

THIRD DIVISION

[G.R. No. 189821, March 23, 2011]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ANTONIO OTOS
ALIAS ANTONIO OMOS, APPELLANT.**

RESOLUTION

BRION, J.:

We resolve the appeal filed by appellant Antonio Otos^[1] from the February 25, 2009 Decision of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00393.^[2]

THE FACTUAL ANTECEDENTS

On October 10, 2000, the appellant was charged^[3] in the Regional Trial Court (RTC), Branch 2, Tagum City, Davao del Norte,^[4] with multiple rape^[5] committed against his five-year old stepdaughter AAA^[6] on June 24, 2000. The appellant pleaded not guilty on arraignment. AAA testified on the details of the crime in the trial that followed.

The evidence shows that in the evening of June 14, 2000, the appellant brought AAA to the cornfield in their farm. He laid the victim down, took off her panty, and inserted his penis into her vagina.^[7] AAA felt extreme pain. Thereafter, he went home, threatening AAA not to tell her mother about the incident or he would kill her.^[8] AAA testified that after June 14, 2000, the appellant raped her "many" times. AAA suffered stomach ache and felt pain whenever she urinated. When the appellant went away to sell bananas, AAA told her mother, BBB, about the incidents.^[9] BBB got mad at the appellant; she and AAA left the house thereafter. The medical examination revealed that AAA had an "inflamed *labia minora* with multiple abrasions" and that she suffered from a urinary tract infection.^[10]

The appellant denied the accusations against him,^[11] claiming that BBB fabricated the charge out of anger because he had struck her and ejected her from the house.^[12]

THE RTC RULING

In its November 29, 2005 Decision,^[13] the RTC found the appellant guilty of qualified rape. It gave credence to the candid testimony of AAA, who was only six years old when she testified, and rejected the appellant's argument that there was no medical evidence that his penis entered AAA's vagina. It sentenced the appellant to suffer the penalty of death. It also ordered the appellant to pay AAA P100,000.00 as civil indemnity and to pay the costs.

THE CA RULING

On intermediate appellate review, the CA affirmed the RTC's appreciation of AAA's clear, straightforward and spontaneous testimony pointing to the appellant as her rapist. In rejecting the appellant's argument that AAA was only suffering from urinary tract infection caused by poor hygiene or fingernail scratches, the appellate court noted that the medical findings of "inflamed *labia minora* with multiple abrasions" were consistent with AAA's allegation of rape.

The CA found that the appellant cannot be sentenced to death because there was no independent evidence to prove that AAA was below 7 years old. It also noted that the relationship of the appellant to AAA as the latter's stepfather was incorrectly alleged in the information; both AAA and the appellant testified that the latter was merely the common-law spouse of BBB. Thus, the CA downgraded the appellant's offense to simple rape and sentenced him to suffer the penalty of *reclusion perpetua*. It ordered the appellant to indemnify AAA P50,000.00 as moral damages, P50,000.00 as civil indemnity, and P25,000.00 as exemplary damages in view of the minority of the victim.

From the CA, the case is now with us for our final review.

OUR RULING

We affirm the appellant's conviction.

We see no reason to disturb the findings of the RTC, as affirmed by the CA. Where the victim is a child, the absence of medical evidence of penetration does not negate the commission of rape. The presence of hymenal lacerations is not a required element in the crime of rape.^[14] What is essential is evidence of penetration, however slight, of the *labia minora*, which circumstance was proven beyond doubt by the testimony of AAA.^[15] Besides, the prime consideration in the prosecution of rape is the victim's testimony, not necessarily the medical findings; a medical examination of the victim is not indispensable in a prosecution for rape. The victim's testimony alone, if credible, is sufficient to convict.^[16] AAA was categorical and straightforward in narrating the sordid details of how the appellant ravished her.

We find that the CA correctly downgraded the appellant's offense to simple rape due to the prosecution's failure to present AAA's birth certificate or other authentic document (such as a baptismal certificate), and to make a positive and unequivocal manifestation that AAA was indeed five years old at the time of the incident.^[17] Accordingly, the appellant can only be sentenced to suffer the penalty of *reclusion perpetua*. In line with prevailing jurisprudence,^[18] the award of P25,000.00 as exemplary damages must be increased to P30,000.00.

WHEREFORE, the February 25, 2009 decision of the Court of Appeals in CA-G.R. CR-HC No. 00393 is hereby **AFFIRMED** with **MODIFICATION**. Appellant Antonio Otos alias Antonio Omos is found guilty beyond reasonable doubt of Simple Rape and sentenced to suffer the penalty of *reclusion perpetua*. He is also ordered to pay AAA P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages.