

SECOND DIVISION

[G.R. No. 188897, June 06, 2011]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. IRENO BONAAGUA
Y BERCE, APPELLANT.**

D E C I S I O N

PERALTA, J.:

Ireno Bonaagua (Ireno) seeks the reversal of the Decision ^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03133 convicting him with three (3) counts of Statutory Rape under Paragraph 2, Article 266-A of the Revised Penal Code (RPC), as amended, in relation to Republic Act No. 7610 (R.A. No. 7610) and Acts of Lasciviousness under Section 5 (b) of R.A. No. 7610.

The factual and procedural antecedents are as follows:

In four (4) separate Informations, Ireno was charged by the Office of the City Prosecutor of Las Piñas City with four (4) counts of Rape under Paragraph 2, Article 266-A of the RPC, as amended, in relation to R.A. No. 7610, for inserting his tongue and his finger into the genital of his minor daughter, AAA. ^[2]

The accusatory portion of the Information in Criminal Case No. 03-0254 against Ireno reads:

That on or about the month of December 1998 in the City of Las Piñas and within the jurisdiction of this Honorable Court, the above-named accused, with abuse of influence and moral ascendancy, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously insert his tongue and finger into the genital of his daughter, [AAA], a minor then eight (8) years of age, against her will and consent.

CONTRARY TO LAW and with the special aggravating/qualifying circumstance of minority of the private offended party, [AAA], being then only eight (8) years of age and relationship of the said private offended party with the accused, Ireno Bonaagua y Berce, the latter being the biological father of the former. ^[3]

The Information in Criminal Case No. 03-0255 ^[4] has the same accusatory allegations while the Informations in Criminal Case Nos. 03-0256 ^[5] and Criminal Case Nos. 03-0257 ^[6] are similarly worded, except for the date of the commission of the crime and the age of AAA, which are December 2000 and ten (10) years old, respectively.

The cases were later consolidated [7] and upon his arraignment, Ireno pleaded not guilty to the four (4) counts of rape with which he was charged. Consequently, trial on the merits ensued.

At the trial, the prosecution presented the testimonies of the victim, AAA; the victim's mother; and Dr. Melissa De Leon. The defense, on the other hand, presented the lone testimony of the accused as evidence.

Evidence for the Prosecution

The prosecution established that in 1998, AAA and her mother left their house in Candelaria, Quezon to spend the Christmas with accused-appellant in Las Piñas City. They stayed in the house of a certain Lola Jean, the godmother in the wedding of her parents, at Sta. Cecilia Subdivision, Las Piñas City.

AAA was inside a room lying in bed one afternoon while her younger brothers were playing outside the house and her mother was not home. Accused-appellant entered the room. He approached her, rolled her shirt upward, and removed her shorts and panty. She tried to resist by putting her clothes back on, but her father's strength prevailed. Thereafter, accused-appellant touched and caressed her breasts. He licked her vagina then inserted his finger into it.

In the evening of the same day, the accused-appellant raped AAA again in the same manner and under the same circumstances. AAA did not tell her mother that she was raped because accused-appellant threatened to kill her mother by placing the latter's body in a drum and have it cemented if she would report the incidents. She returned to Quezon with her mother before the end of the Christmas season.

In December 1999, AAA was raped by accused-appellant for the third time when he went to Candelaria, Quezon. In December 2000, AAA and her mother spent the Yuletide season with accused-appellant in Pulanglupa, Las Piñas City. In a single day, AAA was raped for the fourth and fifth time. While spending the afternoon inside her father's room at the car-wash station, he removed her shorts and panty then proceeded to touch and insert his finger into her vagina. Accused-appellant repeated the same sexual assault shortly thereafter. AAA again did not report these incidents for fear that her mother would be killed and cemented inside a drum.

On January 26, 2001, AAA complained of severe abdominal pain which prompted her mother to take her to Gregg Hospital in Sariaya, Quezon. AAA was transferred to the Quezon Memorial Hospital in Lucena City where Dr. Melissa De Leon performed on her a physical examination. The results revealed that there was a healed superficial laceration at the 9 o'clock position on the hymen of AAA. This medical finding forced AAA to reveal to her mother all the incidents of rape committed by accused-appellant.

After being discharged from the hospital, AAA's mother took her to the Police Headquarters of Sariaya, Quezon to file a complaint for rape against accused-appellant. AAA's mother also took her to the office of the National Bureau of Investigation in Legaspi City where she executed a sworn statement against accused-appellant. [8]

Evidence for the Defense

Accused-appellant denied committing the charges of rape hurled against him. He claimed to be working in Las Piñas City while AAA, her mother and siblings where (sic) in Sariaya, Quezon at the time the alleged rapes occurred. While he admitted that there were times when AAA and her mother would visit him in Las Piñas City, he nonetheless averred that they would leave on the same day they arrived after he gives them money.

Accused-appellant asserted further that the charges of rape against him were fabricated by AAA's mother, who suspected him of having an affair with another woman in Las Piñas City. [9]

On August 6, 2007, the Regional Trial Court (RTC), after finding the evidence for the prosecution overwhelming against the accused's defense of denial and alibi, rendered a Decision [10] convicting Ireno with four (4) counts of Rape, the dispositive portion of which reads:

WHEREFORE, premises considered, there being proof beyond reasonable doubt that accused IRENO BONAAGUA, has committed four (4) counts of RAPE under par. 2 of Article 266-A of the Revised Penal Code, as amended, in relation to R.A. 7610, as charged, the Court hereby pronounced him GUILTY and sentences him to suffer the penalty of RECLUSION PERPETUA for each case and to pay private complainant [AAA], the amount of Php50,000 for each case, or a total of Php200,000, by way of civil indemnity plus Php50,000 for each case or a total of Php200,000 as moral damages.

Costs against the accused.

SO ORDERED. [11]

Aggrieved, Ireno appealed the Decision before the CA, which appeal was later docketed as CA-G.R. CR-H.C. No. 03133.

On March 31, 2009, the CA rendered a Decision [12] affirming the decision of the RTC with modifications on the imposable penalty in Criminal Case Nos. 03-0254, 03-0256, and 03-0257, and finding Ireno guilty of Acts of Lasciviousness under Section 5 (b) of R.A. No. 7610, instead of Rape, in Criminal Case Nos. 03-0255, the decretal

portion of which reads:

WHEREFORE, the Decision of the Regional Trial Court of Las Piñas City, Branch 254, finding Ireno Bonaagua y Berce guilty beyond reasonable doubt of the crime of rape is **AFFIRMED with MODIFICATIONS**:

1. Ireno Bonaagua y Berce is hereby sentenced to suffer the indeterminate penalty of 12 years of *prision mayor*, as minimum, to 20 years of *reclusion temporal*, as maximum, for each rape in Criminal Case Nos. 03-0254, 03-0256 and 03-0257 and is ordered to pay AAA the amount of P25,000.00 as exemplary damages in each case, apart from the civil indemnity and moral damages that have already been awarded by the trial court;

2. Ireno Bonaagua y Berce is hereby held guilty beyond reasonable doubt of the crime of acts of lasciviousness in Criminal Case No. 03-0255, with relationship as an aggravating circumstance. He is, accordingly, sentenced to suffer the indeterminate penalty of 12 years and 1 day to 17 years and 4 months of *reclusion temporal* in its minimum and medium periods and ordered to pay AAA the amount of PhP15,000 as moral damages and a fine of PhP15,000.00.

SO ORDERED. [13]

In fine, the CA found Ireno's defense of denial and alibi inherently weak against the positive identification of AAA that he was the culprit of the horrid deed. Thus, aside from modifying the imposable penalty in Criminal Case Nos. 03-0254, 03-0256 and 03-0257, the CA affirmed the decision of the RTC finding Ireno guilty of the crime of Rape Through Sexual Assault.

In Criminal Case No. 03-0255, however, after a diligent review of the evidence adduced by the prosecution, the CA only found Ireno guilty of the crime of Acts of Lasciviousness under Section 5 (b) of R.A. No. 7610. The CA opined that since the prosecution failed to establish the act of insertion by Ireno of his finger into the vagina of AAA, Ireno could only be found guilty of Acts of Lasciviousness, a crime which is necessarily included in the Information filed against him in Criminal Case No. 03-0255.

Ireno now comes before this Court for relief.

In a Resolution [14] dated December 16, 2009, the Court informed the parties that they may file their respective supplemental briefs if they so desire. In their respective Manifestations, [15] the parties waived the filing of their supplemental briefs and, instead, adopted their respective briefs filed before the CA.

Hence, Ireno raises the lone error:

The COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME OF RAPE DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT. [16]

Simply put, Ireno maintains that the testimony of AAA was replete with inconsistencies and was extremely unbelievable. Ireno insists that the allegation that he inserted his tongue and finger into the genital of AAA was manifestly incredible as the deed is physiologically impossible. Moreover, the medical findings are grossly inconclusive to prove that AAA was raped, since it only established that there was only one healed superficial laceration.

This Court, however, finds the arguments raised by Ireno untenable. To determine the innocence or guilt of the accused in rape cases, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense. [17]

After perusing the testimony of the victim, AAA, the prosecution has indubitably established that Ireno was the one who sexually assaulted her. AAA categorically narrated that Ireno sexually abused her on several occasions and even threatened AAA that he would kill her mother if she would report the incidents.

Time and again, this Court has consistently held that in rape cases, the evaluation of the credibility of witnesses is best addressed to the sound discretion of the trial judge whose conclusion thereon deserves much weight and respect because the judge had the direct opportunity to observe them on the stand and ascertain if they were telling the truth or not. Generally, appellate courts will not interfere with the trial court's assessment in this regard, absent any indication or showing that the trial court has overlooked some material facts of substance or value, or gravely abused its discretion. [18]

It is well entrenched in this jurisdiction that when the offended parties are young and immature girls, as in this case, courts are inclined to lend credence to their version of what transpired, considering not only their relative vulnerability, but also the shame and embarrassment to which they would be exposed if the matter about which they testified were not true. [19] A young girl would not usually concoct a tale of defloration; publicly admit having been ravished and her honor tainted; allow the examination of her private parts; and undergo all the trouble and inconvenience, not to mention the trauma and scandal of a public trial, had she not in fact been raped and been truly moved to protect and preserve her honor, and motivated by the desire to obtain justice for the wicked acts committed against her. [20] Moreover, the Court has repeatedly held that the lone testimony of the victim in a rape case, if credible, is enough to sustain a conviction. [21]