

## THIRD DIVISION

[ G.R. No. 188108, February 21, 2011 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EVILIO MILAGROSA, APPELLANT.**

### R E S O L U T I O N

**BRION, J.:**

We decide in this Resolution the appeal filed by appellant Evilio Milagrosa from the November 27, 2008 decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02777.

On March 3, 2004, at around 7:00 in the morning, in the Province of Quezon, 16-year old<sup>[1]</sup> AAA<sup>[2]</sup> was alone in their house and had just finished washing the dishes when a person (later identified as Evilio Milagrosa) came. Evilio grabbed AAA and forcibly carried her to a grassy area outside the house. AAA struggled but Evilio, who was stronger, prevailed. She was also frightened when she noticed a *balisong* tucked at Evilio's waist. Evilio removed AAA's clothes, inserted his penis into her vagina, thereby consummating sexual intercourse with AAA. Evilio thereafter left, cautioning AAA not to tell anyone about the incident.<sup>[3]</sup>

Evilio was charged with the crime of rape. He argues that he could not have carried AAA to the grassy area as she insisted; it was 7:00 in the morning and the neighbors would have heard her screams. She could also have easily grabbed his *balisong* and struck him with it. Finally, he raised *alibi* as his defense stating that he was in Camp Crame at that time.

The prosecution presented AAA as its sole witness. AAA testified that she had known Evilio for a long time as he was a friend of her father. She added that their house is in an isolated place; from there, she cannot even see the house of their nearest neighbor.<sup>[4]</sup>

After trial, the Regional Trial Court (RTC), Branch 63, Calauag, Quezon, found AAA's testimony credible, and convicted Evilio of the crime of rape. He was sentenced to suffer the penalty of *reclusion perpetua* and to pay the victim P50,000.00 as civil indemnity and P50,000.00 as moral damages.<sup>[5]</sup>

On appeal, the CA ruled that the prosecution successfully proved beyond reasonable doubt the appellant's guilt. It found that the positive and competent testimony of AAA was enough to convict Evilio. The CA also reasoned that it was not altogether impossible for Evilio to forcibly carry AAA to the grassy area. Evilio, although 55 years old, was not old or weak; he was then still working as a carpenter. A carpenter's job is physical and Evilio had the required physical strength to overpower a 16-year old girl. Neither could AAA be faulted for not grabbing and using Evilio's *balisong* as she did not have the maturity for this kind of reaction and