

FIRST DIVISION

[G.R. No. 186499, March 21, 2012]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MELECIO DE LOS SANTOS, JR., ACCUSED-APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

In this appeal, the accused-appellant Melecio de los Santos, Jr. seeks the reversal of the Decision^[1] of the Court of Appeals dated August 31, 2007 in CA-G.R. CEB CR.-H.C. No. 00394, which affirmed the Decision^[2] dated March 3, 2005 of the Regional Trial Court (RTC) of Cebu City, Branch 7, in Criminal Case Nos. CBU-51855 and CBU-51856. The trial court imposed the penalty of *reclusion perpetua* upon the accused-appellant after finding him guilty of one count of rape.

The accused-appellant was charged with two (2) counts of statutory rape committed against AAA^[3] in two informations, the accusatory portions of which provide:

CRIMINAL CASE NO. CBU-51855

The undersigned accuses MELECIO DELOS SANTOS alias "NOYNOY" of the crime of Statutory Rape, committed as follows:

That on or about the 14th day of February 1995 at around 1:30 o'clock in the afternoon, more or less, at [XXX], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, younger brother of the mother of the victim [AAA], a minor, ELEVEN (11) years old at the time of the commission of the offense, with abuse of confidence, taking advantage of the absence of the parents of the victim who at the time of the commission of the offense were working and while the victim was alone, with the use of a deadly knife for use in slicing fish commonly known as "INIGPAKAS", through force, intimidation and threats, did then and there willfully, unlawfully and feloniously engage and have carnal knowledge with the victim against her will, to the damage and prejudice of the said victim.^[4]

CRIMINAL CASE NO. CBU-51856

That sometime in September 1995 at [XXX], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, younger brother of the mother of the victim [AAA], a minor, Eleven (11) years old at the time of the commission of the offense, with abuse of confidence, through force, intimidation and threats, did then and there willfully,

unlawfully and feloniously engage and have sexual intercourse with the said victim against her will, to the damage and prejudice of the victim.^[5]

During the accused-appellant's arraignment on April 18, 2000, he entered a plea of not guilty to the above charges.^[6] On July 25, 2000, the pre-trial conference of the cases was terminated with the parties stipulating on the following facts:

1. That accused and the mother of the complainant are brother and sister;
2. That the defense of the accused is denial; [and]
3. That the accused is facing two crimes of Statutory Rape which are jointly heard in this pre-trial conference.^[7]

The joint trial of the cases, thereafter, commenced.

The testimony of the private complainant, AAA, was first presented by the prosecution. AAA testified that she was born on November 4, 1984 at XXX.⁸ She had two brothers and three sisters.^[9] She said that the accused- appellant was the younger brother of her mother but he had a different surname because he was adopted by another couple when he was still young.^[10] She narrated that on February 14, 1995, the accused-appellant first arrived from Negros to stay in their house at XXX. At about 1:30 p.m. on the said date, AAA and her younger sister, BBB, were sitting on the stairs of their house while the accused-appellant was at the window. Their mother soon arrived and called BBB to help in the former's place of work. BBB went with their mother. AAA said that her mother told her to wash the dishes and clean the house. Thereafter, she went to their room to lie down because she had a stomachache. The accused-appellant then closed the windows and the door. He got a knife from the kitchen and pointed the same at her. He told her to undress but she refused so he tore off her dress. He went on top of her and he was naked. She said that his penis penetrated her organ. He was still holding the knife when he placed himself on top of her. He told her that if she will reveal the incident to anyone he will kill her family. After that, he left her. She did not tell her parents about the abuse she suffered because she was afraid.^[11]

AAA further testified that the accused-appellant came back to their house sometime in September 1995. At a certain day in the said month when her parents and siblings were not in their house, the accused-appellant undressed her again and pointed a knife at her. AAA stated that the accused-appellant raped her by inserting his penis into her organ. Thereafter, the accused-appellant left because AAA's father, CCC, requested him to accompany the latter in his work. After that, the accused-appellant went back to Negros. AAA added that she did not tell her parents about the second incident of rape as she was still afraid of the accused- appellant's threat that he will kill her family.^[12]

AAA said that she decided to reveal the incidents of rape to the members of her family when she was about 14 or 15 years old. She first related the incidents to her aunt but the latter did not believe her. She next informed her parents. When her mother found out about the sexual abuse, the latter also did not believe her and she

was even slapped. On the other hand, her father, CCC, got mad. He brought her to the Vicente Sotto Memorial Medical Center (VSMMC) and she was examined by a physician.

Her father also brought her to the police station at Talisay where they prepared an affidavit.¹³

CCC, the father of AAA, was next called to the witness stand. He testified that on February 14, 1995, the accused-appellant temporarily stayed at their house. The latter again visited their house on September 19, 1995. It was in the year 1999 that AAA first told him about the incidents of rape that occurred in February and September 1995. When he asked her why she did not tell him about the rape incidents at the time they occurred, she answered that she was threatened by the accused-appellant. She told him that the incidents took place at their house and she was threatened every time she was raped. It was only after several years that AAA got the courage to tell him of the sexual abuse.^[14]

CCC further stated that in 1995, AAA was only 11 years old. When he found out that his daughter was raped, he "got wild and even destroyed [his] own house." He was able to confront the accused-appellant when the latter was still in prison. The accused-appellant asked for his forgiveness but CCC told him that he could not do anything because the victim was his daughter. AAA was examined by a physician and the result of the examination was that it was possible that she was sexually molested.^[15]

The testimony of Dr. Paulette Chelo M. Plaza,^[16] one of the physicians who examined AAA, was also presented by the prosecution. She testified that, as a standard operating procedure, she would initially interview a patient regarding the circumstances of the crime committed against the latter and, afterwards, a physical examination of the patient would be conducted.

She said that she could not recall the results of her interview with AAA but since the medical report indicated that AAA was sexually abused, the said fact must have been related to her by AAA.^[17] The conclusions stated in the medical certificate were as follows:

- 1.) Disclosure of sexual abuse.
- 2.) Deep, hymenal notches at 3 O'clock and 9 O'clock positions are suspicious for sexual abuse.^[18]

Based on the medical record, Dr. Plaza confirmed that she and Dr. Celso S. Pacana, Jr. examined AAA. As to the injuries sustained by AAA, she explained the meaning of the deep notches 3 o'clock and 9 o'clock position. She stated that a deep notch was like an excavation or a cut in the hymenal tissue and that the presence of notches indicated that there was a penetration in the vagina. The notches could have been caused by sexual intercourse or any object that might have been inserted in the victim's organ. She reiterated that, based on her findings and that of Dr. Pacana, she concluded that it was possible that AAA was sexually abused.^[19]

Police Officer 1 (PO1) Rea N. Taladua also testified for the prosecution. She stated that on July 19, 1999, she was assigned at the Talisay Police Station and her duties therein were to entertain cases concerning women and children. In connection therewith, she issued a certification in relation to the rape case of AAA.^[20]

Finally, the prosecution presented the testimony of BBB, the younger sister of AAA. BBB testified that on February 14, 1995, she was 8 years old, while AAA was 11 years old. At about 1:00 p.m. on the said date, she was at their house with AAA and the accused-appellant. She and AAA were talking with each other while sitting at the stairway of their house. The accused-appellant was by the window of the house about five meters away. He then approached them and told them to go upstairs. Only AAA went up the house and he suddenly closed the door. BBB said that she did not go upstairs because she was afraid of the way the accused-appellant looked at them. BBB immediately clarified that when the accused-appellant told them to go upstairs, they tried to run away. AAA was not able to get away, however, because her dress was caught in the stairs. The accused-appellant grabbed AAA and dragged her inside the house. AAA tried to free herself but the accused-appellant poked a knife at her neck. The accused-appellant took AAA inside the house and closed the door.^[21]

BBB said that she just sat at the stairs crying. She heard AAA ask for help, as well as the sounds of struggling inside the house. She pleaded for the accused-appellant not to harm AAA. Later, the accused-appellant opened the door and went out of the house. He told her not to tell her mother about the incident otherwise he will kill them all. She then went inside and saw AAA lying unconscious near the door. She dragged AAA towards the room to change the latter's clothes. In the evening, the accused-appellant came back to their house when her parents were already there. She did not tell her parents about the incident because she was afraid that the accused-appellant would kill them. When her parents looked for AAA, she told them that the latter went to bed early as she was not feeling well.^[22]

After the conclusion of the presentation of its testimonial evidence, the prosecution formally offered in evidence the following documents: (1) the Birth Certificate of AAA (Exhibit A);^[23] (2) the Sworn Statement of AAA (Exhibit B);^[24] (3) the Medical Certificate of AAA issued by the VSMMC (Exhibit F);^[25] (4) the Certification of the entry of AAA's complaint in the Talisay Police Station blotter (Exhibit D);^[26] and (5) the letter of Sidney R. Segales, a Records Officer at the VSMMC, stating that AAA was admitted in the said hospital for a medical examination (Exhibit E).^[27]

On the other hand, the defense presented the lone testimony of the accused-appellant to negate the prosecution's version of facts.

The accused-appellant testified that he met CCC, the father of AAA, when he first visited Talisay on December 19, 1993. He likewise did not know the mother of AAA before that time as he was only three months old when he was adopted by another couple from Escalante, Negros Occidental. On his first visit to the house of AAA, he stayed for a week. He visited them again on October 20, 1994. He also stayed there for a week. On the afternoon of February 14, 1995, the accused-appellant claimed that he was at their house in Escalante, Negros attending to his sick adoptive father, Melecio de los Santos, Sr. In fact, he said that his father died on February 20, 1995.

He denied that he was in XXX on the day that the first incident of rape allegedly occurred. He also said that he did not go to XXX for the entire month of September 1995. According to him, the travel time from Escalante to XXX was more or less four hours.^[28] He further stated that he did not go back to XXX in the year 1995. The last time he went back to the house of AAA was on September 2, 1997 when he informed them that he was about to get married. He stayed there for only a day. He said that he in fact got married on September 10, 1997.

The accused-appellant contended that he only learned about the case against him on January 27, 2000. At that time, he was working as a tricycle driver in Escalante. He found out about the case when he was approached by a certain Senior Police Officer 3 (SPO3) Mateo Cabus, who told him that there was a warrant for his arrest in Cebu and that he should go with the said police officer to the police station for an investigation. The warrant of arrest was not shown to him. He was brought to the municipal jail in Escalante. When the police officer asked him about the case, he told them that he knew nothing about the same.^[29] He related that, at the time he was investigated in the municipal jail in Escalante, he was neither assisted by counsel, nor informed of his right to be assisted by counsel. On February 1, 2000, he was brought to the Talisay Jail where he was also subjected to an investigation. He said that he could not give the police officers any answer because he did not know anything about the complaint against him. He also said that he was neither assisted by counsel nor informed of his right to be assisted by counsel when he was being investigated upon.^[30]

The accused-appellant recounted that at around 3:00 p.m. in the afternoon of January 27, 2000, his wife came for a visit and told him that the private complainant in the rape case against him was AAA. He said that he was shocked upon learning of the said fact and he told his wife to plead with AAA's parents because the accusations against him were not true. His wife told him that it was CCC and AAA who wanted to pursue the case. The accused-appellant added that while he was detained at the Talisay Jail, CCC allegedly came to visit him. He pleaded for the latter's mercy, telling him that the charges were untrue. CCC, however, told him that he should plead guilty so that life sentence and not the death penalty would be prayed for. The accused-appellant said that he refused to do so and insisted that he did not do anything to AAA. CCC allegedly threatened him that if he did not admit the charges, he would be mauled inside the detention cell. After that, he was indeed mauled by his fellow prisoners but he no longer reported the incident to the jail management. He was detained at the Talisay Jail for one month and three days and, on May 3, 2000, he was transferred to the Cebu Provincial Detention and Rehabilitation Center.^[31]

Thereafter, the defense formally offered the following evidence: (1) the Death Certificate of Melecio de los Santos, Sr., stating that the said person in fact died on February 20, 1995 (Exhibit 1);^[32] and (2) the Marriage Certificate between the accused-appellant and a certain Vicenta Sevillana, stating that the said the individuals were married on September 10, 1997 (Exhibit 2).^[33]

On March 3, 2005, the RTC rendered judgment pronouncing the guilt of the accused-appellant as follows: