

## SECOND DIVISION

[ G.R. No. 178318, January 15, 2010 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDGARDO ESTRADA, APPELLANT.**

### **D E C I S I O N**

**DEL CASTILLO, J.:**

*A bud plucked from the stalk  
would never have its chance to blossom.  
A young plant prematurely clipped of its branches  
would never develop and grow to its full and natural potential.  
Both would need care and attention to be able to recover and mend.  
In the ultimate end, however, what has been lost could never be regained or  
restored.*

This is exactly what happened to "AAA",<sup>[1]</sup> a barrio lass from Atimonan, Quezon, who was robbed of her innocence not once but twice in July 1997. Worse, it was her paternal uncle who perpetrated the lecherous acts and precipitately initiated her to the ways of the world. "AAA" was only 12-years old when defiled.

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

On November 19, 1997, two similarly-worded Informations were filed against appellant Edgardo Estrada charging him with two counts of Rape committed as follows:

That on or about the month of July 1997, at Barangay x x x, in the Municipality of Atimonan, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, who is the uncle of the offended party, with lewd design, by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one "AAA", a minor, 12 years of age, against her will.

Contrary to law.<sup>[2]</sup>

The cases were docketed as Criminal Case Nos. 5746-G & 5747-G and raffled to Branch 61 of the Regional Trial Court of Gumaca, Quezon. Appellant was arraigned on January 20, 1998, and pleaded "not guilty". Trial on the merits thereafter ensued.

The prosecution presented "AAA" as its first witness. She testified that since she was

about seven years old, she lived in the house of her grandmother in Atimonan, Quezon. Her mother was staying in Manila while her father died when she was only an infant. Sometime in July 1997, she was sleeping side by side with her uncle, herein appellant, when the latter suddenly placed his knees between her thighs and proceeded to remove her clothes. Appellant who was already naked went on top of her and inserted his penis in her vagina. "AAA" tried to resist but appellant pinned her hands above her head. After having carnal knowledge of "AAA", appellant told her not to report to anyone what had transpired or she would be killed.

After the rape incident, "AAA" stayed at her grandfather's house which was likewise located in the same *barangay* where her grandmother's house was situated. She thought that she would be safe there. However, she was grievously mistaken. One evening, also in the month of July 1997, appellant arrived thereat and again raped "AAA". While the latter was sleeping, appellant poked a knife at her and ordered her to remove her clothes. "AAA" was cowed into submission and appellant succeeded in sexually assaulting her for the second time. "AAA's" grandfather who was sleeping nearby did not even notice what was happening as the latter was hard of hearing.

As proof that "AAA" was only 12 years old when the rape incidents transpired, she presented her Birth Certificate showing that she was born on May 1, 1985.

On the other hand, appellant was 51 years old and married. He admitted that "AAA" is his niece, the latter being the daughter of his brother. However, he denied raping "AAA" on two occasions. He claimed that he lived in Poblacion, Atimonan, Quezon, which is approximately seven kilometers away from where the victim lived. He alleged that he never went to his parents' houses; instead, it was his mother who made occasional visits to his house. He insisted that the charges were filed against him because "AAA" resented his advice not to socialize with boys because she was still young.

The other defense witness was Irene. She testified that "AAA" is her granddaughter and that appellant is her son. She narrated that although "AAA" used to live in her house, she was not aware of any rape incident having been committed thereat. She admitted though that she loved her son more than she loved her granddaughter.

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

On August 16, 2002, the trial court rendered its Decision<sup>[3]</sup> finding appellant guilty of qualified rape on two counts and sentenced him to suffer the supreme penalty of death. The trial court found that the qualifying circumstances of minority and relationship were both satisfactorily established by the prosecution. The dispositive portion of the Decision reads:

WHEREFORE, the Court finds the accused Edgardo Estrada GUILTY beyond reasonable doubt of the crime of RAPE on two (2) counts defined and punishable under Article 335 of the Revised Penal Code as amended by Republic Act 7659 and hereby sentences him to suffer the penalty of DEATH for each rape and to indemnify the complainant in the amount of P75,000.00 or a total of P150,000.00; and to pay P50,000.00 or a total of P100,000.00 as moral damages and the amount of P30,000.00 or a total of P60,000.00 as exemplary damages to deter others from

committing the same crime.

Costs against the accused.<sup>[4]</sup>

The trial court found that the prosecution satisfactorily proved all the elements of rape. During the first rape, the appellant employed violence against the person of the victim by pinning her hands above her head. She was likewise threatened with bodily harm in case she reports what happened. During the second rape, he poked a knife at her and succeeded in having carnal knowledge of her.<sup>[5]</sup>

The qualifying circumstances of minority and relationship were likewise appreciated by the trial court. Based on the Birth Certificate presented by the prosecution, it was established that the victim was a 12-year old minor when she was ravished on two occasions in July 1997. On the other hand, the trial court held that the parties' relationship with each other was established by their testimonies. Appellant testified that "AAA" is his niece while the latter admitted that appellant is her uncle.

The trial court was not persuaded by the defenses of alibi and denial proffered by the appellant. It found the same barren and undeserving of any credence *vis-à-vis* "AAA's" categorical testimony. Thus:

Accused's denial is also an intrinsically weak defense. To merit credibility, it must be buttressed by strong evidence of non-culpability x x x. The rule is that affirmative testimony is stronger than a negative one, especially when it comes from the mouth of a credible witness x x x. It was keenly observed by the Court that "AAA" was emotionally affected as she recalled the harrowing experiences she suffered from her uncle as she had to wipe the tears from time to time as she testified. As between a categorical testimony which has a ring of truth on one hand, and a bare denial on the other, the former is generally held to prevail. x x x A mere denial constitutes self-serving evidence which cannot be accorded greater evidentiary weight than the declaration of a credible witness who testifies on affirmative matters. x x x As against positive identification by the private complainant, mere denials of the accused cannot overcome conviction by the trial court. x x x<sup>[6]</sup>

Appellant's contention that "AAA" filed the charges against him because she did not take kindly to his advice not to associate with boys was briskly set aside by the court *a quo*. It found the same too lame a reason to charge one with a capital crime. Likewise, the court brushed aside Irene's corroborative account for being incredible and partial. The trial court found it inconceivable and not in accord with the traditional Filipino values and norms that a son would not visit his parents for years notwithstanding the fact that they lived only seven kilometers apart and the distance could easily be traversed by automobiles.

On appeal, appellant insisted that the trial court erred in convicting him because his guilt was not proven beyond reasonable doubt. He insisted that his conviction could not be based solely on the testimony of "AAA".

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

On January 31, 2007, the Court of Appeals rendered its Decision<sup>[7]</sup> affirming with modifications the Decision of the trial court. Just like the trial court, the appellate court found the victim's tale of defloration "simple, candid, straightforward and unflawed by any material or significant inconsistency thus deserving of full faith and credit".<sup>[8]</sup> The Court of Appeals noted that "AAA's" account contained "details of the sexual assaults only a real victim could remember and reveal, and narrated them in a manner only one who had undergone them could do".<sup>[9]</sup> Moreover, the victim's testimony was corroborated by the medical findings that she suffered hymenal lacerations.<sup>[10]</sup>

The Court of Appeals completely brushed aside appellant's imputation of ill-motives on the part of the victim. It found as too flimsy a reason that "AAA" resented her uncle's advice not to have any romantic interests motivating her to fabricate the rape charges against him.<sup>[11]</sup> It also gave short shrift to appellant's denial and alibi. Appellant's denial was disregarded in view of the victim's positive identification of him as the perpetrator of the crimes. His alibi was likewise rejected because of his failure to prove that it was impossible for him to be at the scene of the crimes at the time they were committed.

The Court of Appeals however deviated from the ruling of the trial court when it held that appellant should be held liable only for simple rape and not for qualified rape, notwithstanding the minority of the victim and the fact that her attacker was her uncle. The Court of Appeals opined that mere allegation in the Information that the appellant was the victim's uncle would not suffice to satisfy the special qualifying circumstance of relationship. It must be categorically stated that appellant is a relative within the 3<sup>rd</sup> civil degree by consanguinity or affinity.<sup>[12]</sup> Consequently, the award of civil indemnity was reduced to P50,000.00 for each count of rape.

The dispositive portion of the Decision of the Court of Appeals reads:

WHEREFORE, the assailed decision is AFFIRMED with MODIFICATIONS as follows:

1. finding appellant guilty of two counts of SIMPLE RAPE in Criminal Case Nos. 5746-G and 5747-G and sentencing him to suffer the penalty of *reclusion perpetua* for each count; and
2. reducing the civil indemnity awarded to the victim to P50,000.00 for each count of rape.

No costs.

SO ORDERED.<sup>[13]</sup>

Hence this appeal.

On October 8, 2007, we notified the parties that they may file their supplemental