

## FIRST DIVISION

**[ G.R. No. 200531, December 05, 2012 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RADBY ESTOYA Y MATEO, ACCUSED-APPELLANT.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

For Our resolution is the appeal filed by accused-appellant Radby M. Estoya (Estoya) from the Decision<sup>[1]</sup> dated April 28, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04364, which affirmed with modification the Decision<sup>[2]</sup> dated February 26, 2010 of the Regional Trial Court (RTC) of Malolos, Bulacan, in Criminal Case No. 1136-M-O6, finding Estoya guilty of raping AAA.<sup>[3]</sup>

Estoya was charged through an Information<sup>[4]</sup> filed with the RTC by the Office of the City Prosecutor of Bulacan on April 24, 2006, which reads:

That on or about the 5<sup>th</sup> day of April, 2006, in x x x and within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of the innocence of the offended party, [AAA], a minor 14 years of age, by means of force, threats, and intimidation, did then and there willfully, unlawfully and feloniously, with lewd designs, have carnal knowledge of said [AAA], against her will and without her consent, thereby placing said minor in conditions prejudicial to her normal growth and development.

When arraigned on June 5, 2006, Estoya pleaded not guilty.<sup>[5]</sup> Trial on the merits followed.

The prosecution presented three witnesses: (1) AAA, the victim; (2) BBB, AAA's aunt; and (3) CCC, AAA's brother.<sup>[6]</sup> The prosecution also submitted, among other documentary evidence, AAA's Birth Certificate,<sup>[7]</sup> establishing that AAA was born on September 18, 1991 and was 14 years old at the time of the incident; and the Medico Legal Report<sup>[8]</sup> of Dr. Pierre Paul F. Carpio (Carpio) dated April 5, 2006, finding "a shallow fresh laceration at 6 o'clock position" of the hymen and "clear evidence of penetrating trauma to the hymen."

The defense offered as sole evidence Estoya's testimony.

On February 26, 2010, the RTC rendered its Decision finding Estoya guilty beyond reasonable doubt of raping AAA and sentencing him as follows:

WHEREFORE, premises considered, the Court finds the accused guilty beyond reasonable doubt of the crime of rape as charged herein and hereby sentences him to suffer the penalty of RECLUSION PERPETUA.

The accused is likewise directed to indemnify the private complainant in the amount of ONE HUNDRED THOUSAND (P100,000.00) PESOS.<sup>[9]</sup>

Aggrieved by the above decision, Estoya filed an appeal before the Court of Appeals.

The Office of the Solicitor General summarized the evidence for the prosecution in Plaintiff-Appellee's Brief, to wit:

During her school vacation in 2006 while her parents were in x x x, AAA stayed at the house of her maternal aunt, BBB, in x x x. Appellant Radby Estoya lives six (6) to seven (7) meters away from BBB's house.

On April 5, 2006, around 3:00 o'clock in the afternoon, AAA was sleeping on her aunt's bed when she was awakened because someone was on top of her. When she realized that it was appellant, she attempted to shout but her resistance was subdued by his threat that he will stab her with a knife. She realized that appellant had undressed her and suddenly felt appellant's penis entering her vagina. Due to fear, the two (2) nephews of AAA and her brother CCC, hurriedly ran out of the house to report AAA's ordeal to DDD, a neighbor.

After satisfying his lust, appellant ran away and climbed to the roof of the house. However, he immediately returned to the room and taunted AAA to report to the police if she can prove that rape was committed. Then appellant left.

Soon after, CCC and DDD arrived and saw AAA crying on the bed. DDD accompanied AAA to the police station to report the incident and later, accompanied her to the doctor for physical examination. The medical examination yielded the following result: a shallow fresh laceration at 6:00 o'clock position and clear evidence of penetrating trauma to the hymen.<sup>[10]</sup> (Citations omitted.)

Estoya very briefly stated his defense in his Accused-Appellant's Brief, thus:

Accused **Radby Estoya**, x x x, a 22-year old resident of Sweden Street, Harmony 1, San Jose Del Monte City, denied the imputation against him. In truth, he was cleaning his house with his nephews and nieces. Although he knew the private complainant, he was not close to her as she was, at that time, a plain acquaintance and neighbor.<sup>[11]</sup>

In its Decision dated April 28, 2011, the Court of Appeals affirmed Estoya's conviction by the RTC, but modified the damages awarded to AAA. The appellate

court decreed:

**WHEREFORE**, premises considered, the appeal is **DENIED**. The assailed February 26, 2010 Decision is however **MODIFIED** by reducing the award of civil indemnity to P50,000.00 and granting on the other hand the awards of moral damages in the amount of P50,000.00 and exemplary damages in the amount of P25,000.00.<sup>[12]</sup>

Hence, Estoya comes before us through the instant appeal with the same lone assignment of error which he raised before the Court of Appeals:

THE COURT A *QUO* GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT FOR THE CRIME OF RAPE DESPITE THE PROSECUTION'S FAILURE TO CONVINCINGLY PROVE HIS GUILT.<sup>[13]</sup>

Estoya admits that although he was not able to adduce any evidence to corroborate his denial and alibi, he should not be convicted based on the weakness of his evidence. Citing *People v. Manansala*,<sup>[14]</sup> Estoya argues that the evidence for the prosecution must stand or fall on its own merits and cannot draw strength from the weakness of the evidence for the defense. Estoya points out several purported inconsistencies, ambiguities, and improbabilities in the evidence of the prosecution, viz, (1) CCC alleged in his *Sinumpaang Salaysay* that he was able to enter the house and thereupon, he saw AAA naked and crying while Estoya was on top of AAA, but on cross-examination, CCC admitted that he only saw AAA crying as Estoya already closed the door and CCC was unable to enter the house; (2) BBB's testimony was hearsay because she was in Manila at the time of the incident and she only received a text message from her sister, AAA's mother, that AAA had been raped; (3) AAA testified that Estoya surreptitiously entered the room where AAA was sleeping, however, it is very doubtful that Estoya could have gained entrance into the house with no one from the household noticing; and (4) it is contrary to human experience that AAA, as she was being raped, did not cry out aloud or manifest a tenacious resistance to repel the impending threat on her honor.

We find no merit in Estoya's appeal.

Estoya's appeal primarily hinges on the issue of credibility of the prosecution witnesses. It is axiomatic that when it comes to evaluating the credibility of the testimonies of the witnesses, great respect is accorded to the findings of the trial judge who is in a better position to observe the demeanor, facial expression, and manner of testifying of witnesses, and to decide who among them is telling the truth.<sup>[15]</sup> After a painstaking review of the records of this case, including the exhibits and transcript of stenographic notes, we find no reason to deviate from the findings and conclusions of the RTC.

The Revised Penal Code, as amended, describes the different ways by which rape is committed:

Article 266-A. *Rape, When and How Committed*. - Rape is committed -

**1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:**

**a) Through force, threat or intimidation;**

b) When the offended party is deprived of reason or is otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority;

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present. (Emphases ours.)

AAA's testimony, given positively and candidly, established the elements of carnal knowledge accomplished by Estoya through force, threat, and/or intimidation:

Prosecutor Joson:

Q On April 5, 2006 at around 3:00 in the afternoon, do you recall of any unusual incident that happened to you, which has connection with the name Radby Estoya y Mateo?

A There was, sir.

Q What was that unusual incident that happened to you on that particular date and time?

A He undressed me, sir.

Q When you said, "he undressed me", whom are you referring to?

A (The witness pointed to the accused)

Q Where were you at the time he undressed you?

A In the room, sir.

Q What were you doing?

A I was sleeping, sir.

Q When you said you were sleeping and he undressed you, do you mean that you were awakened?

A I was awakened when he placed himself on top of me, sir.

Q You said, "he undressed you." What clothes did he undress from you?

x x x x

A Lower apparel, sir.

x x x x

Q You said that he placed his body on top of you. What happened thereafter?

A I was awakened because he placed himself on top of me, sir. I just felt that something entered my vagina, sir.

Q What happened thereafter?

A I wanted to shout at that time but he threatened to stab me with a knife, sir.

Q What happened thereafter?

A Since my two (2) nephews went outside someone shouted "Ate [DDD], Ate [DDD], help my sister!" and then