

FIRST DIVISION

[G.R. No. 181036, July 06, 2010]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ADRIANO LEONARDO Y DANTES, ACCUSED-APPELLANT.**

D E C I S I O N

PEREZ, J.:

For review is the Decision^[1] dated 28 May 2007 of the Court of Appeals in CA-G.R. CR-H.C. No. 01092 affirming *in toto* the Joint Decision^[2] dated 28 January 2005 of the Regional Trial Court (RTC) of Valenzuela City, Branch 172, in Criminal Case Nos. 348-V-02, 544-V-02, 545-V-02, 549-V-02, 552-V-02 and 553-V-02, finding herein appellant Adriano Leonardo y Dantes guilty beyond reasonable doubt of six counts of rape, and in Criminal Case Nos. 546-V-02, 547-V-02, 548-V-02, 554-V-02 and 555-V-02 for five counts of sexual abuse as defined and penalized under Section 5(b), Article III of Republic Act No. 7610,^[3] committed against AAA.^[4] The appellant was sentenced to suffer the penalty of *reclusion perpetua* for each count of rape and the indeterminate penalty of 8 years and 1 day of *prision mayor* as minimum to 15 years, 6 months and 20 days of *reclusion temporal* as maximum for each count of sexual abuse under Section 5(b), Article III of Republic Act No. 7610. The appellant was further ordered to pay the victim the amount of P50,000.00 as civil indemnity and P50,000.00 as moral damages for each count of rape and the amount of P25,000.00 as civil indemnity and P25,000.00 as moral damages for each count of sexual abuse under Section 5(b), Article III of Republic Act No. 7610.

In Criminal Case Nos. 550-V-02 and 551-V-02, however, the appellant was acquitted of the charges of rape for failure of the prosecution to prove his guilt beyond reasonable doubt.

Appellant Adriano Leonardo y Dantes was charged in 13 separate Informations^[5] with the crime of rape, in relation to Republic Act No. 7610, committed against AAA, the accusatory portion of which state:

In Criminal Case No. 348-V-02:

That on or about [11 May 2002] in XXX City and within the jurisdiction of this Honorable Court, the above-named [appellant], with lewd design, by means of force and intimidation employed upon AAA, 12 years old, did then and there willfully, unlawfully and feloniously have carnal knowledge of said AAA, thereby subjecting the said minor to sexual abuse which debased, degraded and demeaned her intrinsic worth and dignity as a human being.^[6]

In Criminal Case No. 544-V-02:

That on or about [10 May 2002] in XXX City and within the jurisdiction of this Honorable Court, the above-named [appellant], being then the uncle-in-law of AAA, with lewd design, by means of force and intimidation employed upon AAA, 12 years old, did then and there willfully, unlawfully and feloniously have carnal knowledge of said AAA, thereby subjecting the said minor to sexual abuse which debased, degraded and demeaned her intrinsic worth and dignity as a human being.^[7]

The Informations in Criminal Case Nos. 545-V-02, 546-V-02, 547-V-02, 548-V-02, 549-V-02, 550-V-02, 551-V-02, 552-V-02, 553-V-02, 554-V-02 and 555-V-02 contained similar averments except for the different dates of commission on the first week of April 2002, second week of April 2002, 1 May 2002, 2 May 2002, 3 May 2002, 4 May 2002, 5 May 2002, 6 May 2002, 7 May 2002, 8 May 2002 and 9 May 2002, respectively.

Upon arraignment, the appellant, assisted by counsel *de parte*, pleaded NOT GUILTY^[8] to all the charges against him. At the pre-trial conference, the prosecution and the defense stipulated^[9] that AAA is a minor having been born on 28 July 1989 as evidenced by her Certificate of Live Birth.^[10] After the pre-trial was terminated, trial on the merits ensued.

The prosecution presented the following witnesses, namely: AAA, the private complainant; BBB, the biological mother of AAA; Police Senior Inspector Pierre Paul F. Carpio (P/Sr. Insp. Carpio), Medico-Legal Officer of the Philippine National Police (PNP) Crime Laboratory, Camp Crame, Quezon City, who examined AAA; and CCC, the aunt of AAA who allegedly had an illicit relationship with the appellant, as rebuttal witness. The prosecution also submitted pieces of documentary evidence marked as Exhibits "A" to "H,"^[11] inclusive of submarkings.

The evidence for the prosecution, culled from the testimonies of the aforesaid witnesses, established that:

AAA was 12 years old when the appellant desecrated her. She was then living with her aunt, DDD, and the latter's husband, who became her foster parents from the time her biological mother, BBB, left her under their care when she was only six months old, in order to work and earn a living. Now, AAA is already under the care of her biological mother.^[12]

The harrowing experience of AAA in the hands of the appellant, who is the brother-in-law of her foster mother, DDD, and the brother of her foster father, EEE,^[13] began in the afternoon of the first week of April 2002. On the said date, the appellant saw AAA while he was gathering vegetables in the garden near his house. He immediately instructed AAA to buy him cigarettes and to bring the same inside the warehouse located at the back of his house. Following the instruction of the appellant, AAA brought the cigarettes inside the warehouse. Once inside, the appellant did not allow her to go out anymore; instead, he showed her a knife and

he then closed the door of the warehouse. Subsequently, the appellant told AAA to undress and to lie down on a piece of lumber located in the warehouse to which she acceded because the appellant was holding a knife. While AAA was lying down, the appellant removed his shorts and showed his sex organ to AAA while still wearing his brief. Later, the appellant went on top of AAA, inserted his sex organ into AAA's vagina, touched AAA's breasts and made push and pull movements. AAA felt pain in her private part but she did not bleed. The appellant stopped what he was doing to AAA when he heard his daughter calling him. He then ordered AAA to dress up. AAA did not report to anyone the said incident because she was afraid of the appellant.

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Then, in the second week of April 2002 at around 4:30 in the afternoon, while AAA was alone in their house because her foster mother was working as a laundrywoman and her foster father was in a drinking spree with his friends, the appellant suddenly came in drunk and immediately closed the door of their house. The appellant then began touching AAA's breasts, however, the latter's foster mother arrived. At once, the appellant went out of the house through the back door.[15]

Again, on 1 May 2002 at around 8:30 in the morning, while AAA was left alone inside their house, the appellant surprisingly arrived thereat. Upon knowing that AAA had no other companion, he began touching AAA's breasts and vagina. Afterwards, CCC, the aunt of AAA, arrived and this prompted the appellant to leave the house.[16]

The following day, or on 2 May 2002 at around 8:00 o'clock in the morning, while AAA was cleaning their house, the appellant arrived. He then inquired if there were other persons inside the house. As he found no other person thereat, except AAA, he commanded AAA to close the windows and the door located at the back of the house. He then opened the television set, increased its volume and closed the main door of the house. Thereafter, he touched the private parts of AAA and told her to remove her clothes. After removing her clothes, the appellant held her breasts and touched her vagina. However, upon hearing his daughter's voice calling and looking for him, he instantly went out of the house.[17]

On 3 May 2002 at around 2:00 o'clock in the afternoon, AAA was sleeping alone inside their house. Since the door was unlocked, the appellant entered the house, woke up AAA and asked her if there were other persons inside. He himself inspected the room of the house, finding none, he asked AAA to get him a glass of water and to buy him cigarettes. When AAA returned, the appellant requested her to turn on the television set. Then, he began touching AAA's private parts and he even instructed AAA to undress. Thereafter, the appellant told AAA to lie down on the bed inside the room to which she acceded because the appellant was holding a knife that he got from his waist. The appellant followed AAA inside the room where he removed his shorts and underwear. He then inserted his penis into AAA's vagina and made push and pull movements. After satisfying his lust, he told AAA to dress up and he went out of the house.[18]

In the afternoon of 4 May 2002, when AAA was hanging their washed clothes in the clothesline located at the back of the house of the appellant, which was only adjacent to their house, the appellant called her and asked her to buy cigarettes. After buying cigarettes, she brought the same to the appellant who was already

inside the warehouse at the back of his house. While they were inside the warehouse, the appellant touched her breasts and vagina. This same incident of appellant's touching AAA's breasts and vagina was repeated the following day, 5 May 2002.^[19]

Then again, on 6 May 2002 at around 3:30 o'clock in the afternoon, AAA saw the appellant circumcising children. Afterwards, the appellant went to the house of AAA who was watching television at that time. Once inside, the appellant closed the main door of the house, instructed AAA to go inside the room and to remove her clothes. The appellant then told AAA to lie down on the bed. Subsequently, the appellant went on top of AAA, inserted his penis into her vagina and made push and pull movements. After doing such bestial act, the appellant went out of the house.^[20]

The next day, or on 7 May 2002, at around 7:00 o'clock in the evening while AAA's foster parents were not yet home and AAA had just finished washing the dishes, the appellant entered their house through the main door and asked AAA to buy him cigarettes as he would always do. When AAA came back, she handed the cigarettes to the appellant. The latter then ordered AAA to turn on the television and to lock the door. The appellant also told AAA to sit beside him on the sofa and he then began touching AAA's private parts. The appellant, thereafter, instructed AAA to go inside the room, to remove her shorts and panty and to lie down on the bed, to which she complied because the appellant was holding a knife. The appellant then placed the knife beside the bed, removed his shorts and undergarment, lay on top of AAA, inserted his penis into AAA's vagina and made push and pull movements. After satisfying his hideous desire, the appellant asked AAA to put on her clothes. He then proceeded to the *sa/a* and watched a television program. When AAA's foster mother arrived at around 9:00 o'clock in the evening, the appellant was no longer there.^[21]

On 8 May 2002 at around 8:30 o'clock in the morning, AAA was once again left alone in their house because her foster parents and their children went to work. The appellant then went inside the house and asked AAA to buy him cigarettes. When AAA came back, she gave the cigarettes to the appellant who was then watching a television program. AAA proceeded to the kitchen to clean the table and to put the dishes outside of their house. While the appellant was still watching a television program at the *sa/a*, AAA went upstairs but the appellant called her and told her to go inside the room where the appellant began touching her vagina. The appellant likewise told AAA to undress and thereafter, he started fondling her breasts. Suddenly, the appellant heard AAA's cousin calling her from the outside. The appellant promptly told AAA to dress up and to go out of the room.^[22]

On 9 May 2002 at around 3:30 o'clock in the afternoon, AAA was at the back of their house playing with her sister. The appellant called her and asked her if her foster mother and the latter's children were in their house to which AAA replied in the negative. The appellant again asked AAA to buy him cigarettes. AAA then brought the cigarettes at the back of their house believing that the appellant was still there. Unknowingly, the appellant was already inside their house. When AAA saw the appellant inside their house, she gave him the cigarettes and the appellant asked her to switch on the television. When AAA was about to get out of the house, the appellant prevented her, instead, he ordered AAA to go inside the room, but AAA

insisted to go out as she wanted to continue playing with her sister. The appellant then showed AAA his knife and told her to remove all her clothing. Afraid, AAA could not do anything but to submit to the vicious desire of the appellant. The latter then touched AAA's breasts and vagina. Thereafter, the appellant ordered AAA to put on her clothes and left.^[23]

On 10 May 2002, at around 6:30 o'clock in the afternoon, while AAA was playing in front of their house, the appellant saw her and commanded her to buy him cigarettes. He also told AAA to bring the same to the warehouse. Upon giving the cigarettes to the appellant, the latter instructed AAA to go inside the warehouse but she refused as she was still playing outside. The appellant, however, did not allow her to go out anymore and he, once again, showed his knife to AAA. Out of fear, AAA stayed inside the warehouse. Later, the appellant told AAA to undress and he proceeded to touch her breasts. He also inserted his finger into the vagina of AAA. Thereafter, he removed his finger into AAA's vagina and made her lie down on the floor. He then removed his shorts, mounted AAA, inserted his penis into AAA's vagina and made push and pull movements. AAA felt pain in her private organ. After being satisfied, the appellant instructed AAA to dress up and to go home.^[24]

The last sexual advances of the appellant to AAA happened on 11 May 2002 at around 7:00 o'clock in the evening near the well located at the back of the house of the appellant. During that time AAA was removing their washed clothes from the clothesline at the back of the house of the appellant. The appellant, who was then taking a bath at the well near their house, saw her, called her and requested her to buy him one stick of cigarette. After she bought cigarette, she gave it to the appellant who was still taking a bath at the well. When AAA was about to go home, the appellant prevented her and showed her his knife tucked on his waist. The appellant instructed AAA to undress to which the latter obeyed because the appellant was holding a knife. When AAA was totally naked, the appellant touched her private parts and told her to lie down on the grassy ground. She felt itchy as she was lying on the grassy ground. While in that position, the appellant went on top of AAA, inserted his penis into her vagina and made push and pull movements. AAA felt pain. When the appellant heard his wife calling him, he stopped what he was doing to AAA and told the latter to put on her clothes. AAA went home. At the time this incident happened, the appellant was drunk as he just came from a birthday party.^[25]

When AAA went home, her aunt, CCC, who was there cooking, asked her why she was pale and uneasy. Her aunt also wondered why she was scratching her back. AAA did not immediately tell CCC what truly happened. However, when CCC became so persistent to know what really happened to her, AAA began to cry. She then disclosed to CCC what happened to her on that day, as well as all her harrowing experiences in the hands of the appellant.^[26] CCC instantly called up AAA's biological mother, BBB, whose house was only three meters away from CCC and informed her of AAA's ordeal. Thereafter, BBB came to accompany AAA in going to the police station to report what the appellant did to her. At the police station, AAA gave her written statements against the appellant.^[27]

The following day, AAA was subjected to a medical examination by P/Sr. Insp. Carpio, a medico-legal officer of the PNP Crime Laboratory in Camp Crame, Quezon