

## SECOND DIVISION

[ CA-G.R. CR-HC No. 05388, March 20, 2015 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDDIE BONALOS Y ESTOESTA, ACCUSED-APPELLANT.**

### DECISION

**CRUZ, R.A., J.:**

#### THE CASE

This is an ordinary appeal under Rule 122 of the Rules of Court which seeks to reverse and set aside the Consolidated Judgment dated October 18, 2011<sup>[1]</sup> of the Regional Trial Court of Baguio City, Branch IV (RTC), in Criminal Case Nos. 25390-R to 25394-R, the dispositive portion of which reads:

**WHEREFORE**, in view of all the foregoing, the Accused EDDIE BONALOS y ESTOESTA is found **GUILTY** beyond reasonable doubt of the offense of Statutory Rape in Criminal Case No. 25934-R and Criminal Case No. 25930-R as defined under Article 266-A par. 1(d) of the Revised Penal Code as amended by RA 8353. He is also found **GUILTY** beyond reasonable doubt of the offense of Rape in Criminal Case No. 25931-R and Criminal Case No. 25933-R as defined under Article 266-A par. 1(a) of the Revised Penal Code. The Accused is sentenced to suffer the penalty of reclusion perpetua and all its accessory penalties in all these four cases.

However, due to reasonable doubt, the Accused EDDIE BONALOS Y ESTOESTA is **ACQUITTED** of the charge in Criminal Case No. 25932-R.

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In line with prevailing jurisprudence, he is to pay AAA P75,000.00 as civil indemnity and P75,000.00 as moral damages for each of the four counts or a total of P600,000.00.

**SO ORDERED.**<sup>[2]</sup> (*Citations omitted*)

#### THE ANTECEDENTS

In similarly worded Informations, all dated February 16, 2006, Eddie Bonalos y Estoesta (Bonalos) was charged with two (2) counts of statutory rape and three (3) counts of rape. The Information in Criminal Case No. 25930-R,<sup>[3]</sup> charged Bonalos with the first count of statutory rape, committed as follows:

That sometime in the month of September, 2003, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the

above-named accused, being then the stepfather of the private complainant, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the offended party AAA,<sup>[4]</sup> a[n 11-year] old minor.

The offense was attended by the aggravating circumstances of minority and relationship considering the the accused is the stepfather of the complainant and the complainant was then 11 years old at the time of the commission of the offense.<sup>[5]</sup>

The second count of statutory rape was embodied in the Information which became the basis for Criminal Case No. 25934-R.<sup>[6]</sup> This Information alleged that Bonalos committed the same acts against the same victim sometime in April 2002, when the victim was ten (10) years old.

The three (3) counts of rape were contained in separate Informations filed for Criminal Case Nos. 25931-R,<sup>[7]</sup> 25932-R<sup>[8]</sup> and 25933-R.<sup>[9]</sup> These Informations alleged that Bonalos had carnal knowledge of the victim on three different instances, namely in October 2005 (for Criminal Case No. 25931-R), in August 2005 (for Criminal Case No. 25932-R), and in January 2006 (for Criminal Case Nos. 25933-R), when the victim was thirteen (13) years old.

At the arraignment, on April 27, 2006,<sup>[10]</sup> the Informations were read to the accused in Tagalog, a dialect which he understands. The accused, assisted by counsel, entered a plea of NOT GUILTY. A pre-trial was held and terminated. Because the five criminal cases involved the same parties, a joint trial was conducted.

The prosecution presented, as witnesses, AAA, the private complainant and Dr. Marjorie Rebujo, the physician who conducted a medical examination on the private complainant.

AAA was born on May 28, 1992.<sup>[11]</sup> She is the daughter of BBB. Accused Bonalos and BBB were common law spouses.<sup>[12]</sup>

#### Criminal Case No. 25934-R

AAA recounted that sometime in April 2002, when she was still ten (10) years old and in Grade 3,xiii she came home from playing and was about to take a bath. Inside the bathroom, as she was about to pour water on her body, the door of the bathroom suddenly opened and the accused entered. The accused pinned AAA against the wall and pulled her shorts and panties down. Accused Bonalos then removed his short pants and inserted his penis into AAA's vagina. AAA did not tell her mother what had happened because she was afraid.<sup>[14]</sup>

#### Criminal Case No. 25930-R

Private Complainant AAA also narrated that sometime in August 2003,<sup>[15]</sup> when she was still eleven (11) years old, her family transferred to a different house. She and the accused were moving their belongings from their old house to the new one,

while her mother and her siblings were left behind in the old house. She and the accused entered the new house. When AAA put down the things she was carrying, the accused made her lie down on the floor. When she was lying down on the floor, the accused went on top of her and removed her pants and panties. The accused then pulled down his pants and inserted his penis into AAA's vagina.<sup>[16]</sup>

Criminal Case No. 25931-R

AAA likewise recalled that one night in their residence, when she was sleeping beside her two younger siblings, CCC and DDD, she was about to embrace the person right beside her, thinking that it was one of her siblings. To her surprise, it was Accused Bonalos who was lying down beside her. Thereafter, Accused Bonalos went on top of her, removed her short pants and panties, and pulled down his pants and briefs. AAA added that the accused then raped her for the third time.<sup>[17]</sup>

Criminal Case No. 25932-R

AAA also testified regarding a fourth incident when she was left alone in the house with the accused. At that time, she was lying down in bed, reading a book. The accused arrived, immediately lied down beside her, pulled her closer and told her, "Isa lang." The accused went on top of her, removed her pants and panties, and then his own pants and briefs. The accused then proceeded to make a push and pull motion while he lied down on top of AAA.<sup>[18]</sup>

Criminal Case No. 25933-R

The private complainant stated that the last incident happened on January 14, 2006. She said that her mother was not in the house at the time; she and her two siblings were left with the accused. AAA was sleeping beside her siblings CCC and DDD, and the accused was beside CCC. AAA woke up and was surprised to see that the accused was already beside her again. The accused then went on top of her and removed her shorts and panties. The accused also pulled down his pants and briefs and, while on top of her, made a push and pull motion. AAA tried to fight the accused, but he was very strong and AAA did not have the strength to fight him.<sup>[19]</sup>

On January 16, 2006, AAA, instead of going home, slept over at a friend's house. There, she confided in her friend what had happened to her. Eventually, her friends told BBB, AAA's mother, what Bolanos had done to AAA. BBB trusted Bolanos so much that she could not believe the revelation. Following the advice of her friends, AAA herself told BBB what Bolanos had done to her through a letter. According to AAA, BBB gave this letter to a certain Mrs. Apresto, AAA's teacher. Mrs. Apresto then asked AAA if what she found out in the letter were all true. Thereafter, Mrs. Apresto accompanied AAA to the police station to report the incidents. AAA added that she went to the police station a second time, when she gave her sworn statement. At that point, she was already accompanied by BBB, her mother.<sup>[20]</sup>

The prosecution likewise presented as witness Dr. Marjorie Rebujo, the physician who conducted a medical examination on the private complainant. Dr. Rebujo narrated that she examined AAA at the Women and Child Protection Unit of the Baguio General Hospital and Medical Center, after the latter complained that she was a victim of sexual abuse. Dr. Rebujo testified on her findings which were recorded in

the medico-legal certificate of AAA. Dr. Rebujo noted a cleft at the 3 o'clock position on AAA's hymen. On the witness stand, the doctor explained that a cleft meant a tear on the hymen of AAA, which was suggestive of sexual abuse. The doctor concluded that the injury on the hymen was consistent with AAA's claim that she was sexually molested.<sup>[21]</sup>

As the lone witness for the defense, Accused Eddie Bonalos y Estoesta (Bonalos) testified. He proffered denial and alibi as his defenses.

Balanos stated that he worked in construction and was often out of the house working for various projects.<sup>[22]</sup> He asserted that on the days when the alleged incidents of rape happened, he was not at home. Hence, it was physically impossible for him to have committed said acts.<sup>[23]</sup>

More specifically, the accused narrated that in April 2002, he was working as a steelman at a construction site for a residential building in Irisan, Baguio City. He worked from Monday to Saturday. He would leave the house at 7:00 o'clock in the morning and stay at the job site the whole day. He would arrive home, after work, between 6:00 and 7:00 o'clock in the evening. This daily schedule, Bolanos argued, made it impossible for him to be at the house at the time when he allegedly first raped AAA.<sup>[24]</sup>

Accused Bolanos also belied the claim of the private complainant that a second rape happened at the time her family was moving to a new house, sometime in August (or September) of 2003. In September 2003, contrary to AAA's allegation, Bolanos was working at his aunt's house. He confirmed that their family did transfer to a new house, but that was in January 2004. He himself demolished their old house, and built a new one, ten (10) meters away from the location of the old house. He denied raping AAA at the time they transferred their belongings to the new house, insisting that he could not have done so because he was with his wife and their other children at that time.<sup>[25]</sup>

Turning to the third instance, when the accused allegedly raped AAA while she was sleeping one night, in August 2005, in their new residence, Bolanos countered that this was not true, as AAA was not even staying in their house during that particular period in August 2005. Bolanos expounded that AAA was then staying at her cousin's house. She stayed there for a week and when she returned home, she was suffering from abdominal pain, and had to be brought to the hospital. Bolanos added that he could not have raped AAA while she was sleeping because she always slept beside her two brothers and her mother.<sup>[26]</sup>

The accusation that Bolanos raped AAA a fourth time was met with the same denial. Bolanos maintained that there was no truth to AAA's story that while she was lying down in bed, reading a book, Bolanos arrived, immediately lied down beside her, pulled her closer and raped her. Bolanos advanced the alibi that he was, at the time, working at a construction site inside the Sto. Niño Hospital in P. Burgos. Bolanos explicated that when work at the construction site was done, he would go home in the afternoon and whenever he arrived home, her wife and all the children were there, which made it, according to Bolanos, impossible for him to rape AAA.<sup>[27]</sup>

As to the allegation that the accused last raped AAA on January 20, 2006, while she was sleeping between CCC and DDD, Bolanos branded the charge as untrue. He explained that he went ahead to sleep with one of his children, EEE, on the lower bunk of their double-deck bed, while AAA was still studying. When he woke up in the morning, he saw AAA already sleeping at the upper bunk of the double-deck bed.  
[28]

After the testimony of Bonalos was completed, the defense manifested that it was no longer adducing additional evidence. On the other hand, the prosecution manifested that it was not presenting rebuttal evidence. As prayed for by both parties, the cases were deemed submitted for decision as of July 26, 2011.

On October 18, 2011, the RTC promulgated the Consolidated Judgment<sup>[29]</sup> appealed from. The RTC found Bonalos guilty beyond reasonable doubt of the following charges: (a) two counts of statutory rape (Criminal Case No. 25930-R and Criminal Case No. 25934-R), and (b) two counts of rape (Criminal Case No. 25931-R and Criminal Case No. 25933-R).

He was acquitted of the charge of rape in Criminal Case No. 25932-R.

In convicting Bonalos for two counts of statutory rape, the RTC reasoned that,

xxx the gravamen of the offense of statutory rape xxx is the carnal knowledge of a woman below twelve years old. The only elements of statutory rape are: (1) that the offender had carnal knowledge of a woman; and (2) such woman is under twelve years of age.

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The Informations for Statutory Rape state the age of AAA to be 10 years old and 11 years old. AAA testified as to her age and the Prosecution presented the Certificate of Live Birth of AAA to support the allegation that AAA was, indeed, of such ages at the time of the commission of the crime.

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xxx the Prosecution has proven that AAA was even 9 years old during the first incident in April 2001 (Criminal Case No. 25934-R) and 11 years old [during] the second incident of rape (Criminal Case No. 25930-R).<sup>[30]</sup>  
(*Citations omitted*)

Weighing the evidence presented to support the charges of statutory rape, the RTC held that,

xxx the testimonies of the Prosecution witness, particularly that of the child-complainant establish beyond moral certainty that AAA was raped in at least two instances when she was below 12 years old by the Accused and [was] likewise forced and intimidated to have the Accused's penis inside her vagina.<sup>[31]</sup>