

SECOND DIVISION

[G.R. No. 177161, June 30, 2008]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ABRAHAM BUNAGAN Y SONIO, ACCUSED-APPELLANT.**

DECISION

VELASCO JR., J.:

This is an appeal from the Decision^[1] dated October 27, 2006 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01182 entitled *People of the Philippines v. Abraham Bunagan* which affirmed with modification the May 6, 2005 Judgment^[2] of the Regional Trial Court (RTC), Branch 4 in Tuguegarao City, finding accused-appellant Abraham Bunagan y Sonio guilty of rape, by sexual assault under Article 266-A(2) of the Revised Penal Code (RPC) in Criminal Case No. 10078 and rape under Art. 266-A(1) of the same code in Criminal Case No. 10079.

The informations in the two (2) criminal cases respectively read as follows:

Criminal Case No. 10078

That on or about the first week of February 2002, at around 7:00 o'clock in the evening in the Municipality of Peñablanca, Province of Cagayan, and within the jurisdiction of [the RTC], the said accused, ABRAHAM BUNAGAN Y SONIO with lewd design and by the use of force, did, then and there, willfully, unlawfully and feloniously insert his finger into the vagina of the offended party, [AAA] a minor twelve (12) years of age against her will.

Contrary to law.

Criminal Case No. 10079

That on or about April 02, 2003, in the Municipality of Peñablanca, Province of Cagayan, and within the jurisdiction of [the RTC], the said accused, ABRAHAM BUNAGAN Y SONIO armed with a pointed knife, with lewd design and by the use of force and intimidation, did, then and there, willfully, unlawfully and feloniously have sexual intercourse with the offended party, [AAA] a minor twelve (12) years of age against her will.

Contrary to law.

The facts are as follows:

Sometime in the first week of February 2002, at about seven o'clock in the evening, AAA,^[3] then 12 years old, passed by the house of accused-appellant who was then

in his yard holding a bolo. There and then, accused-appellant approached AAA, held her hands, covered her mouth with his palm, and brought her at the back of his house. Despite AAA's resistance, accused-appellant was able to strip her of shorts and panty, and succeeded in inserting his two fingers into her vagina. Accused-appellant threatened to kill AAA if she reported the incident to anyone.^[4]

In the morning of April 2, 2003,^[5] AAA went with her father and his companions to the rice field to harvest *palay* (rice plant). After harvesting *palay*, AAA's father and his companions went to the forest to gather firewood. AAA stayed behind and climbed a *caymito* (star apple) tree to gather fruits. When she got down from the tree, she was surprised to see accused-appellant, who was armed with a bolo. Accused-appellant brought AAA to a grassy area and laid her down. AAA resisted but he threatened her by pointing his bolo on the left side of her body. He then undressed her, went on top of her, and inserted his penis inside her vagina. As in the previous molestation incident, accused-appellant warned AAA not to report what had just happened to anybody, else he will kill her.^[6]

When they came out of the grassy area, accused-appellant decided to stay with AAA while she waited for her father. During the wait, accused-appellant repeated his threat against AAA. When AAA's father arrived, all of them went home.^[7]

The next day, AAA disclosed to her mother that accused-appellant had raped her. Mother and daughter lost no time in reporting the matter first to barangay officials and then to the police.^[8]

On April 4, 2003, Dr. Mila F. Lingan-Simangan, Municipal Health Officer of Cumasi, Peñablanca, Cagayan, examined AAA. The resulting medico-legal report yielded the information that AAA had healed lacerations in the hymen at three, six, and nine o'clock positions and that her vagina easily admitted the tip of a finger.^[9]

Accused-appellant admitted having had sexual relations with AAA, but denied employing force or intimidation in the process. He claimed that in February 2002, AAA went to his house, hugged him, and asked for PhP 10. Thereafter, they had sexual intercourse. He stated that he had sexual intercourse with AAA six times, AAA each time asking and receiving PhP 10. Furthermore, he said that on April 2, 2003, AAA asked to see him at the rice field where they again had sex.^[10]

On May 6, 2005, the RTC rendered a Decision, the dispositive portion of which reads:

Accordingly, this Court finds the accused ABRAHAM BUNAGAN y Sonio GUILTY beyond reasonable doubt of the crimes of Rape in two (2) counts in Criminal Cases Nos. 10078 and 10079 defined and penalized under article 266-A No. 2 and Article 266-A No. 1 (a) in relation to Article 266-B of the Revised Penal Code, as amended, and hereby sentences him to suffer the penalty of RECLUSION PERPETUA.

He is likewise ordered to pay the complainant, AAA the amount of [PhP] 50,000.00 as civil indemnity, [PhP] 50,000.00 as moral damages and the amount of [PhP] 25,000.00 as exemplary damages.