

## THIRD DIVISION

[ G.R. No. 188706, March 17, 2010 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. OSCAR M. DOCUMENTO, APPELLANT.**

### R E S O L U T I O N

**NACHURA, J.:**

On appeal is the Court of Appeals (CA) Decision<sup>[1]</sup> dated August 13, 2008, affirming the Regional Trial Court<sup>[2]</sup> (RTC) Decision<sup>[3]</sup> dated June 9, 2003, finding appellant Oscar Documento guilty beyond reasonable doubt of two (2) counts of Rape.

Documento was charged before the RTC with two (2) counts of Rape, as defined and punished under Article 335 of the Revised Penal Code, in separate Informations, which read:

#### CRIMINAL CASE NO. 6899

That sometime on April 22, 1996 at Ochoa Avenue, Butuan City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with the use of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with his daughter AAA, a minor, 16 years of age, against her will and consent.

CONTRARY TO LAW: (Art. 335 of the Revised Penal Code in relation to R.A. 7659).

#### CRIMINAL CASE NO. 6900

That sometime on October 15, 1995 at Barangay Antongalon, Butuan City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with the use of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with his daughter AAA, a minor, 16 years of age, against her will and consent.

CONTRARY TO LAW: (Art. 335 of the Revised Penal Code in relation to R.A. 7659).<sup>[4]</sup>

Upon arraignment, Documento pled not guilty. Subsequently, however, he changed his earlier plea to one of guilt. As such, the RTC ordered a re-arraignment and entered appellant's plea of guilt to the charges.

Thereafter, the prosecution presented evidence consisting of the testimonies of

private complainant herself, AAA, her mother, BBB, and Dr. Johann A. Hugo. Their testimonies established the following:

1. Documento started sexually molesting his daughter, AAA, in 1989 when she was ten (10) years old. Eventually, AAA became pregnant and gave birth in 1993.
2. Documento raped AAA on a number of occasions in the houses of Barsilisa Morada, Documento's relative, and Aida Documento, both located in Butuan City. During each incident, Documento hit and hurt AAA physically. He likewise threatened to kill her if she told anyone of the rape.
3. AAA's mother, BBB, who was working in Manila from 1994 to 1996, went to Barsilisa and asked for help in locating Oscar and AAA. BBB testified that she had not seen nor heard from the two since April 7, 1994, when Documento brought their daughters AAA and CCC to Tubod, Lanao del Norte, for a vacation. Thereafter, Documento left CCC in Tubod and brought AAA with him to Santiago, Agusan del Norte.
4. When BBB found out from their relatives that AAA got pregnant and gave birth, she suspected that Documento was the culprit. Upon learning that Documento and AAA were in Butuan City, she went to the Butuan Police Station and requested assistance in securing custody of AAA. As soon as Documento was arrested, AAA informed the police that Documento raped her.
5. Dr. Hugo testified on the genital examination he conducted on AAA, and affirmed the medical certificate he issued with the following findings:

Physical exam:	HEENT - with in normal limits. C/L - with in normal limits. CVB - with in normal limits. ABD - Soft; NABS GU - (-) KPS
Genitalia	- Parrous - Healed vaginal laceration - Vaginal introitus; admits 2 finger[s] with ease - Hymen with pemnants "caruncula multiforma"

Labs; Vaginal Smear; Negative for Spermatozoa.<sup>[5]</sup>

Documento testified as the sole witness for the defense. He asseverated that he pled guilty to the crime of Rape only because Prosecutor Hector B. Salise convinced him to do so. Documento contended that he did not rape AAA, and that, to the contrary, they had a consensual, sexual relationship. He further alleged that the incident did not happen in Butuan City, but in Clarin, Misamis Occidental. Finally, on cross-examination, Documento disowned the handwritten letters he had supposedly written to his wife and to AAA, asking for their forgiveness.

The RTC rendered judgment convicting Documento of both counts of Rape, to wit:

WHEREFORE, as a consequence of the foregoing, this Court finds accused Oscar M. Documento GUILTY beyond reasonable doubt of the two (2) counts of rape and correspondingly sentences him:

1. To suffer the penalty of DEATH in each of the two (2) rape cases filed against him - Criminal Case No. 6899 and Criminal Case No. 6900;
2. To indemnify the victim, AAA, in the amount of P75,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages, respectively, for each count of rape in accordance with recent jurisprudence.

Let a Commitment Order be issued for the transfer of accused Oscar M. Documento from Butuan City Jail to the Bureau of Corrections, Muntinlupa, Metro Manila.

Let the records of these cases be forwarded immediately to the Supreme Court for mandatory review.

SO ORDERED.<sup>[6]</sup>

Consistent with our ruling in *People v. Mateo*,<sup>[7]</sup> Documento's appeal was remanded to the CA.

Ruling on the appeal, the CA affirmed the RTC's conviction, but changed the penalty imposed on Documento from death penalty to *reclusion perpetua*, and increased the award of moral damages from P50,000.00 to P75,000.00 for each count of Rape. The *fallo* of the Decision reads:

WHEREFORE, the assailed Decision finding appellant Oscar Documento guilty beyond reasonable doubt of two counts of the crime of rape and ordering him to indemnify the victim for each count of rape the amounts of P75,000.00 as civil indemnity and P25,000.00 as exemplary damages, is AFFIRMED with the MODIFICATION that the award of moral damages is increased to P75,000.00 for each count of rape and that in lieu of the death penalty, appellant Oscar Documento is hereby sentenced to suffer the penalty of *reclusion perpetua* for each count of rape without possibility of parole.

SO ORDERED.<sup>[8]</sup>

Hence, this appeal, assigning the following errors:

# I

THE TRIAL COURT GRAVELY ERRED IN DECIDING THE CASE WITHOUT FIRST RESOLVING ITS TERRITORIAL JURISDICTION OVER THE CRIME