

THIRD DIVISION

[G.R. No. 185004, August 25, 2009]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ARMANDO
FERASOL, APPELLANT.**

R E S O L U T I O N

NACHURA, J.:

For review is the Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR HC No. 00344 which affirmed with modification the Decision^[2] of the Regional Trial Court (RTC), Branch 26, Surallah, South Cotabato finding appellant Armando Ferasol guilty of Statutory Rape under Article 266-A of the Revised Penal Code.

The facts as summarized by the CA:

In an Information dated February 9, 2002, [appellant] was charged with the crime of Rape (Statutory) allegedly committed against AAA, viz.:

"That on or about the 31st day of August, 2001, in the morning thereof, in the house of the above-named [appellant] located at xxx, xxx, Province of South Cotabato, Philippines, and within the jurisdiction of this Honorable Court, the above-named [appellant] did then and there willfully, unlawfully and feloniously, by means of force, threats and intimidation and with lewd designs, have carnal knowledge of AAA,^[3] nine (9) years old and his niece, against the will and consent of the said victim."

CONTRARY TO LAW.

Upon his arraignment on May 28, 2002, [appellant] pleaded "Not Guilty" to the crime charged. x x x.

Version of the Prosecution

x x x x

On August 8, 2001, around 8 o'clock in the morning, [nine]-year old AAA was sweeping the yard of their home in xxx, xxx, South Cotabato. AAA was left all alone. Her mother, BBB, departed for xxx proper early that morning, together with her aunt, Maribel Ferasol, wife of appellant Armando Ferasol. Her

father, BBB had earlier left for their farm. AAA's older brother, DDD, went out of the house early, roaming the neighborhood, while her older sister, EEE, stayed with another aunt in xxx.

Appellant Armando Ferasol, AAA's uncle, whose house was located just 10 meters away from AAA's house, called AAA to come over to his house. Unsuspecting, AAA heeded her uncle's command. After AAA entered appellant's house, appellant removed her short pants. Immediately, appellant inserted his penis inside the young girl's vagina. After consummating the sexual intercourse, appellant sent AAA back home. He threatened her that he would kill her parents, her brother and sister as well as herself if she told anyone regarding the incident. Fearful for their lives, AAA at first kept appellant's abuse to herself.

Appellant had earlier been abusing AAA, who was already in her fourth grade, since she was in Grade 3. The child, however, did not tell anyone regarding appellant's repeated sexual assaults.

BBB went back to their house around 1 o'clock in the afternoon of the same day. Around 4:30 in that afternoon, BBB saw AAA arrive from school, looking weak and clutching at her groin. The following day, September 1, 2001, AAA's teacher, Mrs. Luz Puyonan, sent a note to BBB, informing her that she would like to talk to her on September 3, 2001. On September 3, 2001, Mrs. Luz Puyonan told BBB that she had a suspicion that AAA had been sexually abused. She advised BBB to see a doctor who could examine AAA. Forthwith, BBB brought AAA to Dr. Evelyn Diosana, the Municipal Health Officer of xxx. In the course of her examination, AAA revealed to Dr. Diosana that appellant had been abusing her. x x x.

Version of the Defense

Invoking the defense of denial and alibi, [appellant] testified that on August 31, 2001, he was at Sitio Lubo, Barangay Ned, Lake Sebu, South Cotabato, which is an eight-hour ride away from his place. He needed money to pay for the hospital expenses of his daughter who had a boil growing in her heart. [Appellant] went to Sition Lubo on August 28, 2001 to borrow money from his friend Rafael Haudar. He stayed there for several days helping Rafael Haudar in drying around fifty (50) sacks of corn. On August 31, 2001, after completely drying Rafael Haudar's corn, they sold them to a certain Rogelio for P15,000.00. From the proceeds, Rafael Haudar loaned [appellant] P4,000.00. Immediately on the next day, September 1, 2001, [appellant] went home.

Rafael Haudar, himself, corroborated [appellant's] claim. He attested that [appellant] stayed in his place in Sitio Lubo from August 28 to September

1, 2001. He also testified that [appellant] helped him in drying his corn and [appellant] borrowed from him P4,000.00.[4]

After trial, the RTC found appellant guilty as charged and disposed, as follows:

WHEREFORE, considering the above premises, the court finds the appellant Armando Ferasol, **GUILTY** of the crime of Statutory Rape.

Following then the above-quoted provision of the law, the court hereby imposes against the appellant the extreme penalty of DEATH.

The [appellant] is likewise ordered to pay his victim, AAA, the amounts of PH50,000.00 as moral damages; PH50,000.00 as exemplary damages and PH30,000.00 as restitution for the payment of attorney's fees.

The Clerk of Court of this court then is hereby directed to immediately forward the record of this case to the Court of Appeals, Cagayan de Oro City for the automatic review by said appellate court of this decision/judgment.

SO ORDERED.[5]

As previously adverted to, the CA, on appeal, affirmed the RTC's decision with modification:

WHEREFORE, the Decision of the Regional Trial Court, Branch 26, 11th Judicial Region, Surallah, South Cotabato, in Criminal Case No. 3008-N, is hereby **AFFIRMED with MODIFICATIONS**. [Appellant] Armando Ferasol is **SENTENCED** to suffer the penalty of *reclusion perpetua* with no possibility of parole for the crime of rape committed against AAA. He is also hereby **ORDERED** to indemnify AAA the amounts of P50,000.00 as moral damages and P50,000.00 as civil indemnity. Furthermore, the award of P50,000.00 as exemplary damages and P30,000.00 as attorney's fees are **DELETED** for lack of factual and legal basis. With costs.[6]

Appellant filed a notice of appeal and is now before us insisting on his innocence and beseeching the reversal of the lower courts' finding of guilt.

We abide by the identical conclusion of the lower courts that appellant raped AAA.

In the review of rape cases, we are guided by the following principles: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the nature of the crime of rape where only two persons are usually involved, the testimony of the complainant is scrutinized with extreme caution; and (3) the evidence for the prosecution stands or falls on its own merits and cannot be allowed to draw strength