

## THIRD DIVISION

[ G.R. No. 168650, October 26, 2007 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOSE TUAZON,  
APPELLANT.**

### DECISION

**NACHURA, J.:**

AAA is the daughter of BBB by her first marriage. After the death of AAA's father, BBB contracted marriage with the appellant, Jose Tuazon; they then lived together as husband and wife, together with the former's children.

Instead of guarding his stepchildren/children against wrongful acts of strangers, the appellant committed lustful acts against one of them, by repeatedly abusing AAA. The first of this series of acts was committed in 1995 while AAA was still in Grade V. [1] She was at that time 11 years old, having been born on November 14, 1984 as shown in her certificate [2] of live birth.

One night sometime in 1995, AAA was inside their house with the appellant, together with her younger brothers and sisters, while BBB was out as she went to harvest coffee at Calakkad, Tabuk. Appellant then went inside the room where all of the children were sleeping; approached the place where AAA was lying down; removed her panty; kissed her; brought out his male organ; placed his penis inside her vagina; then made the push and pull movement, after which AAA felt that there was liquid coming out of his penis. She was then in pain and her private part bled. She could not offer resistance at that time because the appellant threatened to kill her if she would report the incident. Immediately after satisfying his lustful desire, appellant put on AAA's panty. [3] Unsatisfied, he repeated the incident several times, always when BBB was out. The last incident took place on May 27, 1997.

AAA did not reveal her gruesome experience to anybody – not even to her mother BBB, because of her fear that the appellant would make good his promise of killing her if she would report the incident.

Sometime in May 1997, AAA's grandmother CCC, invited her to sleep in the latter's house but she was prevented by the appellant. The next day, CCC went to the house of the appellant and inquired why AAA did not sleep at her house. Instead of answering CCC, AAA started crying. When CCC asked why, she answered that "she was raped." [4] It was then that she revealed her ordeal at the hands of the appellant.

CCC thereafter reported the matter to AAA's uncle who, in turn, reported it to BBB's brothers. Together, they reported the incident to the Municipal Hall of XXX, Isabela.

On May 29, 1997, AAA submitted herself to medical examination by Dr. Alpha Dulig

(Dr. Dulig), Rural Health Physician of XXX, Isabela, who subsequently issued a medical certificate,<sup>[5]</sup> the pertinent portion of which reads:

GENITALIA

Pubic hairs: few(,) fine, short hair

Labia Majora: reddish and swollen

Labia Minora: reddish and swollen

Fourchette: healed laceration, not coaptated

Vestibules: reddish

Hymen: absent

Orifice: Accepts 2 finger (sic) withease (sic) and without pain

Vagina:

Walls: reddish,

Rugosities: rough

Uteros (sic): palpable; small

Cervix: soft close, reddish

Discharge: none

Thereafter, AAA and CCC executed their respective sworn statements<sup>[6]</sup> before the XXX police. Subsequently, AAA filed a complaint<sup>[7]</sup> dated May 30, 1997, with the 12<sup>th</sup> Municipal Circuit Trial Court (MCTC) of XXX, Province of Isabela.

After the requisite preliminary investigation, on January 28, 1998, two separate Informations for rape were filed against the appellant before the Regional Trial Court of Roxas (RTC). The cases were docketed as Criminal Cases Nos. 23-829 and 23-830. The respective accusatory portions of the foregoing informations are as follows:

That on or about the 27<sup>th</sup> day of May, 1997, in the municipality of XXX, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force, intimidation and with lewd designs, did then and there, willfully, unlawfully and feloniously, lay with and have carnal knowledge with one AAA, a girl of 12 years of age, against her will and consent.

CONTRARY TO LAW.<sup>[8]</sup>

That on or about the year 1995, in in (sic) the municipality of XXX, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force, intimidation and with lewd design, did then and there, willfully, unlawfully and feloniously, lay with and have carnal knowledge with one AAA, a girl below 12 years of age, against her will and consent.

CONTRARY TO LAW.<sup>[9]</sup>

Appellant pleaded "Not Guilty" to both charges. Accordingly, joint trial ensued.

For his part, appellant denied the charges imputed against him. He testified that they were fabricated by AAA's paternal grandmother, CCC, who was angry at him

because of his marriage to BBB.<sup>[10]</sup>

The defense likewise presented BBB who testified that she did not know of anyone who opposed her relationship with the accused but she did not answer when asked if her in-laws opposed such marriage.<sup>[11]</sup> She likewise testified that she did not have personal knowledge that the appellant abused her daughter AAA.<sup>[12]</sup>

After trial, the RTC rendered a Joint Decision<sup>[13]</sup> dated December 6, 2000, finding the appellant guilty of the offenses charged. The *fallo* reads:

WHEREFORE, finding the accused guilty beyond any iota of doubt, of the offenses as charged in both informations above-quoted, the court hereby sentences the accused to RECLUSION PERPETUA for each count of rape and to pay the sum of Fifty Thousand (P50,000.00) Pesos as damages for each offense and additional Seventy-five (sic) (P75,000.00) Pesos as civil damages or a total of One Hundred Twenty-five Thousand (P25,000.00) Pesos for each count following prevailing jurisprudence, with all the necessary penalties provided for by law, and to pay the costs.

SO ORDERED.<sup>[14]</sup>

The records of this case were originally forwarded to this Court by the RTC in view of the notice of appeal filed by the appellant. After the parties submitted their respective briefs, conformably with our Decision in *People v. Mateo*,<sup>[15]</sup> we transferred this case and its records to the Court of Appeals (CA) in a Resolution<sup>[16]</sup> dated August 30, 2004 for appropriate action and disposition.

In his Brief,<sup>[17]</sup> appellant raised the following as errors of the RTC:

I.

THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE UNBELIEVABLE AND INCREDIBLE TESTIMONY OF THE PRIVATE COMPLAINANT, AAA.

II

THE COURT A QUO COMMITTED A REVERSIBLE ERROR IN CONVICTING ACCUSED-APPELLANT OF THE CRIME OF RAPE IN CRIMINAL CASE NO. 23-829.

III

THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT IN CRIMINAL CASE NO. 23(-)830 HAS BEEN PROVEN BEYOND REASONABLE DOUBT.<sup>[18]</sup>

On April 21, 2005, the CA rendered the assailed Decision:<sup>[19]</sup>

WHEREFORE, premises considered, the appeal is hereby **DENIED**. The assailed decision of the Regional Trial Court, Branch 23, Roxas, Isabela

dated December 6, 2000 is hereby **AFFIRMED**.

SO ORDERED.<sup>[20]</sup>

Hence, the present appeal.

The Court stresses that conviction or acquittal in a rape case more often than not depends almost entirely on the credibility of the complainant's testimony because of the very nature of this crime. It is usually the victim who alone can testify as to its occurrence. In rape cases, the accused may be convicted solely on the basis of the testimony of the victim, provided that such testimony is credible, natural, convincing and consistent with human nature and the normal course of things.<sup>[21]</sup> The credibility given by the trial court to the rape victim is an important aspect of evidence which appellate courts can rely on because of its unique opportunity to observe the witnesses, particularly their demeanor, conduct and attitude during direct and cross-examination by counsel. Absent any showing that the trial judge overlooked, misunderstood, or misapplied some facts and circumstances of weight which would affect the result of the case, his assessment of credibility deserves the appellate court's highest respect.<sup>[22]</sup>

We agree with the conclusion of the RTC, as affirmed by the CA, that the testimony of AAA was direct, unequivocal and consistent, and thus deserves full faith and credit. She testified:

*1<sup>st</sup> Incident of Rape  
Sometime in 1995  
(Criminal Case No. 23-830)*

Q: If that is the case tell all what happened to you that first night?

A: That night he went to our room, he make (sic) me naked then he raped me, sir.

Q: Did he kiss you?

A: Yes, sir.

Q: When he kissed you, did he bring (sic) his male organ?

A: Yes, sir.<sup>[23]</sup>

x x x x

Q: When he brought out his penis, what did he do?

A: He had sexual intercourse with me, sir.

Q: Did he place his penis into your vagina?

A: Yes, sir.

Q: Will you tell the Court if his penis penetrated in your private parts?

A: Yes, sir.

Q: After the insertion of his penis into your vagina, what did he do?

A: He told me that whenever I will report the matter he would kill me, sir.

Q: When his penis was inside your vagina, did you ever feel any liquid coming out from his penis?

Atty. Lamorena:  
Objection, Your Honor.

A: There was, sir.<sup>[24]</sup>

x x x x

Q: Did you notice if he made the push and pull movement?

A: Yes, sir.

Q: And did he kiss you while he was making that movement?

A: Yes, sir.

Q: After you have feel (sic) that there was a liquid coming out from his penis, what else happened?

A: After he finished, sir, he put on my panty.<sup>[25]</sup>

*2<sup>nd</sup> Incident of Rape*  
*May 27, 1997*  
*(Criminal Case No. 23-829)*

Q: On May 27, 1997, will you describe how he raped you for the last time? What did he do?

A: He went again in our room where we were lying down, then he made me naked, and told me that if I will report the matter he will kill me, sir.

Q: After removing your clothes, and you were already naked, what did he do?

A: He abused me again, sir.

Q: How did he abuse you?

A: When I was already naked he had sexual intercourse with me, sir.

Q: Did he go on top of you after he made you naked?

A: Yes, sir.

Q: Did he kiss you before he place (sic) his penis inside your vagina?

A: Yes, sir.

Q: Did he kiss your breast?

A: No, sir.

Q: When his penis entered into your private parts, did you feel anything?

A: There was, sir.