

## FIRST DIVISION

[ G.R. No. 186411, July 05, 2010 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ARTURO PALER, ACCUSED-APPELLANT.**

### D E C I S I O N

**VELASCO JR., J.:**

#### **The Case**

This is an appeal from the April 30, 2008 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02647 entitled *People of the Philippines v. Arturo L. Paler* which affirmed the November 22, 2006 Decision<sup>[2]</sup> of the Regional Trial Court of San Fernando City, La Union, Branch 13, in Criminal Cases Nos. 5474 and 5475. The trial court held accused-appellant Arturo Paler guilty of two counts of rape.

#### **The Facts**

AAA<sup>[3]</sup> is a mentally retarded young girl, whose mental condition is akin to that of a five years old child. On October 6, 2000, after attending classes at the La Union National High School, AAA, then 14 years old, headed for home at the eastern portion of the cemetery in Lingsat, San Fernando, La Union. She rode a jeepney and disembarked at the cemetery around 5 o'clock in the afternoon. While AAA was walking along the path near the Chinese pagoda, accused-appellant Arturo Paler pulled her to the side of the pagoda. Arturo then undressed AAA and he also removed his own clothes. Arturo thereafter, proceeded to have sexual intercourse with AAA. AAA felt pain. After the incident, she went home but did not tell anyone what had happened.<sup>[4]</sup>

On October 20, 2000, the same incident happened again. After attending classes, AAA rode a jeepney and got off the cemetery. While walking towards their home, AAA was suddenly pulled by Arturo near the Chinese pagoda. Arturo then removed AAA's uniform and underwear. Thereafter, he had sexual intercourse with her. When Arturo was done with his assault, AAA went home.<sup>[5]</sup>

Afraid that her mother might get mad at her, AAA chose to reveal to her auntie what had happened to her. Her auntie helped her in filing the case. They reported the matter to the barangay captain and then AAA was brought to the City Health Office for a medical examination. AAA underwent three medical examinations. The first two were conducted by Dr. Minda Amor Martinez while the third was conducted by Dr. Melina L. Mayames. Dr. Mayames' findings show, among others, that AAA's external genitalia had an "incomplete fresh laceration at the 9 o'clock position."<sup>[6]</sup>

Also, AAA underwent a psychological examination. Janet Calado, a psychologist and

Chapter Executive Manager of the Philippine Mental Health Association, Inc., reported that AAA's mental condition is classified as severely retarded. She noted that AAA's IQ is equivalent to that of a five year-old child and she needs to be under continued counseling to help her develop the skills needed to enable her to perform her daily living as a normal person.<sup>[7]</sup>

Thereafter, on January 23, 2000, two Informations for rape, docketed as Criminal Cases Nos. 5474 and 5475, were filed against Arturo Paler. Except for the date when the crime allegedly took place, the allegations in the Informations were the same, thus:

That on or about the 6<sup>th</sup> day of October, 2000, in the City of San Fernando, La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and **by using force and intimidation**, did then and there willfully, unlawfully and feloniously have carnal knowledge with the aforementioned 14 year-old [AAA] against her will and consent, to her damage and prejudice.

Contrary to law.<sup>[8]</sup> (Emphasis supplied.)

During trial, accused-appellant Arturo denied the charges against him. He claimed that around 2:00 p.m. of October 6, 2000, upon Federico Espiritu Jr.'s request, he fetched the latter's daughter from school and brought her to her home in Ili Norte, San Juan, La Union. He then waited for Federico to arrive at around 6:00 p.m. and thereafter they bought gin and had a drinking spree. He spent the night at Espiritu's house and left for Lingsat only on the next morning.<sup>[9]</sup>

He also averred that on October 20, 2000, he worked in the cemetery from 7:00 a.m. to 5:00 p.m., taking only a one hour break at noon. After working, he returned to the house where he was staying. He was then asked by Noli Valdriz to look after his daughter until 6:00 p.m. Thereafter, Valdriz brought out a bottle of gin and they had a drinking spree until 10:00 p.m. They went to sleep afterwards.<sup>[10]</sup>

Federico Espiritu Jr. and Noli Valdriz corroborated Arturo's statements.

On November 22, 2006, the RTC rendered a Decision, the dispositive part of which reads:

WHEREFORE, premises considered, the Court finds the accused ARTURO PALER guilty beyond reasonable doubt of two (2) counts of rape and sentences him to *reclusion perpetua* for each count and orders him to pay the complainant [Fifty Thousand Pesos (PhP50,000.00)] as civil indemnity and [Fifty Thousand Pesos (PhP50,000.00)] as moral damages. With Costs.

SO ORDERED.<sup>[11]</sup>

The case was appealed to the CA.

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

Despite AAA's mental capacity, the CA upheld her credibility. It noted AAA's firm declaration that accused-appellant Arturo raped her and how she remained consistent with this statement even under grueling cross-examination.

Also, the appellate court affirmed the trial court's finding that Arturo had forced carnal knowledge of AAA. It noted that AAA's weak mental condition made it impossible for her to resist the attacks of Arturo. The CA emphasized that the force employed in rape does not need to be of such character as could not be resisted; instead, it must only be sufficient to consummate the purpose which the accused had in mind.<sup>[12]</sup>

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 is not going to file a supplemental brief anymore. The issue raised in accused-appellant's Brief dated August 1, 2007 is now deemed adopted in this present appeal, thus:

The trial court erred in finding the accused-appellant guilty of the crime charged despite failure of the prosecution to establish his guilt beyond reasonable doubt.<sup>[13]</sup>

### **The Ruling of the Court**

The appeal is without merit.

Appellant Arturo faults the CA for admitting evidence and basing its decision on AAA's mental retardation when such fact was not alleged in the Informations. He claims that AAA's mental retardation is an essential fact that should have been specifically alleged. He further asserts that AAA's weak mental state did not contribute to her credibility as a witness but instead showed that her statements in court were results of a systematic training and rehearsal. He insists that AAA's mother only coached her to implicate him in the crimes.

We are not convinced.

Article 266-A (1) of the Revised Penal Code provides that rape against a woman may be committed under any of the following circumstances:

#### **Article 266-A. Rape: When And How Committed.**

Rape is Committed -

1. By a man who shall have carnal knowledge of a woman under any of