

## FIRST DIVISION

[ G.R. No. 174861, April 11, 2011 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. REYNALDO  
OLESCO Y ANDAYANG,<sup>[1]</sup> APPELLANT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

"In rape, the 'sweetheart' defense must be proven by compelling evidence: *first*, that the accused and the victim were lovers; and, *second*, that she consented to the alleged sexual relations. The second is as important as the first, because this Court has held often enough that love is not a license for lust."<sup>[2]</sup>

On appeal is the May 30, 2006 Decision<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00701 which affirmed in its entirety the September 23, 2003 Decision<sup>[4]</sup> of the Regional Trial Court of Parañaque City, Branch 258 finding appellant Reynaldo Olesco guilty beyond reasonable doubt of the crime of rape.

#### ***Factual Antecedents***

On November 5, 2001, an Information<sup>[5]</sup> was filed charging appellant with rape committed as follows:

That on or about the 17<sup>th</sup> day of October 2001, in "BBB,"<sup>[6]</sup> "CCC," and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with the complainant "AAA," 18 years old, against her will and consent.

CONTRARY TO LAW.

During his arraignment, appellant entered a plea of "not guilty."<sup>[7]</sup> Thereafter, trial ensued.

The facts of the case as narrated in the Decision of the appellate court are as follows:

The evidence for the prosecution shows that on October 17, 2001, at around 10:00 o'clock in the evening, "AAA," accompanied x x x her cousin in going out of "DDD" in "BBB." On her way back home, "AAA" passed by a bakery where Olesco was working. Thereafter, somebody pulled her and covered her mouth with a hanky which caused her to be

unconscious. When she regained consciousness at around 11:00 o'clock p.m., "AAA" found herself naked beside Olesco inside a room located near the bakery. Her whole body ached, especially her cheeks, tummy and her private part. "AAA" then slapped the accused three times and asked him why he raped her. Olesco answered that he would kill her should she report the incident to the police. After a while, accused told her to go home. She dressed up immediately and went home running.

When she arrived home, "AAA" told her cousin "EEE" about what happened. After two (2) days, "AAA" reported the incident to the barangay. The barangay officials asked her the whereabouts of the accused which she did not know then as she saw the accused [only] once and knows him only by face since at that time, she was just a week old in "DDD."

"AAA" explained that she was able to report the incident to the barangay officials two days after it happened since when she woke up in the morning of October 18, 200<sup>[1]</sup>, it was already 9:00 o'clock a.m. and she could not stand as her whole body ached.

Thereafter, the barangay officials referred the matter to the police. An investigation was subsequently conducted. Thereafter, "AAA" was referred to the Philippine National Police Crime Division, Camp Crame, Quezon City, for medico-legal examination.

On October 20, 2001, Dr. Jericho Angelito Q. Cordero, a Medico-Legal Officer based at the Philippine National Police Crime Laboratory, Camp Crame, Quezon City, conducted a physical and genital examination on "AAA." x x x

x x x x

According to Dr. Cordero, at the time of the examination, "AAA" was in a non-virgin state physically which means that she had a previous intercourse x x x about ten days or maybe a year ago. "AAA" had also a lacerated wound with a healing period of about ten (10) to fifteen (15) days caused by a hard, blunt instrument inserted into her vagina like a finger or an erect penis which would fit and succumb to elasticity or x x x a stick. He also testified that the laceration of the victim was consistent with the time of the alleged commission of the crime. He likewise testified that "AAA" told him that she only discovered the wounds when she woke up [naked] at about 10:00 o'clock in the evening of October 17, 200<sup>[1]</sup> with Olesco beside her x x x. Aside from his Initial Medico-Legal Report, he likewise made his Final Report No. M-2674-01 (Exhibit "E") whereby he concluded that there are no external signs of any form of trauma on the external genital area which has a deep healed laceration consistent with sexual intercourse.

Olesco denied having raped "AAA" and put up the "sweetheart defense". He testified that he worked as a baker for five (5) months in a bakery inside "FFF," "BBB," owned by Rafael Arimado. Prior to the alleged rape

incident, "AAA" used to buy bread in the bakery. He came to know her when "AAA" introduced herself x x x. After three months, he and "AAA" became sweethearts. According to Olesco, there is no truth to the complaint filed against him by "AAA." He alleged that it was "AAA" who went to him at the bakery at around 7:00 o'clock in the evening of October 17, 2001. "AAA" wanted him to go with her [to her] province in Leyte, to which he agreed. The room referred to by "AAA" is for the female workers near the bakery where they talked in the presence of their employer. Che-Che and Alex, his co-workers, Jerry and Annalyn Arimando were also inside the room when they entered but they went out. He further testified that during his second month stay in the bakery, he got attracted to "AAA" whom he used to see every afternoon and they talked even for just a minute until he proposed his love to her x x x. When they became steady, there were occasions that they kissed each other, held hands and x x x even made love in a room beside the bakery prior to October 17, 2001 at around 9:00 o'clock in the evening and thereafter, "AAA" left at 10:00 o'clock. However, on October 18, 2001, "AAA" had him arrested by the barangay tanods [who] brought [him] to the Coastal Police Headquarters.<sup>[8]</sup>

### ***Ruling of the Regional Trial Court***

On September 23, 2003, the RTC rendered its Decision disposing as follows:

In fine, the Court finds accused, REYNALDO OLESCO Y ONDAYANG liable for SIMPLE RAPE under Article 266-A, par. 1 3(b) in relation to Art. 266-B of the Revised Penal Code as amended by R.A. 8353 and the penalty to be meted the accused should be RECLUSION PERPETUA in the absence of any aggravating or qualifying circumstance which is from twenty (20) years and one (1) day to forty (40) years of imprisonment.

Moreover, accused has to indemnify the private complainant the amount of P50,000.00 as civil indemnity as well as the amount of P50,000.00 as moral damages. This is because "under the present case law, an award of P50,000.00 as civil indemnity is mandatory upon finding of the fact of rape. This is exclusive of the award of moral damages of P50,000.00 without need of further proof as it is now recognized as inherently concomitant with and necessarily proceeds from the appalling crime of rape which per se warrants an award for moral damages. (People v. Caratay, 316 SCRA 251).

WHEREFORE, the prosecution having been able to prove the guilt of accused, REYNALDO OLESCO y ONDAYANG beyond reasonable doubt of the crime of SIMPLE RAPE defined and punished under Art. 266-A, par. 1[, ] 3(b) in relation to Art. 266-B of the Revised Penal Code as amended by R.A. 8353[, ] accused REYNALDO OLESCO y ONDAYANG is hereby sentenced to suffer the penalty of RECLUSION PERPETUA.

Pursuant to existing jurisprudence, accused REYNALDO OLESCO y ONDAYANG, is ordered to indemnify "AAA," the private complainant, the

amount of P50,000.00 as civil indemnity and P50,000.00 as moral damages.

No pronouncement as to cost.

SO ORDERED.<sup>[9]</sup>

In finding appellant guilty beyond reasonable doubt of the crime of rape, the RTC noted that "AAA" positively identified appellant as the malefactor;<sup>[10]</sup> that appellant failed to rebut the testimony of the victim<sup>[11]</sup> or impute ill-motive on her part;<sup>[12]</sup> and that "AAA's" testimony was brief, clear, and straightforward<sup>[13]</sup> and supported by the medical findings.<sup>[14]</sup> Moreover, the RTC observed that appellant's "sweetheart defense" lacked sufficient and convincing proof;<sup>[15]</sup> neither was it substantiated by any documentary and/or other evidence like mementos, love letters, notes, pictures and the like. Worse, appellant did not present his employer or any of his co-workers to corroborate his claim that he and "AAA" were sweethearts and that "AAA" used to frequent his place.<sup>[16]</sup> The RTC also held that assuming "AAA" and appellant were sweethearts, it does not serve as license or justification to commit rape.<sup>[17]</sup>

On September 30, 2003, appellant filed his Notice of Appeal<sup>[18]</sup> which was given due course by the trial court.<sup>[19]</sup>

### ***Ruling of the Court of Appeals***

On appeal, the appellate court affirmed the trial court's Decision *in toto*, viz:

WHEREFORE, the assailed September 23, 2003 Decision of the Regional Trial Court of Parañaque City, Branch 258, in Criminal Case No. 01-01193, is hereby AFFIRMED in its entirety.

SO ORDERED.<sup>[20]</sup>

Hence, this appeal.

### ***The Parties' Arguments***

Appellee maintains that appellant's guilt was proven beyond reasonable doubt.

On the other hand, appellant claims that he was denied his right to due process considering that as alleged in the Information, the rape was committed through the use of force and intimidation. However, what was established by the prosecution is the fact that "AAA" was unconscious when she was raped. Appellant also insists that there was nothing in "AAA's" testimony that would indicate that appellant had sexual intercourse with her. Appellant likewise insists that no sufficient evidence was presented to prove his culpability. He argues that "AAA's" testimony is ambiguous and full of discrepancies. He opines that "AAA's" claim that she lost consciousness