

## SECOND DIVISION

[ G.R. No. 179946, December 23, 2009 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
QUIRINO CABRAL Y VALENCIA, ACCUSED-APPELLANT.**

### D E C I S I O N

**BRION, J.:**

This is an appeal from the decision<sup>[1]</sup> of the Court of Appeals (CA) affirming with modification the decision of the Regional Trial Court<sup>[2]</sup> (RTC) finding Quirino Cabral y Valencia (*accused-appellant*) guilty beyond reasonable doubt of three (3) counts of qualified rape committed against his minor daughter (*complainant*).

#### The Antecedents

The accused-appellant was charged with five (5) counts of rape committed within the period December 1995 to November 21, 1998 against the complainant who was only 10 to 13 years old at the time. The rape incidents all happened under the following circumstances: (a) the rapes were committed in the family dwelling between 12:00 a.m. and 2:00 a.m. when the complainant was sleeping with her siblings; (b) the size of the family dwelling was three meters by four meters; (c) the complainant's mother was not around; (d) the accused-appellant poked a *balisong* at the complainant's neck in three instances to compel her to submit to the sexual assaults; and (e) the accused-appellant also threatened to kill the complainant and the rest of the family members in case of disclosure.

The complainant related that in these incidents, she would be awakened in the middle of her sleep with the accused-appellant touching and stroking her thighs. The accused-appellant would undress her, and, after also undressing himself, would insert his organ into her organ. The complainant also related that she would cry and kick the accused-appellant during the sexual act.

The accused-appellant denied the charges against him and claimed that it was impossible for him to commit the rapes, considering that his work schedules as a tricycle driver and as a fisherman compelled him to work at nighttime. The accused-appellant imputed ill-motive on his wife and the complainant. He claimed that the complainant begrudged him for disciplining her; his wife wanted to replace him with another man.

#### The RTC Ruling

The RTC acquitted the accused-appellant of one (1) count of rape, but convicted him of the four (4) counts charged, and imposed the penalty of death - the penalty

qualified rape carries. The trial court relied on the complainant's testimony which it described as "innocent," "straightforward," and an "unflinching narration on how she was molested." The RTC also ruled that the age of the complainant rendered it highly improbable for her to fabricate stories of her defloration.

The RTC rejected the accused-appellant's alibi for his failure to show that it was physically impossible for him to have committed the rapes. The RTC also rejected the claim that the small size of their dwelling rendered the commission of the rapes impossible; it recognized that lust is no respecter of time and place. Finally, the RTC noted that the accused-appellant's plea for forgiveness from his wife indicated his guilt.

#### The CA Ruling.

The CA on appeal affirmed the RTC's findings. The CA, however, acquitted the accused-appellant of one (1) count of rape for lack of evidence showing penile penetration. The dispositive portion of the CA decision decreed:

**WHEREFORE**, the foregoing considered, the assailed Decision in Criminal Cases Nos. 15-99, 16-99 and 17-99 are hereby **AFFIRMED** with the **MODIFICATION** that the accused-appellant's sentence is **REDUCED** to *reclusion perpetua*. Accused-appellant is further ordered to pay private complainant in Criminal Case Nos. 15-99, 16-99 and 17-99 P50,000.00 for moral damages, P75,000.00 for civil indemnity and P20,000.00 for exemplary damages in each criminal case.

For insufficiency of evidence and for failure of the prosecution to prove his guilt beyond reasonable doubt, accused-appellant is hereby **ACQUITTED** in Criminal Case No. 18-99.

Costs against the accused-appellant.

**SO ORDERED.** <sup>[3]</sup>

#### The Issue

The lone issue raised on appeal is the failure of the courts to appreciate the doubtful testimony of the complainant, considering her failure to shout for help and the improbability that the rapes could have been committed in a 3 x 4-meter house in the presence of other people.

#### The Court's Ruling.

**We affirm the accused-appellant's conviction after due consideration of the records and the evidence.**

The rule is well-settled that when the decision hinges on the credibility of witnesses