

## FIRST DIVISION

[ G.R. No. 187075, July 05, 2010 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ROMMEL BELO Y DE LEON, ACCUSED-APPELLANT.**

### D E C I S I O N

**VELASCO JR., J.:**

#### **The Case**

This is an appeal from the October 31, 2008 Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. CR-HC No. 00388 entitled *People of the Philippines v. Rommel Belo y De Leon* which affirmed, with modifications, an earlier decision<sup>[2]</sup> of the Regional Trial Court of Biñan, Laguna, Branch 24, in Criminal Case No. 11114-B, finding herein accused-appellant Rommel Belo y De Leon guilty beyond reasonable doubt of the crime of rape<sup>[3]</sup> committed against AAA,<sup>[4]</sup> and sentenced him to suffer the penalty of death and to pay the amount of fifty thousand pesos (PhP 50,000) as moral damages.

#### **The Facts**

Accused-appellant was charged in an information dated June 16, 2000, which reads:

That on or about November 12, 1999, in the Municipality of Sta. Rosa, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, accused Rommel Belo y De Leon, with lewd design, through violence, force and intimidation with the use of deadly bladed weapon, did then and there willfully, unlawfully and feloniously have carnal knowledge with [AAA] against her will and consent, to her damage and prejudice.

Contrary to law.<sup>[5]</sup>

At his arraignment on September 26, 2000, accused-appellant, with the assistance of his counsel, entered a plea of not guilty.<sup>[6]</sup> Thereafter, trial on the merits ensued.

During the trial, the prosecution offered the oral testimonies of AAA, the victim, and Dr. Soledad Cunanan, the municipal health officer of Sta. Rosa, Laguna. On the other hand, the defense presented as its witnesses the accused-appellant himself, Rommel Belo, PO3 Tanny Gangano and Reggie Vergara ("Vergara").

#### **Version of the Prosecution**

A summary of the facts according to the prosecution is as follows:

On November 12, 1999, at around four o'clock in the afternoon, AAA, while taking a bath alone in her house, noticed that the lights in her living room were turned off.<sup>[7]</sup> Thinking that it was her live-in partner who arrived at their house and turned the lights off in the living room, AAA called his name. When nobody answered, she opened the door of the bathroom. She was shocked to see accused-appellant who was holding a bread knife. Accused-appellant then said "sandali lang ito" and pushed her inside the bathroom.<sup>[8]</sup> While pointing the bread knife at her, accused-appellant kissed and touched AAA's private parts. He also asked her to hold his penis with her left hand, and then eventually, accused-appellant inserted his penis into her vagina. After obtaining carnal knowledge of AAA, accused-appellant threatened her not to tell anybody about what just happened, or else, he would kill her. Despite such threats, AAA informed her live-in partner about it. Immediately thereafter, they reported the incident to the authorities.<sup>[9]</sup>

Upon medical examination, Dr. Soledad Cunanan found the following:

**FINDINGS:**

Conscious, not in cardio-respiratory distress  
Breasts full, with brownish nipple and areola  
Heart and lungs unremarkable  
Abdomen flat, no masses palpated  
No gross deformities of extremities, moderate amount of thick axillary hair

**External Genitalia Examination:**

There's moderate to abundant amount of pubic hair, black and curly, and distributed on the mons pubis and vulvar area. The labia majora is convex, hyperpigmented, and not well-coaptated. The labia minora is noted to be also hyperpigmented and in-between the labia majora. On separating the same showed a fleshy-type, elastic hymen with deep healing laceration at 7 o'clock position and a deep healed laceration at 3 o'clock position. Minimal blood-tinge vaginal discharge is noted. There's no resistance upon examination of the vaginal orifice.

**CONCLUSION:** The patient is in non-virgin state physically. (Exh. "B")<sup>[10]</sup>

**Version of the Defense**

Accused-appellant's version of the incident, on the other hand, is as follows:

Admitting that he was at AAA's house on November 12, 1999 at around four o'clock in the afternoon, accused-appellant, however, claims that what actually transpired was consensual sex and not rape. He further claims that AAA was his girlfriend even if she has a live-in partner.<sup>[11]</sup> He even asserts that this was not the first time that they had sexual intercourse as he made love to her in October 1999 in her very own

bedroom.<sup>[12]</sup> He also maintains that they kept their relationship secret upon AAA's request since the latter was allegedly afraid that her live-in partner might not pursue his intention to marry her if he finds out about their relationship.<sup>[13]</sup>

According to accused-appellant, on November 12, 1999, he was in front of his house when AAA passed by and invited him to her house. She allegedly told him that she would not lock the door of her house so that he could easily enter.<sup>[14]</sup> Before proceeding to AAA's house, accused-appellant talked to Vergara and Dante Manlangit ("Manlangit") and asked them to follow him to AAA's house in order to prove his relationship with the latter.<sup>[15]</sup> He also claims that when he entered AAA's bathroom, he kissed AAA and then she took off his clothes. Further, accused-appellant and AAA were supposedly kissing each other when they heard a noise and noticed Vergara and Manlangit peeping through the bathroom's window, and that despite accused-appellant's assurance to AAA that he would ask Vergara and Manlangit not to tell anyone about what they saw, AAA filed a case against him.<sup>[16]</sup>

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

Between the two conflicting versions of the incident, the trial court gave credence to the version of the prosecution and rendered its Decision<sup>[17]</sup> dated February 27, 2004 finding accused-appellant guilty of the crime of rape, the decretal portion of which reads:

WHEREFORE, premises considered, finding the accused ROMMEL BELO guilty beyond reasonable doubt of the crime of Rape with the use of force and intimidation and armed with a deadly weapon, he is hereby sentenced to suffer the penalty of Death. Accused is also directed to pay the private complainant the sum of Fifty Thousand Pesos (P50,000.00) for and as moral damages.

SO ORDERED.<sup>[18]</sup>

Pursuant to our pronouncement in *People v. Mateo*,<sup>[19]</sup> modifying the pertinent provisions of the Revised Rules on Criminal Procedure insofar as they provide for direct appeals from the Regional Trial Court to this Court in cases in which the penalty imposed by the trial court is death, *reclusion perpetua* or life imprisonment, and the Resolution dated September 19, 1995 in "Internal Rules of the Supreme Court", the case was transferred, for appropriate action and disposition, to the Court of Appeals, where it was docketed as CA-G.R. CR-HC No. 00388.

On June 19, 2006, accused-appellant filed his Appellant's Brief<sup>[20]</sup>, while the People of the Philippines, through the Office of the Solicitor General, filed its Appellee's Brief<sup>[21]</sup> on October 25, 2006.

### **Ruling of the Appellate Court**

As stated above, the Court of Appeals, in its Decision<sup>[22]</sup> dated October 31, 2008, in CA-G.R. CR-HC No. 00388, affirmed with modifications the judgment of conviction

by the trial court, the dispositive portion of which reads:

WHEREFORE, the appealed decision of the Regional Trial Court of Laguna (Biñan, Branch 24) is AFFIRMED with MODIFICATIONS in that (i) instead of the penalty of death, accused-appellant is sentenced to suffer *reclusion perpetua* and (ii) he is ordered to pay to AAA the amount of P50,000.00 as civil indemnity *ex delicto*.

SO ORDERED.<sup>[23]</sup>

On November 13, 2008, accused-appellant filed his Notice of Appeal of the Decision dated October 31, 2008 rendered by the Court of Appeals.<sup>[24]</sup>

In Our Resolution dated July 1, 2009,<sup>[25]</sup> We notified the parties that they may file their respective supplemental briefs, if they so desire, within thirty (30) days from notice. On August 18, 2009, the People of the Philippines manifested that it is no longer filing a supplemental brief as it believes that the Brief for the Appellee dated October 17, 2006 has adequately addressed the issues and arguments in the instant case.<sup>[26]</sup> In the same vein, on August 24, 2009, accused-appellant manifested that he will no longer file a supplemental brief and is merely adopting the appellant's brief as his supplemental brief.<sup>[27]</sup>

### **The Issues**

Accused-appellant contends in his *Brief*<sup>[28]</sup> that:

#### **I.**

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT WHEN HIS GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.

#### **II.**

THE TRIAL COURT GRAVELY ERRED IN GIVING CREDENCE TO THE TESTIMONY OF THE PROSECUTION'S WITNESSES.

#### **III.**

THE TRIAL COURT GRAVELY ERRED IN DISREGARDING THE DEFENSE EVIDENCE WHICH, IF PROPERLY APPRECIATED, COULD HAVE LED TO THE ACQUITTAL OF THE ACCUSED-APPELLANT.<sup>[29]</sup>

### **The Court's Ruling**

**We sustain accused-appellant's conviction.**

After a careful examination of the records of this case, we are satisfied that the

prosecution's evidence established the guilt of the accused beyond reasonable doubt.

In deciding this appeal, the Court once again reiterates the legal aphorism that factual findings of the Court of Appeals affirming those of the trial court are binding on this Court unless there is a clear showing that such findings are tainted with arbitrariness, capriciousness or palpable error.<sup>[30]</sup> Unfortunately, however, accused-appellant failed to show any of these as to warrant a review of the findings of fact of the lower courts.

Pertinently, the trial court found the collective testimonies of the witnesses for the prosecution to be credible, while those of the accused-appellant, incredible and barren of probative weight. It is also an oft-stated doctrine that factual findings of the trial court, its calibration of the testimonies of the witnesses and its assessment of their probative weight is given high respect if not conclusive effect, unless the trial court ignored, misconstrued, misunderstood or misinterpreted cogent facts and circumstances of substance, which, if considered, will alter the outcome of the case.<sup>[31]</sup> In this regard, a meticulous review of the records gives us no reason to deviate from the factual findings of the trial court.

In his *Brief*, accused-appellant faults the trial court for giving credence to AAA's testimony. First, in assailing AAA's credibility, he asserts that based on the testimony of PO3 Tanny Galang, the incident entered in the police blotter was merely attempted and not consummated as AAA initially reported that there was only an attempt to molest and rape her. However, AAA later on claimed that the alleged rape was consummated.<sup>[32]</sup>

Concerning this, it should be noted that entries in a police blotter, though regularly done in the course of the performance of official duty, are not conclusive proof of the truth of such entries for they are often incomplete and inaccurate. They, therefore, should not be given undue significance or probative value as to the facts stated therein. Blotter entries are merely prima facie proof of the facts stated therein.<sup>[33]</sup> Furthermore, the heading in the police blotter in the case at bar states that the incident was "Alleged Rape". This shows that the crime sought to be entered in the police blotter was consummated rape and not merely attempted.<sup>[34]</sup>

At any rate, the prosecution has sufficiently established that accused-appellant was able to consummate his carnal desire. As testified by AAA:

Q What happened next after that?

A Then he kissed my lips, sir. And when I was about to avoid him, he mushed my breast and he told me to hold on his penis with my left hand `pinatitigas niya iyong ari niya.'

Q What happened then, if any?

A I was then trembling, sir and pitied him.

Q What happened next, if any?