

FIRST DIVISION

[G.R. No. 201103, September 25, 2013]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JIMMY CEDENIO Y PERALTA, ACCUSED-APPELLANT.

RESOLUTION

REYES, J.:

Appealed in this case is the Decision^[1] dated July 29, 2011 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04220, affirming with modification the Decision^[2] dated September 21, 2009 rendered by the Regional Trial Court (RTC) of Pasay City, Branch 119, in Criminal Case No. 04-2742 for Rape. The dispositive portion of the CA's Decision provides:

FOR THE STATED REASONS, the assailed RTC Decision convicting accused-appellant Jimmy Cedenio of the crime of rape is **AFFIRMED** with the **MODIFICATION** that, in addition to the award of [P]50,000.00 as civil indemnity, he is **ORDERED** to pay [AAA]^[3] the amount of [P]50,000.00 as moral damages.

SO ORDERED.^[4]

The evidence for the prosecution established the following: Twenty one (21)-year old AAA and accused-appellant Jimmy Cedenio (Cedenio) rented separate rooms on the same floor of a building in Pasay City. AAA lives with her boyfriend BBB and two (2) other persons, while Cedenio lives with his family. They all use a common bathroom. At around 9:30 a.m. of October 20, 2004, after her roommates left for work, AAA went back inside the room after taking a bath. She noticed that the light inside the room was on. Upon entering the room, Cedenio, from behind the door, placed his arm around her and poked a fan knife at her side. She pleaded for him not to kill or rape her but he told her that he only wanted to talk. Cedenio, however, then told her to lie down on the foam spread on the floor, and grabbed the towel wrapped around her. She pleaded with him to spare her and told him that she was having her period, to no avail. After Cedenio was able to have sex with AAA, he threatened to kill her if she tells anybody about it. With Cedenio still inside the room, AAA hurriedly dressed up and left. She went to Baclaran Mall where BBB was working and related her ordeal to him. They immediately went to the *barangay* hall to report the incident. While there, AAA saw Cedenio in the vicinity and told BBB who immediately ran after Cedenio. BBB was joined by *barangay tanods* and Cedenio was eventually collared. At that point, PO3 Herman Abanilla, who was on board a tricycle, saw the fracas, arrested Cedenio and brought him to the police headquarters.^[5]

Cedenio denied the accusation against him and set up the defense of *alibi*. He claimed that he was out selling cigarettes and candies in Pasay Rotunda at the time

of the incident. He went back home at around 10:30 a.m. to put down his goods and thereafter fetched his children from school. He was near the *barangay* hall in the afternoon to buy food when the *tanods* approached him and, after confirming his identity, arrested him.^[6]

Both the RTC and the CA gave more weight and credit to the prosecution's version of the incident and did not heed Cedenio's *alibi*. Both courts did not find any reason to disbelieve AAA's testimony and ruled that Cedenio failed to establish any ill-motive on AAA's part for her to maliciously implicate him. The CA further disregarded Cedenio's claim that AAA's lack of physical resistance is contrary to common human behavior, ruling that AAA was at knife point at that instance and there is no uniform reaction from rape victims.^[7] The CA thus affirmed Cedenio's conviction for Rape, the imposition of *reclusion perpetua* as penalty and the award of P50,000.00 as civil indemnity. The CA also awarded moral damages in the amount of P50,000.00.^[8]

Upon review, the Court does not find any reason to overturn Cedenio's conviction of the crime of Rape.

Under Article 266-A(1)(a) of the Revised Penal Code, as amended, rape is committed when: (1) the offender had carnal knowledge of a woman; and (b) that the same was committed by using force and intimidation.^[9] In this case, the prosecution's evidence established that Cedenio was able to forcibly have carnal knowledge of AAA on October 20, 2004 after he poked her with a knife and threatened to kill her. The Court, like the CA, cannot sustain Cedenio's claim that AAA's lack of physical resistance is not a normal behavior in such cases. "Physical resistance need not be established in rape cases when intimidation is exercised upon the victim who submits against her will because of fear for her life and personal safety."^[10] If a knife on one's side is not a sufficient source and cause of fear, then what is?

Moreover, Cedenio's defense of *alibi* is an inherently weak defense that is easy to fabricate.^[11] Cedenio failed to present clear and convincing evidence that he was in a place other than the *situs criminis* at the time the crime was committed, such that it was physically impossible for him to have been at the scene of the crime when it was committed.^[12] The CA noted that Cedenio's job gave him mobility and it was easy for him to go home and commit the crime; thus, his *alibi* cannot prosper.^[13]

The CA also correctly affirmed the imposition of *reclusion perpetua* as penalty.^[14] The same should be imposed without eligibility for parole.^[15]

As to the civil liability, both the RTC and the CA ordered Cedenio to pay AAA P50,000.00 as civil indemnity. The CA further awarded P50,000.00 as moral damages. Civil indemnity is mandatory upon the finding of the fact of rape, while moral damages are proper without need of proof other than the fact of rape by virtue of the undeniable moral suffering of AAA due to the rape.^[16] The amounts awarded are all in accord with prevailing jurisprudence.^[17]

The Court, however, further awards exemplary damages in the amount of