

THIRD DIVISION

[G.R. No. 187155, February 01, 2010]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARIANO OFEMIANO ALIAS MANING, ACCUSED-APPELLANT.**

D E C I S I O N

VELASCO JR., J.:

The Case

This is an appeal from the November 10, 2008 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01356 entitled *People of the Philippines v. Mariano Ofemiano* which affirmed the July 17, 2000 Decision^[2] in Criminal Case No. 9659-B of the Regional Trial Court (RTC), Branch 25 in Biñan, Laguna. The RTC convicted accused-appellant Mariano Ofemiano of rape.

The Facts

AAA^[3] is BBB's eldest daughter. When BBB separated from her husband, she left her three children in the care of her mother in Bicol province. In March 1995, however, BBB fetched AAA^[4] and brought her to Caloocan City to live with her and her lover, accused-appellant Mariano Ofemiano, and their children.^[5]

On the very night of AAA's arrival in Caloocan City, Ofemiano sexually molested her. At around midnight, while asleep with her half brothers and mother, AAA was awakened by the weight pressing on her body and saw that Ofemiano was already on top of her. AAA struggled by pushing Ofemiano but he was able to hold her arms. He then removed her shorts and panty and proceeded to have sexual intercourse with her. She tried to awaken her mother but she could not be roused.^[6]

The sexual molestations continued almost everyday thereafter. AAA revealed to her mother her harrowing experience but the latter dismissed her report.^[7]

In January 1996, the family transferred to Sinaloan, Laguna, and then in July 1996 to Biñan, Laguna. Just three days after their transfer, while everyone else was asleep, Ofemiano crept on top of AAA and pressed his body on her. He then removed her underwear and pumped his penis into her vagina. To prevent AAA from screaming, Ofemiano covered her mouth with his hand and threatened to kill her if she divulged to anyone what he had done.^[8]

Afraid of Ofemiano's threats, and not finding solace from her mother, AAA just kept quiet. But in September 1996, AAA visited her aunt in Landayan, San Pedro, Laguna and found the courage to tell the latter about her ordeal. Enraged, her aunt immediately reported the matter to the authorities.^[9]

On September 18, 1996, AAA underwent a medical examination. Municipal Health Officer Dr. Lolita Macaraig found that AAA's genitals had several old healed lacerations, which could have been caused by a penetration of a hard object or by sexual intercourse.^[10]

Thereafter, on February 7, 1997, an Information for rape was filed against Ofemiano. The Information reads:

That sometime in July, 1996, in the municipality of Biñan, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, accused MARIANO OFEMIANO ALIAS "MANING", prompted with lewd design and by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with [AAA], a thirteen (13) years old minor, against her will and consent, to her damage and prejudice.

Contrary to law.^[11]

During trial, Ofemiano denied the charges against him. He claimed that AAA's grandmother concocted the imputation against him because she was angry at him for cohabiting with her daughter, BBB. He also insinuated that BBB's former lover had instigated the false charges against him because he was jealous of him.^[12]

BBB corroborated Ofemiano's testimony.

In a Decision dated July 17, 2000, the RTC convicted Ofemiano of the crime of simple rape. The dispositive part of the Decision reads:

WHEREFORE, in the light of all the foregoing considerations, the Court hereby finds accused MARIANO OFEMIANO alias "MANING" GUILTY beyond reasonable doubt of the crime of RAPE as defined and penalized under Art. 335 of the Revised Penal Code, and accordingly he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA.

Furthermore, aforesaid accused is hereby ordered to indemnify complainant [AAA] the following sums:

- a) [PhP] 75,000.00 - compensatory damages;
- b) [PhP] 50,000.00 - moral damages;
- c) [PhP] 25,000.00 - exemplary damages; and
- d) to pay the costs of suit.

x x x x

SO ORDERED.^[13]

The case was appealed to the CA.

The Ruling of the CA

Affirming the credibility of the complaining witness, the CA held that there was nothing in the victim's testimony that would render her statements improbable. The appellate court noted that Ofemiano used his parental authority over the victim in order to coerce her to submit to his sexual desires. It also observed that the lack of support from the victim's mother contributed to the victim's sense of helplessness and resignation.

The CA then held that the inconsistencies in the victim's statements--on the dates when the rape took place--were immaterial to the gravamen of the offense and, thus, have no effect on the victim's credibility.

The CA, however, modified the award of civil indemnity. It reduced the trial court's award of civil indemnity from PhP 75,000 to PhP 50,000 in the absence of evidence proving a larger amount.

Hence, we have this appeal.

The Issues

In a Resolution dated March 30, 2009, this Court required the parties to submit supplemental briefs if they so desired. On June 10, 2009, accused-appellant, through counsel, signified that he would no longer file a supplemental brief. The issue raised in accused-appellant's Brief dated July 16, 2003 is now deemed adopted in this present appeal, thus:

I

The Court a quo gravely erred in giving full weight and credence to the incredible and inconsistent testimony of the private complainant.

II

The Court a quo gravely erred in convicting the accused-appellant of the crime of rape despite the failure of the prosecution to prove his guilt beyond reasonable doubt.^[14]

The Ruling of the Court

The appeal is without merit.

Accused-appellant attacks the credibility of the complaining witness by alleging that the latter's testimony is replete with improbabilities. He claims that it was unlikely that the complaining witness did not struggle to free herself or scream for help, considering that her mother and siblings were sleeping beside her and could easily be awakened. Likewise, accused-appellant questions the fact that the complaining witness could not remember the dates when the sexual molestations occurred.