

## THIRD DIVISION

[ G.R. No. 181255, October 16, 2009 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ERNESTO PILI, ACCUSED-APPELLANT.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

For Review under Rule 45 of the Revised Rules of Court is the Court of Appeals Decision<sup>[1]</sup> dated 13 August 2007 in CA-G.R. CR-H.C. No. 01260 entitled ***People of the Philippines v. Ernesto Pili***, affirming the Decision<sup>[2]</sup> rendered by the Regional Trial Court (RTC) of Macabebe, Pampanga, Branch 55, in Criminal Case No. 98-2130 (M), finding Ernesto Pili (accused-appellant) guilty beyond reasonable doubt of the crime of rape, and sentenced with *reclusion perpetua* and ordered to indemnify the offended party the amount of P50,000.00.

Accused-appellant appeals his conviction of rape.

On 14 August 1998, accused-appellant was charged with rape in a Criminal Information filed before the RTC, Branch 55, of Macabebe, Pampanga, docketed as Criminal Case No. 98-2130 (M), as follows:

That on or about the 18<sup>th</sup> day of June, 1998, in the municipality of Apalit, province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused ERNESTO PILI, by means force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with (AAA)<sup>[3]</sup> against her will and without her consent.<sup>[4]</sup>

Accused-appellant, with the assistance of counsel, pleaded NOT GUILTY to the charge.<sup>[5]</sup>

A pre-trial conference was held on 14 September 1998 in the presence of the government prosecutor, the accused-appellant, and his counsel. Based on the pre-trial order issued by the trial court on the same date, the prosecution marked in evidence the following documents, to wit:

Exhibits A and A-1 - the *Sinumpaang Salaysay* of the complaining witness AAA;<sup>[6]</sup>

Exhibit B - the Medico Legal O.B. Gyne Report of Dr. Emerita Cristobal;<sup>[7]</sup>

Exhibit C - the Criminal Complaint docketed as Criminal Case No. 92-93 at the Municipal Circuit Trial Court Apalit-San Simon, Apalit, Pampanga;<sup>[8]</sup> [and]

Exhibits D and D-1 -the Police Investigation Report of PO1 Conchita Guevarra;<sup>[9]</sup>

Exhibit E - the *Sinumpaang Salaysay* of the mother of the victim AAA.<sup>[10]</sup>

The defense denied Exhibits A, D, and E; but admitted Exhibits B and C as to their existence.

Thereafter, trial on the merits ensued.

The prosecution presented private complainant AAA, whose version of the events has been summarized by the Office of the Solicitor General as follows:

At about 8 o'clock in the evening of 18 June 1998, AAA was inside a rented room located at XXX, Apalit, Pampanga, accompanied by her two nieces ages four years and one year old, respectively,, who were then both asleep. Momentarily, she heard someone knocking at the door. Thinking that it was her sister BBB, she opened the door. Thereupon, she saw accused-appellant Ernesto Pili who pushed her backward and continued to do so until she was forced to lie down on the wooden bed. AAA screamed and tried to fight back. However, accused-appellant covered her mouth and threatened to kill her and her two nieces if she would persist in shouting. Intimidated by appellant's threat, AAA quieted down. Accused-appellant forcibly kissed AAA all over her body and, despite her resistance, he was able to remove her pants and panty. He raised her blouse and mashed her breasts. Thereafter, accused-appellant placed himself on top of her. AAA crossed her legs but accused-appellant forcibly spread them apart and thereafter inserted his penis into her vagina. Accused-appellant had sexual intercourse with AAA. She felt extreme pain and because of her helplessness, she just cried. After satisfying his lust, accused-appellant hurriedly left. The incident was reported to the police authorities on 24 June 1998. On 25 June 1998, AAA was subjected to a medico-legal examination at the Jose B. Lingad Hospital in San Fernando, Pampanga. Upon physical examination, it was determined that AAA had a deep laceration in her hymen.

On the other hand, the defense presented its version of the facts through the testimonies of its five witnesses, namely: (1) Francisco Pangilinan (Pangilinan); (2) Efren Bernarte Sabado; (3) DDD (a relative of AAA); (4) Emma P. Santos, a sister of accused-appellant; (5) Ernesto Pili, accused-appellant.

Francisco Pangilinan testified, among other things, that he and his family were renting a room inside the house of accused-appellant, which room is adjacent to the room rented by BBB, the sister of AAA. The two rooms were separated only by a hollow block wall with an open space before the roofing. On 18 June 1998 at about 7:00 o'clock in the evening, DDD arrived at the room rented by them. At that time, accused-appellant was already inside the room conversing with the witness. Efren Sabado and CCC (brother-in-law of AAA) were also inside the room. They then started drinking liquor and were conversing. As the room of Pangilinan is small, they occupied the front portion near the door and window of the room. While they were drinking liquor, BBB, wife of CCC, came and asked money from CCC, and the latter told BBB that he did not have money. When BBB was not able to get money from her husband CCC, she left. Upon hearing that BBB asked money from her husband and was not given money, DDD told accused-appellant who was then seated by the door to give BBB the amount of P20.00 and accused-appellant obliged. According to the witness, the room occupied by AAA was about seven steps from the door of his room, with accused-appellant taking only a few seconds to give the money and return to the room of Pangilinan. Pangilinan saw accused-appellant hand the P20.00 bill to BBB and accused-appellant, after giving the money, returned to Pangilinan's

room. Accused-appellant did not even enter the room of AAA and that the only time he left the room where they were drinking liquor was when DDD asked him to give money to BBB. It was about past 9:00 o'clock in the evening when DDD, Efren Sabado, accused-appellant, and CCC, left his room. From 7:00 to 9:00 o'clock in the evening, CCC, the brother-in-law of AAA, was with the above-named persons drinking liquor. According to him, during the time their group was inside his room, they did not hear any shouts or commotion inside the adjacent room occupied by AAA and her sister BBB.

DDD and Efren Sabado took the witness stand to corroborate the testimony of Pangilinan, affirming his earlier testimony that they were at the room rented by him on 18 June 1998 from 7:00 to past 9:00 o'clock in the evening. Both testified to DDD handing over P20.00 to accused-appellant and requesting the latter to give BBB the P20.00 bill. Accused-appellant handed over the P20.00 bill to BBB and he thereafter returned to Pangilinan's room where they were drinking and conversing, after only a few seconds from the time they left. CCC, the brother-in-law of AAA, was with them from 7:00 to past 9:00 o'clock at the room of Pangilinan. As in the testimony of Pangilinan, it was elicited from the testimonies of the two witnesses that accused-appellant did not leave the room except for a very few seconds when he gave the money to BBB. They did not notice any commotion or shouts inside the adjacent room occupied by AAA and her sister.

Emma P. Santos, a sister of accused-appellant, testified that she is the caretaker of the house (which is owned by her sister Elsa who is based in Japan) rented by Pangilinan, accused-appellant, AAA and her sister. According to Santos, on 18, 19, 20, 21, 22, and 23 of June 1998, Santos visited her parents and accused-appellant, wherein she also happened to see AAA and BBB. During the times she encountered AAA on those dates, nothing was relayed to her in relation to the filing of a complaint against her brother.

The last witness for the defense was accused-appellant himself who denied the rape charges against him by AAA. He affirmed the testimony of Pangilinan that he and his wife were inside the room of Pangilinan on 18 June 1998 before 7:00 in the evening up to past 9:00 o'clock in the evening. DDD, Efren Sabado and CCC, brother-in-law of AAA, were drinking liquor and conversing inside the room of Pangilinan on said date and time. Since he was seated near the door of the room of Pangilinan, accused-appellant was requested by DDD, a relative of AAA and BBB, to give P-20.00 to BBB who was at the room adjacent to their room. Accused-appellant then complied with the request of DDD and gave the P20.00 to BBB who was then near the door of the room where they were drinking. The distance from the door of Pangilinan's room to the door of the room of BBB is only about seven steps away. Accused-appellant returned to the room of Pangilinan immediately after giving the money to BBB. Accused-appellant did not enter the room of AAA and no commotion or shouts were heard. The following day, accused-appellant saw AAA in front of their rented room, who gave the usual friendly gestures to him. On subsequent dates, or from 20-23 June 1998, AAA stayed at their rented room and maintained the same friendly attitude towards him. On 24 June 1998, AAA left their rented room. AAA did not accuse him of doing anything wrong before leaving their rented room on 24 June 1998. Accused-appellant denies AAA's rape accusations against him alleging that the charges were fabricated because AAA and her mother became aware that his mother's land was being sold for a considerable amount and they just wanted the case settled for money.

Giving more credence to the evidence for the prosecution, the trial court rendered judgment on 23 August 1999 convicting accused-appellant as charged, disposing as follows:

WHEREFORE, all the foregoing considered, the Court finds the accused Ernesto Pili guilty beyond reasonable doubt of the crime of rape penalized under Article 335 of the Revised Penal Code, as amended and as a consequence of which, he is hereby sentenced to suffer the mandatory penalty of *reclusion perpetua* and to indemnify the offended party the amount of P50,000.00.<sup>[11]</sup>

Claiming that the constitutional presumption of innocence was not overcome by the evidence of the prosecution, accused-appellant filed a Motion for Reconsideration<sup>[12]</sup> with the same court on 15 September 1999.

While the motion for reconsideration was still pending resolution, Assistant Prosecutor Olimpio Datu asked for leave to confer with the trial judge in chambers, which request was granted by the trial court. Thereafter, Assistant Prosecutor Datu filed a Motion to Dismiss<sup>[13]</sup> on the basis of an Affidavit of Recantation<sup>[14]</sup> allegedly executed before him by AAA on 17 September 1999. The Motion to Dismiss dated 20 September 1999 contained these allegations:

1. That the private complainant (AAA) executed her Affidavit of Recantation attached hereto, stating therein the reasons for doing so;
2. That considering that the above-entitled case was already decided by this Honorable Court convicting the accused of the crime charged, the undersigned lost no time to talk to the private complainant regarding the probable effects and consequences of her recantation;
3. That after a thorough and intense conference with the private complainant and immediate members of her family, the private complainant attested to the truth of what was stated in her Affidavit of Recantation, as well as her knowledge of the consequences of such an act;
4. That the private complainant reiterated that she was not forced nor coerced into making her recantation, neither was it in exchange for any valuable consideration but was made voluntarily following the dictates of her conscience;

WHEREFORE, in the interest of justice, it is respectfully prayed that the above entitled case be dismissed.<sup>[15]</sup>

On 21 September 1999, AAA personally affirmed under oath the contents of her affidavit of recantation during the hearing of the pending motions, reiterating the following statements in her affidavit:

That I very careful(sic) considered the facts and circumstances that cause(sic) the filing of the above entitled complaint and have finally ascertained that what transpired between me, and the accused, the subject of the above-entitled complaint is a mere misunderstanding and out of revenge and to save face and embarrassment, I made it appear in my salaysay and testimony given in court that I was raped by the

accused, the truth of the matter is that what accused did to me was done with my consent and that I was not intimidated neither threatened by the accused;

That whatever transpired between me and the accused and whatever he had done to me, by virtue of this affidavit, I voluntarily manifest that I have forgiven and pardoned the accused;

That I will not have peace of mind if the above entitled case be not re-opened in order to make known to the Honorable Court the true facts of the case, to save an innocent person languishing (sic) jail through out his life;

That by virtue of this affidavit, I am recanting the allegations stated in my *Salaysay* and my testimony given in court the truth of the matter relative to the above entitled case is that stated above.<sup>[16]</sup>

The court *a quo* refused to give credence to the Affidavit of Recantation of AAA, denying the Motion for Reconsideration filed by the defense and holding complainant AAA liable for Direct Contempt of Court.<sup>[17]</sup> In its Order dated 24 September 1999, the RTC resolved:

WHEREFORE, the Motion for Reconsideration is denied. At the same time, the Court finds the complainant AAA guilty of Direct Contempt of Court and hereby sentence her to imprisonment often (10) days and pay a fine of P2,000.00.

The Provincial Prosecutor is directed to conduct appropriate preliminary investigation for the crime of perjury against AAA and if evidence warrant, to file the corresponding information before the proper court and to report to this court the action taken thereon.

Likewise the Hon. Secretary of Justice is called upon to conduct if it so warrants, appropriate administrative proceedings against Assistant Prosecutor Olimpio R. Datu for committing the foregoing questionable acts and who shall also be charged in a separate order, to be docketed separately, and heard and tried by this Court for Indirect Contempt of Court pursuant to Sec. 3(a) and (d), Rule 71 of the Revised Rules of Court.

A duplicate original of this Order is hereby furnished the Hon. Secretary of Justice by way of 1<sup>st</sup> Endorsement for appropriate action.<sup>18</sup>

Accused-appellant interposed an appeal to the Court of Appeals. Finding no sufficient basis to overturn the findings of the lower court, the Court of Appeals, on 13 August 2007, rendered the assailed decision affirming the findings and conclusions of the trial court. The appellate court, however, clarified that the RTC incorrectly cited Article 335 of the Revised Penal Code as the legal provision applicable to the case<sup>[19]</sup> but Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353, which reclassified rape as a crime against persons.

Accused-appellant filed a Notice of Appeal with this Court.<sup>[20]</sup> The records of the case were elevated to the Court which required the parties to simultaneously file their respective supplemental briefs, if they so desire, within 30 days from notice.