

SECOND DIVISION

[G.R. No. 193665, June 25, 2012]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICARDO BOSI Y DANAEO, ACCUSED-APPELLANT.**

D E C I S I O N

REYES, J.:

We resolve the appeal filed by Ricardo Bosi y Danao (accused-appellant) from the Decision^[1] dated December 23, 2009 of the Court of Appeals (CA) in CA-G.R. CR HC No. 03226.

Antecedent Facts

The victim (AAA) testified that on November 2, 2001, at about 10:00 o'clock in the evening, AAA went to bed to sleep beside her younger sister. While sleeping, AAA's father and mother woke her up so that she could transfer to the sala where her parents and siblings were sleeping. AAA heeded her father's command out of fear. AAA then slept again but was awakened when she felt her father pulling down her shorts and panty. AAA tried to push him and kicked him while accused-appellant held her hand; finally, accused-appellant went on top of her, kissed her and inserted his penis inside her vagina. AAA succumbed to her father's bestial desire out of fear that the latter might hurt her mother and her siblings. Subsequently, accused-appellant tried to rape AAA again at about 5:00 o'clock in the morning but did not succeed. AAA reported the crime to the Department of Social Welfare and Development (DSWD) the following morning, accompanied by her aunt Raquel Bosi, the sister of the accused-appellant.^[2]

Accused-appellant was subsequently charged with violation of Article 266-A, No. 1(a) of the Revised Penal Code, as amended by Republic Act (R.A.) No. 8353 or the Anti-Rape Law of 1997, which was docketed as Criminal Case No. 9711. The Information states as follows:

"That on or about November 02, 2001, and for sometime subsequent thereto, in the Municipality of Iguig, Cagayan, and within the jurisdiction of this Honorable Court, the said accused RICARDO BOSI y DANAEO, father of the complainant, [AAA], a woman twenty four (24) years of age thus, have [sic] moral ascendancy over the aforesaid complainant, with lewd design, and by the use of force[,] threat and intimidation, did, then and there willfully, unlawfully and feloniously kiss, caress the private parts of the complainant and thereafter have sexual intercourse with the herein complainant, [AAA], his own daughter a woman twenty four (24) years of age, against her will.

Contrary to law.”^[3]

During trial, aside from the testimony of AAA, the prosecution also offered as part of their evidence: (a) the medico-legal certificate issued by Dr. Ma. Vida Lappay-Fuguiao, Medical Officer III of Cagayan Valley Medical Center (CVMC) in Tuguegarao City, and (b) the sworn statement AAA gave to the Iguig Police.^[4]

Meanwhile, the accused-appellant in his defense simply denied the accusation against him. He claimed that AAA charged him with rape because he slapped her when she eloped with her boyfriend and because he asked her to stop her studies for one year. He alleged that his daughter even warned him that he would have his comeuppance. He insisted that he could have not raped his daughter because they were then sleeping with AAA's mother and siblings. The defense also presented the accused-appellant's son, Santiago Bosi (Santiago), who testified that his father could not have raped his sister because his mother and siblings were sleeping with her and their father. Aside from the accused-appellant and Santiago's testimonies, the defense also offered the counter-affidavit which was submitted during the preliminary investigation.^[5]

The Regional Trial Court (RTC) Ruling

After weighing the evidence adduced by both sides, the RTC found the accused-appellant guilty. It gave credence to the testimony of AAA who narrated her ordeal in a straightforward, convincing, and consistent manner, interrupted only by her convulsive sobbing. It disbelieved the accused-appellant's alibi that his daughter charged him with rape because he disciplined her; it also did not give much weight to the accused-appellant's argument that he could have not raped AAA because he and AAA slept together with AAA's mother and siblings. The trial court found the accused-appellant's denial as simply self-serving and inherently weak, especially without a strong evidence of non-accountability. Finally, the RTC held that defense witness Santiago's testimony deserves scant consideration because negative evidence cannot prevail over the positive assertions of private complainant AAA. The RTC ratiocinated that lust is no respecter of time and precinct and known to happen in most unlikely places. The accused-appellant was sentenced to suffer the penalty of imprisonment of *reclusion perpetua* and to indemnify the victim in the amount of P50,000.00 by way of civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages.^[6]

The CA Ruling

The CA affirmed the ruling of the RTC, explaining that when the credibility of the victim is put in issue, as in this case, it will adhere to the well-entrenched rule that the findings of the trial court on credibility of witnesses are entitled to great weight on appeal unless cogent reasons are presented necessitating a reexamination, if not disturbance, of the same; the reason being that the former is in a better and unique position of hearing first hand the witnesses and observing their deportment, conduct and attitude. It also agreed with the RTC in not giving credence to accused-appellant's argument that he could have not raped his daughter since there were other members of the family sleeping in the *sala*. The CA reechoed the RTC's ruling

that lust is no respecter of time and precinct and known to happen in most unlikely places. It also did not agree with the accused-appellant's argument that AAA did not show resistance. It ratiocinated that rape victims show no uniform reaction. Finally, the CA also disagreed with the accused-appellant's allegation that AAA was motivated by ill-will in filing the case because it has been found that mere disciplinary chastisement is not strong enough reason for daughters in a Filipino family to invent charges that would bring shame and humiliation to the victim and to her family and loved ones.^[7]

Issues

Considering that accused-appellant Ricardo Bosi and plaintiff-appellee People of the Philippines adopted their respective briefs before the CA, we now rule on the matter based on the issues^[8] which the accused-appellant raised in his brief before the CA, to wit:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING CREDENCE TO THE PRIVATE COMPLAINANT'S VERSION DESPITE ITS IMPROBABILITY AND HER ILL FEELINGS TOWARDS [THE] ACCUSED-APPELLANT.

II

THE TRIAL COURT GRAVELY ERRED IN PRONOUNCING THE GUILT OF THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT WITH MORAL CERTAINTY.^[9]

Our Ruling

We dismiss the appeal.

After a careful review of the records of this case, we see no reason to reverse or modify the findings of the RTC, especially because the CA has affirmed the same.

The accused-appellant claims that the trial court gravely erred in giving credence to AAA's version despite its improbability and her ill-feelings towards him. He alleges that he could have not raped his daughter because at that time he and AAA were sleeping with his wife and his other children. He also argues that AAA never testified that he used a weapon to compel her to submit to his desires. Rather, AAA's only justification for her silence was her unfounded fear that the accused-appellant might harm her mother and siblings, considering her father's domineering and tyrannical ways.

In deciding this case, we are guided by the three principles which courts should take into account when reviewing rape cases, namely: (1) an accusation for rape is easy to make, difficult to prove, and even more difficult to disprove; (2) in view of the intrinsic nature of the crime, where only two persons are usually involved, the testimony of the complainant must be scrutinized with utmost caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot draw