

THIRD DIVISION

[G.R. No. 155415, May 20, 2004]

GERONIMO ORDINARIO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND COURT OF APPEALS, RESPONDENTS.

DECISION

VITUG, J.:

The case before this Court relates to an affirmance by the Court of Appeals of the joint decision, dated 20 October 1999, rendered by the Regional Trial Court of Makati City, Branch 138, in Criminal Cases No. 99-299 to No. 99-310, inclusive, convicting petitioner Geronimo Ordinario, on twelve (12) counts, of having committed punishable acts under Article 266-A of the Revised Penal Code. The indictments, under twelve (12) separate Informations filed by the City Prosecutor of Makati City on 26 February 1999, were uniformly worded, except with regard to the date of commission of the offenses, thusly:

"That in or about and sometime during the month of November, 1998, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously commit an act of sexual assault upon the person of one JAYSON RAMOS y MAGLAQUE, a ten (10) year old male person by then and there inserting his penis into complainant's mouth."

[1]

Petitioner entered a plea of not guilty to all the charges. A joint trial on the merits ensued.

On 20 October 1999, following the conclusion of the hearings, a decision was rendered convicting petitioner in all twelve (12) criminal cases and sentencing him for each count of rape to imprisonment ranging from five (5) years of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum, as well as ordering him, in each of the twelve (12) cases, to indemnify complainant P100,000.00 moral damages and P50,000.00 exemplary damages.

Petitioner interposed an appeal to the Court of Appeals, particularly faulting the trial court for giving full credence to the testimony of private complainant on the alleged sexual abuses and for discrediting the version testified to by petitioner and his witnesses.

The appellate court, in its now assailed decision, affirmed in toto the decision of the trial court. It gave a synthesis of its factual findings.

"Complainant Jayson Ramos and accused-appellant were student and teacher, respectively, at Nicanor Garcia Elementary School during the time the alleged crime was perpetrated. Jayson was then a fourth-grader

and accused-appellant was his teacher in Boy Scout.

"On November 9, 1998, at around 6:00 o'clock in the evening, accused-appellant summoned Jayson to his office at the Boys Scout headquarters while the latter was about to go home. Therein, accused-appellant ordered Jayson to strip off which the latter complied unwary of the perverse intentions of accused-appellant. Bare to the skin, accused-appellant approached Jayson and started kissing him all over his body including his male organ. Thereafter, accused-appellant inserted his private part into the mouth of Jayson but the latter could not hold on for long as he felt vomiting prompting accused-appellant to remove his penis and ordered Jayson to dress up. Before they parted ways, accused-appellant told Jayson 'pag nagsumbong ka sa mga magulang mo, may masamang mangyayari sa iyo.' Interpreting the same to mean an immediate bodily harm, Jayson kept mum on the incident for fear of accused appellant's reprisal. The following day, Jayson was absent from school as he got sick. (TSN, May 17, 1999, pp. 2-26.)

"On November 26, 1998, the same sexual molestation recurred, and several more thereafter, four of them during the succeeding month of December; four in the month of January, 1999; and two more in February 1999. As in the first instance, accused-appellant made sure that Jayson realized that something bad might befall him if he tells the incident to his parents. (Id. at 40-41.)

"On February 15, 1999, Jayson, together with his parents, went for a leisurely walk at the Cultural Center of the Philippines. It was during this occasion that Jayson was able to summon enough strength to confide to his parents the sexual assault perpetrated to him by accused-appellant. Thus, on February 17, 1999, a complaint was lodged against accused-appellant before the Makati Police Station.

"Accused-appellant vehemently denied the accusations against him. He claimed that his class schedule at Nicanor Garcia Elementary School starts in the morning and ends at 1:00 o'clock in the afternoon so it would have been impossible for him to have molested the child at 6:00 in the evening. Occasionally, however, he goes back to the school late in the afternoon to feed the chicken as part of his duty as overseer of the school's poultry project.

"On February 9, 1999, the date when the alleged last molestation was committed, accused-appellant claimed to have not reported for work on that day because he went to the office of Philippine Asia Association at Balic-Balic, Manila to secure a loan of P50,000.00. As proof of such fact, accused-appellant presented the cash voucher (Record, p. 114.) of his loan and a logbook entry (Records, pp. 197-198.) showing that he was absent from school on that day.

"In addition, the following witnesses were presented by the defense:

"a) Michael Eleccion, then a 13-year old pupil at Nicanor Garcia Elementary School, testified that he knew the complainant

for about two (2) years. Although he was in Grade VII at that time and complainant was in Grade III, he saw the complainant every schoolday. During the time that complainant was allegedly molested by accused, he did not notice any change in the attitude of the complainant, nor in his appearance, as in fact he found him to be happy. He, likewise, testified that he, like complainant, frequented the headquarters of the Boy Scouts but normally went there at 12:00 noon and only on Tuesdays and Wednesdays (TSN, July 19, 1999, pp. 15-28.);

"b) Michael Malonda, a 10-year old pupil of the same school, was a classmate of the complainant in Boy Scout at the time the incident of molestation happened. He testified that he normally went home at 6:30 in the evening and he never saw the complainant going in or coming out of the Boy Scout Headquarters. He saw the complainant only once (TSN, July 26, 1999, pp. 9-14.);

"c) Miguel Paolo Abad, a classmate of complainant in all subjects, testified that their class schedule was from 12:30 to 5:00 o'clock in the afternoon, and if assigned as a cleaner, they stayed until 6:00 o'clock in the evening. He noticed no change in the behavior of the complainant during the time that he was allegedly molested by the accused (TSN, Aug. 2, 1999, pp. 4-18.)

"d) Nelson Estoso, a janitor at Nicanor Garcia Elementary School, testified that his work schedule was from 6:00 o'clock in the morning to 7:30 in the evening. At about 7:30 to 8:00 o'clock every evening, he, together with the guard on duty, conducts a roving check of the school's vicinity and found nothing unusual during the time the alleged molestation of accused was perpetrated;

"e) Natividad Pagulayan, a co-teacher of the accused, testified that she accompanied the latter on February 9, 1999 to the office of All Asia in Sampaloc, Manila where he secured a loan. They parted ways at about 4:30 in the afternoon and never knew the whereabouts of the accused thereafter (TSN, Aug. 16, 1999, pp. 3-11.)

"f) Eufemia Mayor, a security assistant of the Makati Protective and Security Agency (MAPSA) detailed at Nicanor Garcia Elementary School, testified that she knows the accused and that on February 9, 1999, she did not see the accused inside the school's compound. She normally conducts a roving check of the school premises starting at 7:00 o'clock in the evening and did not notice any unusual incident during the time the alleged molestation happened (TSN, Aug. 23, 1999, pp. 3-6.)

"g) Elizabeth Talion, also a MAPSA guard assigned at the same school, testified that she usually saw the accused inside the school's premises between 6:00 o'clock and 7:00 o'clock in