

FIRST DIVISION

[G.R. No. 173307, July 17, 2013]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
VICTORINO REYES, ACCUSED-APPELLANT.**

D E C I S I O N

BERSAMIN, J.:

Slightest penetration of the *labia* of the female victim's genitalia consummates the crime of rape.

The Case

Victorino Reyes appeals his conviction for the rape of his 13-year-old neighbor AAA, [1] for which the Regional Trial Court (RTC), Branch 53, in Rosales, Pangasinan had imposed the penalty of *reclusion perpetua* under its decision of April 23, 2001, [2] and which conviction the Court of Appeals (CA) affirmed on appeal by its assailed decision promulgated on April 20, 2006. [3]

Antecedents

As the RTC and the CA both found, Reyes raped AAA at around 9:00 p.m. on December 26, 1996 in Barangay San Aurelio, Balungao, Pangasinan. Earlier, at around 7:00 p.m., AAA and her 9-year-old sister, BBB, had watched television at his house just across the street from their house. Only Reyes and his two sons, aged seven and five, were the other persons in the house, for his wife had gone to another barangay to sell refreshments. By 9:00 p.m., AAA and BBB rose to go home, but as they were leaving, Reyes suddenly pulled AAA into the store attached to the *sala* of his house. He told her in the dialect: *Umaykan ta agiyyot ta.* (Come here and let us have sex). [4] Alarmed by what his words denoted, AAA struggled to free herself from him. BBB went to her succor by pulling her away from him, but his superior strength prevailed. BBB could only cry as he dragged AAA into the store. BBB was left outside the store crying.

Inside the store, Reyes kissed AAA and mashed her breasts. He threatened her: *If you will shout, I will kill you.* [5] He pulled down her long pants and panties below her knees, took out his penis, grabbed her by the waist, and used his body to anchor her back to a nearby table. She fought back by boxing and pushing him away, but her efforts were futile. He twice tried to pry open her legs, but she strained hard to close them. On the second attempt, however, her effort was not enough to prevent him from pulling her legs apart, and he then thrust his penis into her vagina and made push and pull movements. [6] Although his penis achieved only a slight penetration of her vagina, [7] he succeeded in satisfying his lust, as confirmed later on when CCC, the mother of the victim, found semen on AAA's

panties.^[8]

After he had satisfied his lust, Reyes threatened to kill both AAA and BBB should they tell anyone else about what had happened. Then they hurriedly left for home.

^[9] Upon their arrival in their house, CCC called out to her daughters to go to bed. Only BBB immediately complied because AAA tarried outside, only to have her mother again call her inside. AAA entered the house this time, but went to where the *aparador* was and took out fresh panties. CCC saw her doing so and became suspicious. She also saw fear in the face of her daughter. When she inspected the soiled underwear of AAA, CCC discovered that her panties were wet with semen.^[10] Upon being interrogated, AAA admitted that Reyes had raped her.^[11]

At around 6:00 a.m. of the next day, December 27, 1996, CCC reported the rape of her daughter by Reyes to the Barangay Chairman of San Aurelio, who accompanied AAA and her father to the Balungao Police Station to bring the criminal complaint for rape. At the request of the Balungao Police, Dr. Ingrid Irena B. Gancinia, the Municipal Health Officer of Rosales, Pangasinan, conducted a medical examination on AAA at around 3:30 p.m. of that day.

The findings reflected in Dr. Gancinia's medico-legal report showed the following:

IE: Contusion, labia majora, [Right] and [Left];

No hymenal lacerations noted with one examining finger difficult to penetrate the vaginal canal.^[12]

Subsequently, the Office of the Provincial Prosecutor of Pangasinan filed the information dated February 3, 1997 charging Reyes with rape committed as follows:

That on or about the 26th day of December, 1996, in the evening, in Brgy. San Aurelio 1st, Municipality of Balungao, Province of Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, did then and there, willfully, unlawfully, and feloniously have carnal knowledge with AAA, a minor of about thirteen (13) year[s] old, against her will and to her damage and prejudice.

Contrary to Article 335, Revised Penal Code.^[13]

Upon his arraignment on February 23, 1998,^[14] Reyes pleaded *not guilty* to the information.

Although admitting that AAA and BBB had watched television in his house at the time of the rape, Reyes insisted that he had been sleeping on the sofa in front of the television set in the *sala* of his house from 7:30 p.m. of December 26, 1996 until 2:30 a.m. of the next day. He denied the accusation, and called attention to the medical findings showing that AAA's hymen was intact; hence, she was still a virgin.

On April 23, 2001, after the trial on the merits, the RTC convicted Reyes as charged. It regarded AAA's narration of the circumstances of her rape as clear, convincing and consistent on all material points. It concluded that the contusion (*pamamaga*) on AAA's *labia majora* found by Dra. Gancinia proved that penile penetration had been achieved; that AAA's fragile personality manifested during the trial explained why she had cried and refused to answer in the face of the often browbeating questions during her cross-examination; that Reyes had also made intimidating glares towards her while she testified; and that she had remained consistent in her claim of rape and insistent that she was telling the truth.

The RTC disposed as follows:

WHEREFORE, the Court finds the accused Victorino Reyes guilty beyond reasonable doubt of the crime of rape as charged and hereby sentences him to suffer imprisonment of RECLUSION PERPETUA and to indemnify the private complainant AAA in the amount of Seventy Five Thousand (P75,000.00) Pesos. No pronouncement as to costs.

SO ORDERED.^[15]

On intermediate review, Reyes argued^[16] that AAA and her mother had concocted the charge as their way of escaping their debts at his store.^[17] He denied having carnal knowledge of AAA, and stated that he had merely kissed her, citing the lack of medical findings of any hymenal lacerations in the medico-legal report.^[18] He posited that even assuming that there had been carnal knowledge, the act could only be consensual considering that AAA's hand had landed on his shoulders during the supposed sexual encounter.

Nonetheless, the CA affirmed Reyes' conviction.^[19]

Hence, this appeal, wherein Reyes reiterates his submissions.

Ruling

The appeal has no merit.

To start with, both the CA and the RTC unanimously found that the testimonies of AAA and BBB were credible and reliable. It consequently behooved Reyes to come forward with a good reason or cause to have us depart from the age-old rule of according conclusiveness to the findings of the RTC that the CA affirmed. The Court is not a trier of facts, and has to depend on the findings of fact of the trial court by virtue of its direct access to the witnesses as they testified in court. Only when the appellant convincingly demonstrates that such findings of fact were either erroneous, or biased, or unfounded, or incomplete, or unreliable, or conflicted with the findings of fact of the CA would the Court assume the rare role of a trier of facts. But that convincing demonstration was not done here by Reyes.

Secondly, the decisive question is whether the evidence adduced by the State competently proved that the crime reached the consummated stage. Reyes insists