

SECOND DIVISION

[G.R. No. 194608, July 09, 2012]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANTONIO BARAOIL, ACCUSED-APPELLANT.**

RESOLUTION

REYES, J.:

This is an appeal from the Decision^[1] dated May 26, 2010 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03546, which affirmed with modification the Decision^[2] dated August 15, 2008 of the Regional Trial Court (RTC), Branch 51 of Tayug, Pangasinan, in Criminal Case Nos. T-3682 and T-3683, finding Antonio Baraoil (accused-Appellant) guilty for two crimes of rape defined and penalized under Republic Act (R.A.) No. 8353 and the Revised Penal Code.

On October 20, 2004, the accused-appellant was charged in two informations^[3] for the crime of rape allegedly committed, as follows:

Criminal Case No. T-3682

That on or about 2:00 o'clock in the afternoon of August 8, 2004, inside the comfort room adjacent to the Apo Rice Mill at Brgy. San Maximo, [M]unicipality of Natividad, [P]rovince of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously insert his penis into the vagina of [AAA], a minor[,] 5 years of age and thereafter finger the vagina of said [AAA], against her will and consent, to the damage and prejudice of said [AAA].

CONTRARY to Article 335 of the Revised Penal Code, as amended by Republic Act 8353.^[4]

Criminal Case No. T-3683

That on or about 2:30 o'clock in the afternoon of August 8, 2004, inside the comfort room adjacent to the Apo Rice Mill located at Brgy. San Maximo, [M]unicipality of Natividad, [P]rovince of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously suck the vagina of said [AAA], a minor, 5 years of age, against her will and consent, to the damage and prejudice of said [AAA].

CONTRARY to Article 335 of the Revised Penal Code, as amended by Republic Act 8353.^[5]

During arraignment, the accused-appellant pleaded not guilty. Trial on the merits proceeded.

The accused-appellant is a neighbor of the victim's (AAA) family whom they consider and respect like an uncle.

According to the evidence of the prosecution, on August 8, 2004, at about 2:00 p.m., five (5) year old AAA was walking near the house of the accused-appellant when the latter saw her. He asked where she was going then he invited her to take a ride with him on his bicycle. AAA acceded because accused-appellant is a friend of her parents. The accused-appellant and AAA biked together towards the town rice mill. BBB, the elder sister of AAA, saw them. Worried about AAA's safety, BBB sought the help of CCC, her other sister, and their cousin DDD to look for AAA.

Upon arriving at the rice mill, the accused-appellant parked his bicycle against the wall, and pulled AAA inside the mill's comfort room. He pulled AAA's shorts as she was not wearing underwear. The accused-appellant then sat on a toilet bowl and unzipped his pants. He lifted AAA, seated her on his lap, and inserted his penis into AAA's vagina. AAA did not shout despite feeling pain.

The accused-appellant threatened AAA not to tell his mother or father about what happened or else he will repeat the act. He then inserted his right forefinger in AAA's vagina. AAA saw his finger that was thrust into her. AAA did not shout although she was about to cry. The accused-appellant removed his finger then pulled up his pants.

At that moment, BBB, CCC, and DDD arrived at the rice mill and saw the accused-appellant's bicycle. They entered and heard thumping sounds coming from the comfort room. The accused-appellant then suddenly opened its door and walked out. AAA followed him after a while towards his bicycle looking visibly sweating and walking with difficulty.

CCC approached the accused-appellant and told him that they will take AAA home. The accused-appellant refused and told them that he will take AAA home after buying a new pair of slippers he needed for himself. He bought the pair of slippers and a chocolate-filled biscuit for AAA.

After half an hour, the accused-appellant took AAA back to the comfort room of the same rice mill. There, he undressed her and sucked her vagina. While doing this, AAA begged the accused-appellant to take her home. The accused-appellant stopped and boarded her to his bicycle and brought her home.

The next day, DDD asked AAA what happened when she was with the accused-appellant. AAA did not say anything but she started to cry until she told her mother EEE all that transpired. On August 10, 2004, EEE brought AAA to the police station where they reported the incident.

For the defense, the accused-appellant denied the charges and preferred an alibi by

stating that he was with his friend Renato at the fish pond at the time when the alleged rape took place. He claimed that they were fishing from 7:30 to 10:00 in the morning. They also drank gin at around 3:00 p.m. and went home at 4:00 p.m. He, moreover, claimed that AAA was nice to him before the alleged rape. However, AAA's family got mad at him after he disconnected their jumper connection from the power source. They even threatened that they will hack him to death. Thus, the accusation of AAA's family was a means of revenge.

On August 15, 2008, the RTC rendered its Decision, the decretal portion of which reads:

WHEREFORE, finding the accused GUILTY beyond reasonable doubt of two crimes of rape, respectively defined and penalized under Republic Act No. 8353 amending the Revised Penal Code provisions on rape, the Court hereby sentences him to suffer the following:

1. the indeterminate penalty of from (sic) six (6) years of prision correccional maximum as minimum to ten (10) years of prision mayor medium as maximum, for the rape committed as charged in Criminal Case No. T-3683; and,
2. the death sentence of a protracted kind, namely reclusion perpetua, for the rape committed in Criminal Case No. T-3682.

Pursuant to the stipulations arrived at by the parties at the pre-trial stage, the accused is likewise condemned to indemnify the private complainant for damages in the agreed total sum of [P]200,000.00; and, to pay the costs.

SO ORDERED.^[6]

The trial court lent credence to the testimony of AAA that she was raped. The trial court found her testimony categorical, straightforward and candid. Moreover, in upholding the credibility of AAA, the trial court relied heavily on established doctrines in rape cases.

On September 1, 2008, the accused-appellant filed a notice of appeal.^[7] The CA, in a Decision dated May 26, 2010, affirmed the accused-appellant's conviction with modification, *viz*:

1. In Criminal Case No. T-3682, appellant is ordered to pay private complainant AAA, the amounts of [P]75,000.00 as civil indemnity, [P]50,000.00 as moral damages and [P]25,000.00 as exemplary damages.
2. In Criminal Case No. T-3683, appellant is convicted of Acts of Lasciviousness under Art. III, Sec. 5(b) of R.A. No. 7610, in relation to

Art. 336 of the Revised Penal Code. He is sentenced to imprisonment of twelve (12) years and one (1) day of reclusion temporal, as minimum, to fifteen (15) years, six (6) months and [twenty] 20 days of reclusion temporal, as maximum, and; to pay the complainant AAA [P]15,000.00 as fine, [P]20,000.00 as civil indemnity, [P]15,000.00 as moral damages and [P]15,000.00 as exemplary damages.

In both cases, costs against the appellant.

SO ORDERED.^[8]

The CA sustained the conviction of the accused-appellant after finding that the testimony of AAA was credible, natural, convincing and consistent with human nature and the normal course of things. There was no reason to overturn the accused-appellant's conviction under Criminal Case No. T-3682 for the crime of statutory rape considering that AAA was undeniably under 12 years old and that the accused-appellant had carnal knowledge with her. Furthermore, the CA also found that the acts of accused-appellant fall under the category of Acts of Lasciviousness under Article 336 of the Revised Penal Code in conjunction with Section 5, R.A. No. 7610 (*Special Protection of Children Against Abuse, Exploitation and Discrimination Act*). However, with respect to the damages, the CA corrected the trial court's disposition on the matter and specifically awarded civil indemnity automatically upon proof of the commission of the crime, moral damages, and exemplary damages in view of the victim's minority.

Hence, this case.

The primary issue in this case is whether or not the accused appellant's guilt has been proven beyond reasonable doubt vis-a-vis his main defense that the rape charges were merely concocted to get back at him as leverage against his act of disconnecting the jumper owned by AAA's family.

It should be noted that the records of this case were elevated to this Court on December 8, 2010, pursuant to the CA Resolution dated June 23, 2010, which gave due course to the notice of appeal filed by accused- appellant. In compliance with this Court's Resolution dated January 12, 2011, the parties submitted their respective manifestations stating that they are no longer filing Supplemental Briefs with this Court and are adopting all the allegations, issues and arguments adduced in their Briefs before the CA.

This Court sustains accused-appellant's conviction.

The law presumes that an accused in a criminal prosecution is innocent until the contrary is proven. This basic constitutional principle is fleshed out by procedural rules which place on the prosecution the burden of proving that an accused is guilty of the offense charged by proof beyond reasonable doubt. Whether the degree of proof has been met is largely left to the trial courts to determine. However, an appeal throws the whole case open for review such that the Court may, and generally does, look into the entire records if only to ensure that no fact of weight or substance has been overlooked, misapprehended, or misapplied by the trial court.^[9]