; (4) DDD,<sup>[9]</sup> mother of CCC; and (5) Police Senior Inspector (P/Sr. Insp.) Mary Ann Gajardo (Gajardo),<sup>[10]</sup> Medico Legal Officer of the Philippine National Police (PNP) Crime Laboratory, Camp Crame, Quezon City, who appeared on behalf of Dr. Tomas Suguitan, the physician who conducted the physical examination of AAA.

The defense, for its part, called to the witness stand accused-appellant<sup>[11]</sup> himself and his mother Remedios Piosang<sup>[12]</sup> (Remedios). The testimony of another defense witness, Lorna Montero, was stricken out from the record for her failure to appear for the continuation of her cross-examination despite notice.

The RTC rendered its Decision on November 26, 2009 finding accused-appellant guilty beyond reasonable doubt of raping AAA and imposing upon him the following

penalties:

WHEREFORE, finding accused RICARDO PIOSANG GUILTY beyond reasonable doubt of the crime of rape under Article 266-A par. 1, Revised Penal Code in relation to Section 5(b) Article III of R.A. 7610, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA. He is further ordered to pay private complainant AAA P50,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages and the costs of suit.<sup>[13]</sup>

Accused-appellant appealed to the Court of Appeals.

The prosecution's version of events, as determined by the Court of Appeals, is as follows:

On July 8, 1998, AAA was playing with some friends when then eleven-and-a-half-year-old CCC, her neighbor, called and asked her to play computer with him at the house of herein accused-appellant, RICARDO PIOSANG or "RICRIC" on instructions of the latter. At the invitation, AAA readily joined CCC, and together with accused-appellant proceeded to his house.

On the way, however, AAA and CCC were suddenly pushed inside accused-appellant's comfort room, which was built separately from the house. Inside, accused-appellant whipped out a "*bente nueve*" or fan knife and pointed it to CCC, telling the two children to keep quiet, otherwise, he will kill them. After accused-appellant had barred the door shut, he instructed CCC to hold AAA from behind, which CCC obeyed by clutching AAA on her stomach. Accused-appellant removed his short pants, then applied something reddish on his penis and, while AAA was standing atop the toilet bowl being held by CCC from the back, inserted the same into her vagina and made pumping motions while standing. The victim AAA could only cry.

After having satiated his carnal desires against AAA, accused-appellant once again pointed the knife at CCC and told him to likewise insert his penis into AAA's private part. CCC pretended to do what [he] was told, and while doing so, the latter masturbated and, when he ejaculated, wiped the semen on the helpless AAA's mouth. Thereafter, he reiterated his threats to kill them if they told anyone of what happened, and then let them go home. Before AAA went out of the comfort room, however, accused-appellant gave her a five-peso coin to buy candy, which she threw away.

AAA did not reveal what happened to her on that fateful day. Months later, however, or on September 23, 1998, while AAA and her mother, BBB, were playing, BBB told her daughter not to let anyone touch her private part. After being silent for a moment, AAA suddenly blurted out, "*Mama, bastos si Kuya Ric Ric and Kuya CCC,*" because, according to

AAA, they inserted their penises into her vagina. At this revelation, BBB confronted CCC's mother, DDD, who made her son disclose what truly happened to AAA. CCC tearfully narrated what accused-appellant did on July 8, 1998 and that he threatened to kill both him and AAA if they reported the matter.

Upon medical examination, AAA was found to have "shallow healed lacerations at 3 and 8 o'clock positions" on her genital area, and that she was in non-virgin state physically.<sup>[14]</sup> (Citations deleted.)

The Court of Appeals likewise summarized the evidence for the defense:

In defense, accused-appellant completely denied the charges and claimed that he was at home on the day in question, letting his hair dry at the garage of their house, when a neighbor named MARIETTA told him that DDD, CCC's mother was looking for him. Accused-appellant then proceeded to DDD's house where he heard CCC crying and saying, "*that's enough, that's enough, I will not do it again.*" Accused-appellant then deemed it best not to continue on, so he went home. A few minutes later, DDD arrived and called on accused-appellant, to which the latter's mother replied that they will just follow ("*Susunod na lang kami*"). Accused-appellant and his mother went to the house of AAA and BBB, where CCC admitted having raped AAA, as a result of which, DDD hit him repeatedly. Accused-appellant even suggested bringing AAA to be examined by a doctor.<sup>[15]</sup> (Citations omitted.)

In its Decision dated April 28, 2011, the Court of Appeals affirmed with modifications the RTC judgment and decreed thus:

**WHEREFORE**, premises considered the appealed judgment of conviction is hereby **AFFIRMED** with **MODIFICATIONS**, ordering accused-appellant RICARDO PIOSANG to pay the victim civil indemnity of P75,000.00, moral damages of P75,000.00 and exemplary damages of P30,000.00. The rest of the *Decision* stands.<sup>[16]</sup>

Hence, accused-appellant comes before us on appeal with the same lone assignment of error he raised before the Court of Appeals:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT.<sup>[17]</sup>

Accused-appellant denies raping AAA and points to CCC, instead, as the perpetrator. Accused-appellant calls attention to CCC's initial refusal to reveal the incident when confronted by the latter's mother, DDD. Remedios even testified seeing a furious

DDD whipping CCC after CCC admitted to raping AAA. In addition, accused-appellant points out that he would not have suggested to AAA's parents that AAA be physically examined by a doctor if he was actually the one who raped AAA. Lastly, accused-appellant insists that an Atty. Labay of the Office of the Vice Mayor, Quezon City, contacted him by telephone offering to settle the case in exchange for money, thus, supporting accused-appellant's claims of innocence and of an attempt to cover-up CCC's guilt for the crime charged.

Accused-appellant's appeal essentially challenges the findings of fact of the RTC, as affirmed by the Court of Appeals, giving more weight and credence to the evidence of the prosecution as compared to those of the defense.

Accused-appellant's appeal has no merit.

Prevailing jurisprudence uniformly holds that findings of fact of the trial court, particularly when affirmed by the Court of Appeals, are binding upon this Court. As a general rule, on the question whether to believe the version of the prosecution or that of the defense, the trial court's choice is generally viewed as correct and entitled to the highest respect because it is more competent to conclude so, having had the opportunity to observe the witnesses' demeanor and deportment on the witness stand as they gave their testimonies. The trial court is, thus, in the best position to weigh conflicting testimonies and to discern if the witnesses were telling the truth.<sup>[18]</sup> There is no cogent reason for us to depart from the general rule in this case.

AAA, who was six years old by the time she testified in court, had consistently, positively, and categorically identified accused-appellant as her abuser. Her testimony was direct, candid, and replete with details of the rape.

Testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has in fact been committed. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true. Youth and immaturity are generally badges of truth and sincerity.<sup>[19]</sup> Considering her tender age, AAA could not have invented a horrible story. As aptly found by the RTC and we quote:

The offended party testified in a straightforward manner and positively identified the accused in open court as the very person who inserted his penis into her vagina. Her candid narration of the dastardly act done upon her by the accused has the earmark of truth and sincerity. Her testimony was taken on three (3) different dates but not once did she waiver in pointing to the accused as the person who inserted his penis into her vagina. She even clarified that CCC only pretended to put his penis into her vagina when he was ordered by the accused to do so. x x x.

The court finds no reason why private complainant would impute against accused so grave a charge if it were not true. The tender age of the