

SECOND DIVISION

[G.R. No. 177297, September 12, 2008]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CLAUDIO ZULUETA, SR., ACCUSED-APPELLANT.**

D E C I S I O N

VELASCO JR., J.:

This is an appeal from the Decision dated October 27, 2006 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00079 entitled *People of the Philippines v. Claudio Zulueta, Sr.*, affirming with modification the December 28, 1998 Decision of the Regional Trial Court (RTC), Branch 25 in Koronadal, South Cotabato in Criminal Case Nos. 3647-25, 3648-25, and 3649-25 which found accused-appellant Claudio Zulueta, Sr. guilty of three (3) counts of rape.

The Facts

Except for the dates and time of commission of the offense, the three Informations filed against accused-appellant contained the same accusatory portion as the first Information in Criminal Case No. 3647-25:

That on or about the 1st day of June, 1995 at about 12:00 o'clock in the evening at Sitio Miasong, Barangay Pulabato, Municipality of Tampakan, Province of South Cotabato, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with [AAA],^[1] his own daughter, against her will and consent.

Contrary to law with the aggravating circumstance that the crime was committed with abuse of confidence and evident premeditation.^[2]

The second count of rape in Criminal Case No. 3648-25 was allegedly committed on June 2, 1995 at about 3:00 a.m., while the third count in Criminal Case No. 3649-25 was allegedly committed at about 9:00 p.m. on May 25, 1995.^[3]

When arraigned, accused-appellant pleaded not guilty to all the charges against him.

The prosecution presented the following facts:

On May 25, 1995, accused-appellant, a resident of Pulabato, Tampakan, South Cotabato, asked his daughter, AAA, then 13 years old, to accompany him to clear their farm of weeds. The farm was situated in *Sitio* Miasong of the same town where they have another house. Arriving at the Miasong house after the day's work, AAA

lied down on a mat to sleep. Shortly after, accused-appellant came near to touch her and told her not to make any noise. When AAA tried to resist, accused-appellant tied her hands behind her back, then proceeded to undress himself and AAA. Accused-appellant then placed himself on top of her. Despite AAA's efforts to free herself, accused-appellant was able to insert his penis into her vagina. Following the sexual assault, accused-appellant untied AAA and left her to sleep.

AAA stayed at the Miasong house for another five days, unable to leave as her father was watching her. At around midnight of June 1, 1995, AAA was awakened by her father undressing her. When she started to cry, accused-appellant hit her thrice and threatened to hit her again if she did not stop crying. Despite the desperate pleas of a daughter to a father, accused-appellant persisted and succeeded in having sex with AAA. After he was through with his bestial act, accused-appellant again threatened AAA, this time with death should she report the incident to her mother.

The next morning, a neighbor, Erlinda Labastro, asked AAA about the cries she heard the night before. When told about the sexual abuse, Erlinda advised her to run away, but AAA replied that she was scared to leave the place and had nowhere to go besides.

On the evening of June 2, 1995, accused-appellant again forced himself on the struggling AAA.

Somehow, word got around of the sexual abuse to which AAA was being subjected. When told about what happened to AAA, her eldest brother lost no time in fetching AAA and accompanying her to see a *barangay* official to file a complaint.

On June 3, 1995, a medical examination conducted on AAA showed hymenal lacerations and the recent loss of virginity.

As summarized by the RTC, accused-appellant gave the following version of the events that transpired:

x x x Corroborated by his brother Obrero x x x, accused Claudio Zulueta says that during the time complained of by his daughter [AAA], he was in their house at Pulabato proper, repairing their kitchen. Helped by his brother Obrero x x x, accused started his repair work in April, 1995. It lasted up to June 6, 1995 when he was arrested upon the complaint of [AAA]. [AAA] was on May 25, June 1 and 2, 1995 in [S]itio Miasong, working at their farm together with her siblings [BBB], [CCC], and [DDD]. At nighttime, the children would sleep with their uncle Victorio (Vic-vic) Zulueta, a younger brother of the accused who also had a house near the house of the accused at [S]itio Miasong.

The house of the accused at [S]itio Miasong is some five (5) kilometers away from his house at Barangay Pulabato proper.^[4]

After trial, the RTC found accused-appellant guilty as charged. The dispositive portion of its Decision reads:

ACCORDINGLY, we find accused CLAUDIO ZULUETA, SR. guilty beyond reasonable doubt of the felony of rape defined and penalized under