

THIRD DIVISION

[G.R. No. 171452, October 17, 2008]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICARDO SANTOS, ACCUSED-APPELLANT.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before the Court is an appeal from the July 26, 2005 Decision^[1] of the Court of Appeals (CA), affirming the July 31, 2001 Decision^[2] and April 12, 2002 Order^[3] of the Regional Trial Court (RTC), Branch 76, Rizal, which convicted Ricardo Santos (appellant) of the crime of qualified rape; and the December 15, 2005 CA Resolution,^[4] denying appellant's motion for reconsideration.

Based on the sworn statements^[5] executed on February 1, 2000 by private complainant AAA^[6] and her mother BBB,^[7] an Information was filed with the RTC, charging appellant for rape -- as defined and penalized under Article 266-A, paragraph 1 and Article 266-B, paragraph 2 of the Revised Penal Code, as amended by Republic Act No. 8353, in relation to Republic Act No. 7610 and Section 5 (a) of Republic Act No. 8369 -- allegedly committed as follows:

That on or about the 15th day of October 1999 in the Municipality of ZZZ,^[8] Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a gun and by means of force, threat or intimidation, with lewd design, with intent to cause or gratify his sexual desire or abuse and maltreat complainant AAA, a minor, thirteen (13) years old, did then and there willfully, unlawfully and feloniously have sexual intercourse with said complainant against her will and consent which debases, degrades and demeans the intrinsic worth and dignity of said child as a human being.

CONTRARY TO LAW.^[9]

Appellant pleaded "Not Guilty" when arraigned on July 13, 2000,^[10] after which trial ensued.

The evidence for the prosecution.

BBB testified that AAA is her daughter with her first husband^[11] and submitted a Certificate of Live Birth, Exhibit "E",^[12] showing that AAA was born on August 26, 1986 in Quezon Province and **was only thirteen (13) years old when she was raped**. In 1999, AAA was living with her and her second husband in a house at XXX.^[13] Appellant was a neighbor and a drinking buddy of her second husband.^[14]

In the evening of January 30, 2000, BBB was awakened by the arrival of a family friend, Bong Bautista (Bautista), who informed her that appellant had molested AAA.^[15] The following day, BBB went to see AAA in Caloocan City where the latter had been staying since January 16, 2000, and asked her whether appellant had indeed molested her, but AAA did not answer.^[16] BBB then brought AAA back to XXX to be questioned by the *Barangay* Captain of XXX. Only then did AAA divulge that on October 15, 1999, appellant raped her at gunpoint.^[17]

On the following day, BBB accompanied AAA to the XXX Police Station where they filed a complaint for rape against appellant.^[18] As required by the police, AAA underwent physical and genital examination at the PNP Crime Laboratory in Camp Crame.^[19]

The *Barangay* Captain confirmed that on January 31, 2000, BBB and AAA went to see him at the *barangay* hall and that the latter narrated how she was raped by appellant in October 1999.^[20] Her narration is recorded in the *barangay* logbook,^[21] Exhibit "G".^[22] The *Barangay* Captain also confirmed that, at the time of the alleged rape incident in October 1999, appellant was a neighbor of AAA, both being residents of XXX.^[23]

On the witness stand, AAA narrated what transpired on October 15, 1999, thus:

Q: Now, on October 15, 1999, do you remember where were you AAA?

A: Yes, sir.

Q: Where were you?

A: In the house, sir.

Q: What were you doing in your house?

A: I was taking care of my brother, sir.

Q: And while taking care of your brother, do you remember what happened next AAA?

A: Yes, sir.

Q: What happened?

A: Ricardo Santos went to our house, sir.

Q: If this Ricardo Santos is present inside this courtroom, will you be able to identify him AAA?

A: Yes, sir.

Q: Will you kindly look around this courtroom and point to Ricardo Santos?

A: That man wearing a yellow t-shirt, sir.

Interpreter:

Witness pointing to a certain person who when asked answered by the name of RICARDO SANTOS.

Q: What happened next when Ricardo Santos went to your house on October 15, 1999?
A: He told me to go to their house, sir.

Q: For what purpose, if any?
A: He told that he was going to give me something, sir.

Q: And did you go to his house?
A: Yes, sir.

Q: Upon reaching his house, AAA, what happened?
A: When I entered their door, he suddenly closed the door of the house, sir.

Q: What else happened?
A: He poked a gun at me, sir.

Q: In what particular part of your body did he poke his gun at you?
A: At my right temple (sintido), sir.

Q: Did you know what kind of gun Ricardo Santos used in poking at you?
A: I cannot remember, sir.

Q: And what did you feel when Mr. Ricardo Santos poked a gun at your right temple?
A: I was frightened, sir.

Q: And what did Ricardo Santos do, if any, after poking that gun at you?
A: We went to a room.

Q: And then what else transpired?
A: He asked me to undress, sir.

Q: Did you undress?
A: No, sir.

Q: And when you did not remove your dress, what did Ricardo Santos do, if any?
A: He undressed me, sir.

Q: When you said he undressed you, he removed all of your clothing, including your undergarments?
A: Yes, sir.

Q: And what did you do, if any, AAA, when Ricardo Santos undressed you?
A: I cried and begged him and told him "Huwag po, huwag po", sir.

Q: And did Ricardo Santos accede to your plea?
A: No, sir.

Q: After undressing you, what did Ricardo Santos do next, if any?

A: He kissed the different parts of my body, sir.

Q: What else?

A: He started kissing my lips going down, sir.

Q: What else?

A: He sucked my nipple, sir.

Q: What else?

A: No more, sir.

Q: And what did you do, if any, while Ricardo Santos was doing those things to you?

A: I did not do anything because I was afraid during that time, sir.

Q: What else did Ricardo Santos do to you if any?

A: He inserted his private part into mine, sir.

Q: I presumed that Mr. Ricardo Santos was wearing clothes then?

A: Yes, sir.

Q: At what point in time did Mr. Ricardo Santos remove his clothing from his body?

A: After undressing me, he removed his shorts, sir.

Q: And after removing the shorts from his body, what followed next?

A: He inserted his private part into mine, sir.

Q: What was your position when Ricardo Santos inserted his penis to your vagina, AAA? Were you standing, lying or what?

A: I was lying down, sir.

Q: Where did Ricardo Santos lay you down?

A: On a bed, sir.

Q: How did Ricardo Santos insert his penis into your vagina?

A: He also laid down and inserted his private part, sir.

Q: How did Ricardo Santos lay or lie to [sic] you?

A: He was lying face down on top of me, he laid down on top of me, sir.

Q: After laying [sic] on top of you, what did Ricardo Santos do?

A: He inserted his private part into mine and made an up and down motion, sir.

Q: What did you feel when his penis entered your vagina?

A: I was hurt, sir.

Q: And what did you do, if any, while Mr. Ricardo Santos was lying on top of you inserting his penis to your vagina and making an up and down movement?

A: I was trying to push him but he still continued, sir.

Q: Aside from that, what did he do, if any?

A: I was crying and trembling with fear, sir.

Q: Aside from being hurt or feeling pain when Ricardo Santos succeeded in inserting his penis to your vagina, what did you feel, if any?

A: Something hot came out of him, sir.

Q: What else transpired?

A: He stood up and asked me to dress, sir.

Q: And where was Ricardo Santos, after doing that to you, ordered you to stand up and dress?

A: At my front, sir.

Q: Aside from ordering you to dress up, what else did Ricardo Santos do, if any?

A: No more, sir.

Q: Did you see the gun after Ricardo Santos was through with his acts, AAA?

A: Yes, sir.

Q: Where did you see it?

A: He was holding it, sir.

Q: And while dressing up, AAA, what did you do, if any?

A: I was crying, sir.

Q: And you claimed that Ricardo Santos was still holding that gun after, what did he do with that gun?

A: He kept it, sir.

Q: How many times did Ricardo Santos molest you after the afternoon of October 15, 1999?

A: Only one, sir.

Q: After dressing up, AAA, where did you go?

A: In our house, sir.^[24]

AAA explained that she did not immediately report the incident to BBB nor to anyone else because she was afraid that appellant will carry out his threat against her and her family.^[25]

AAA further testified that appellant is no stranger to her family because he lives a few houses down their street and he is often invited by her step-father for drinking sessions in their house.^[26]