

THIRD DIVISION

[G.R. No. 137383-84., November 23, 2000]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
REYNALDO VELASQUEZ Y OCAMPO, ACCUSED-APPELLANT.**

DECISION

GONZAGA-REYES, J.:

Before us is an appeal from the Decision^[1] of the Regional Trial Court of xxx City, National Capital Judicial Region, Branch 275 (RTC) dated February 11, 1998 convicting Reynaldo Velasquez y Ocampo of two counts of rape.

The accused, Reynaldo Velasquez y Ocampo (VELASQUEZ) was charged with the crimes of rape and forcible abduction with rape in two informations which read as follows:

In Criminal Case No. 97-0035:

"That on or about the 1st day of January 1997, in the Municipality of xxx, Metro Manila, Philippines and within the jurisdiction of this 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 one AAA, who is 15 years of age, against her will and consent."

In Criminal Case No. 97-0036:

"That on or about the 1st day of January, 1997, in the Municipality of xxx, Metro Manila Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, for the purpose of having carnal knowledge with AAA, a fifteen (15) year old minor, by the use of force and intimidation, willfully, unlawfully and feloniously, with lewd design forcibly abduct the said complainant and have sexual intercourse with her, without her consent and against her will and consent."

On February 20, 1997, VELASQUEZ was arraigned and with assistance of counsel entered a plea of not guilty to both crimes charged.^[2] Thereafter, joint trial ensued.

The prosecution through the Office of the Solicitor General posits the following version of the facts as testified to by the main prosecution witnesses, AAA:

"AAA, born on September 11, 1981, resides at xxx.

On January 1, 1997, around 6:00 in the morning, while walking home in xxx, AAA was approached by Reynaldo Velasquez, who asked her where she was going.

At that point, AAA saw Reynaldo carry a gun. The latter then poked the gun at the right ribs of AAA and thereafter held her arms.

Reynaldo called a taxi on which the two boarded. The taxi went towards xxx. They then proceeded to xxx, where Reynaldo's grandmother's house is located. AAA was unable to say anything or shout inside the taxi, out of fear.

Inside the house, Reynaldo talked to AAA and told her that she could not do anything. AAA however warned Reynaldo that he would be jailed. Reynaldo instead answered that it would never happen and that he would not let her go home.

AAA then stood up but Reynaldo pulled her dress and forced her to sit down. Reynaldo warned AAA that if she attempted to move, he would then harm her and kill her.

Reynaldo started to pull down AAA and made her lie on the floor. He removed her underwear, including her panty. AAA at this point could not move because Reynaldo pointed the gun at her.

Reynaldo covered the face of AAA with the use of a pillow and then sexually molested her. AAA felt pain when Reynaldo inserted his penis inside her vagina while making a pumping movement. This happened at around 8:00 in the morning of the same day.

After the sexual molestation, AAA was ordered to dress up. She was told not to make any move while Reynaldo took his breakfast.

While Reynaldo was taking his meal, AAA pleaded to his uncle who was inside the house and drunk that she was not related to Reynaldo and she must go home. Unfortunately, said uncle could not understand her.

Reynaldo suddenly stood up and threatened AAA not to tell anybody what happened. He asked AAA to simply do what he wanted, to fix herself and to comb her hair.

While combing her hair, AAA saw a small screwdriver on the table. She hid said object in her pocket.

AAA and Reynaldo stayed at the second floor of the house of the latter's grandmother until late in the morning.

Around 11:00 in the morning, AAA told Reynaldo that she wanted to go home. They then went downstairs and proceeded inside a room. Reynaldo asked AAA to lie down. Again, Reynaldo sexually assaulted his victim, and inserted his penis inside AAA's vagina.

While Reynaldo was sexually molesting AAA, the latter pulled out the screwdriver and stabbed him on the neck. This retaliatory move of AAA angered Reynaldo who then held her hands and boxed her.

AAA became very frightened. She seated herself in a corner, fearing that Reynaldo might hit her again.

At this moment, Reynaldo's grandmother, probably noticing the commotion, shouted at the two. AAA then begged Reynaldo to allow her to go home.

AAA and Reynaldo went out of the room at around 5:00 in the afternoon of the same date. They sat at the front of the house. AAA continuously begged Reynaldo to allow her to go home, but the latter still refused to do so. Thereafter, Reynaldo bought a softdrink.

At this point, AAA walked away from the house, going towards the squatter's area thereat. Reynaldo followed her and shouted at her.

After overtaking AAA, Reynaldo pulled the latter's clothes and boxed her again. They then went back to the house. AAA could not resist her aggressor who was continuously hurting her.

Inside the house, Reynaldo, while holding the gun, told AAA that he would like to kill a person. AAA, however, discovered that said weapon was merely a short toy pellet gun.

AAA continued to plea to Reynaldo and asked him if she could call her parents. Reynaldo refused, fearing that AAA might tell her parents what had happened.

AAA, however, was able to convince Reynaldo that she had previously called her parents informing them that she was at a friend's house, and that she would again call her parents just to tell them that she would soon be home.

Reynaldo believed AAA and went inside his grandmother's room to get money for the phone call.

Once her sexual predator was inside the room, AAA immediately ran towards a neighbor's house. She saw a man and told him what Reynaldo did to her. She then begged for help.

The man called BB, a barangay tanod of xxx. Castro sought the assistance of his companions and proceeded to the place.

When Castro's group arrived in the area, the people thereat informed them that there was a woman hiding under the table in one of the houses. They then brought said woman (AAA) to the barangay headquarters.

AAA informed the tanods that Reynaldo had sexually molested her, and

that the latter's gun was merely a toy.

The tanods went back to the place and looked for Reynaldo. At first, the latter's grandmother denied the presence of her grandson. However, after being convinced that it would instead help Reynaldo if he surrenders, the latter voluntarily surrendered to the barangay tanods.

On January 2, 1997, at around 1:30 in the afternoon, Dr. Alvin David, a Medico-Legal Officer II of the National Bureau of (Investigation), examined AAA and found a healed laceration in the hymen of the victim."

[3]

On the other hand, VELASQUEZ vehemently denies that he raped AAA and alleges his own version of the events which transpired as testified to by the defense witnesses as follows:

"Accused REYNALDO VELASQUEZ testified that on January 1, 1997, he met AAA xxx. AAA asked him where he will go. When told that he is going to his lola, AAA asked if she could go with him. They took 4 rides. First, they boarded a jeep, then a bus then another jeep, and last, a tricycle. When they arrived at the house of his lola in xxx, his lola and uncle Tony were there. He and AAA ate breakfast while his uncle entertained them. After breakfast, they went outside the house and talked with the neighbors until 3:00 o'clock p.m., afterwhich, they went back to the house. At around past 10:00 o'clock in the evening, AAA asked if she can call her mother. She also told him that they have to go home. He then asked money from his lola. When they were about to board a tricycle, he told AAA to wait for a while because he forgot to bring his toy gun. When he went outside after taking the gun, however, AAA was already gone.

Marilyn Puntay testified that she rents a room on the ground floor of the house of accused' grandmother. In the morning of January 1, 1997, she saw accused and AAA alighting from a tricycle. She also saw the two ate breakfast while Tony entertained them. She also saw AAA and accused entered a vacant room adjacent to hers. Only plywood and cartoons divide the rooms. She heard the two talking and at times laughing aloud. The door of the room occupied by the two was closed, however, it is not locked.

On cross-examination, she said she saw accused and AAA alighted from a tricycle and not from a taxi." [4]

On February 11, 1998, the RTC rendered its decision finding the accused VELASQUEZ guilty beyond reasonable doubt of two counts of rape; the dispositive portion of the decision reads as follows:

"WHEREFORE, the Court finds the accused REYNALDO VELASQUEZ y OCAMPO GUILTY beyond reasonable doubt of two counts of Rape as

charged in Criminal Cases Nos. 97-0035 and 97-0036. Accordingly, the accused is sentenced to suffer the penalty of RECLUSION PERPETUA for each case.

The accused is ordered to pay the victim AAA Campomanes the amount of ONE HUNDRED THOUSAND PESOS (P100,000) as civil indemnity.

SO ORDERED."^[5]

Hence this appeal where VELASQUEZ ascribes the following errors to the trial court:

I

THE TRIAL COURT ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONY OF PRIVATE COMPLAINANT WHICH IS NOT EVEN SUPPORTED BY THE RESULT OF HER MEDICAL EXAMINATION.

II

THE TRIAL COURT ERRED IN FINDING ACCUSED GUILTY BEYOND REASONABLE DOUBT OF TWO (2) COUNTS OF RAPE.^[6]

In support of his appeal, VELASQUEZ attacks the credibility of the victim, AAA, and claims that her testimony is not worthy of belief for being inconsistent and contrary to human nature and experience. VELASQUEZ points out several allegations made by AAA in her testimony which taint her credibility. First, AAA stated that she was boxed twice by VELASQUEZ yet no evidence was presented to show that AAA suffered any bruise, contusion or injury as a result therefrom. Second, AAA contradicted herself when she claimed that VELASQUEZ's uncle did not understand her when she told him that VELASQUEZ raped her as he was apparently drunk yet on cross-examination she stated that the latter just laughed and said that she and VELASQUEZ were already a couple. Third, it is unbelievable that AAA did not have any opportunity to shout or cry for help considering that she had all the opportunity to do so when she allegedly stabbed VELASQUEZ on the neck with a screwdriver. Had she shouted, she would have caught the attention of other people inside the house. Her failure to do so is precisely why VELASQUEZ's uncle laughed and did not believe her claim that she was raped since she was not acting in a manner, which was reflective of the truth. Finally, defense witness Marilyn Puntay's testimony to the effect that she saw AAA and VELASQUEZ alight from a tricycle corroborates VELASQUEZ's testimony that AAA voluntarily accompanied him to his grandmother's house and contradicts AAA's claim that she was forced into a taxi. Given the weakness of her testimony, it is VELASQUEZ's position that the only conclusion that can be drawn is that the charges against him were fabricated. He should consequently be acquitted of the crimes charged.

After a careful review of the case, we resolve to affirm the judgment of conviction.

VELASQUEZ's defense consists only of a denial of AAA's accusation against him. He claims that he did not forcibly take AAA to his grandmother's house in Las Piñas but that she voluntarily accompanied him there. He also denies that he sexually