

## TWENTIETH DIVISION

**[ CA-G.R. CEB-CR HC NO. 01600, June 30, 2014 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
WILFREDO BUTAD Y LAMOSTE, ACCUSED-APPELLANT.**

### D E C I S I O N

**HERNANDO, J:**

Before this Court is an appeal filed by accused-appellant Wilfredo Butad y Lamoste seeking the reversal of the Judgment<sup>[1]</sup> dated December 18, 2012 of the Regional Trial Court (RTC), Branch 35, of Ormoc City finding him guilty beyond reasonable doubt of the crime of Qualified Rape in Criminal Case No. R-ORM 08-00153-HC.

#### **The Antecedents:**

An Information for Rape was filed against the accused-appellant allegedly committed as follows:<sup>[2]</sup>

That on or about the 31<sup>st</sup> day of May 2008 at around 10:00 o'clock in the morning, at District 29, Brgy. Nadongholan, Ormoc City and within the jurisdiction of this Honorable Court, the above-named accused, WILFREDO BUTAD y LAMOSTE, step-father of the victim AAA<sup>[3]</sup>, a minor being only 8 years old, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of said victim, without her consent, against her will and to the prejudice of her well-being as a child.

In violation of Article 266-A, in relation to 266-B, par. 6(1), RPC as amended by RA 8353

When the accused-appellant was arraigned, he registered a negative plea of guilt.

The facts of the case according to the prosecution are summarized as follows:

On May 31, 2008, at around six o'clock in the evening, AAA's mother noticed that her daughter was not feeling well. Thus, she asked AAA what was wrong. AAA replied that she felt pain in her vagina every time she urinates. AAA then revealed to her mother that her stepfather, the accused-appellant, inserted his penis inside her vagina several times but it was only on that day that she felt severe pain. Shocked by what she heard, AAA's mother confronted accused-appellant who denied the accusation.

On June 2, 2008, AAA's mother reported the incident to the Department of Social Welfare and Development (DSWD). She was advised to report the matter to the police station and have AAA undergo a medical examination. At the City Health

Office of Ormoc City, AAA was physically and medically examined by Dr. Edmund Kierulf. In his medical report,<sup>[4]</sup> Dr. Kierulf observed that AAA had abrasions on her left vaginal wall at 3 o'clock to 5 o'clock, abrasions at the right vaginal wall at 7 o'clock to 9 o'clock and a healed laceration at 11 o'clock. Furthermore, Dr. Kierulf noted that AAA's introitus admits one finger and there was no presence of spermatozoa.

After AAA's examination, she and her mother proceeded to the police station to report the crime committed by accused-appellant. At the police station, AAA recounted her harrowing experience to the police officer. AAA averred that on May 31, 2008, at around ten o'clock in the morning, AAA and her half-brother were left at home. Thereafter, accused-appellant unexpectedly came home and ordered AAA to go inside the room while her half-brother was told to remain playing at the living room. Accused-appellant then followed AAA to the room. He told her to undress and lay on the bed. He then positioned on top of AAA and inserted his organ into AAA's womanhood. AAA felt extreme pain inside her vagina. After satisfying his bestial desires, accused-appellant threatened AAA not to tell her mother otherwise he will kill her. Thus, AAA never told anyone of the tragic incident that happened to her in the hands of her stepfather. However, she could no longer endure the severe pain in her vagina so she was compelled to tell her mother.

On the other hand, accused-appellant interposed denial and alibi as his defenses, alleging that on the date and time of the incident, he was busy driving his tricycle. He plied the Ormoc City proper to Brgy. Linao and Naungan route. He also intimated that AAA's unfounded rape charges against him were instigated by his wife whom he suspected of having an affair with another man.

After trial, the court *a quo* found AAA's testimony credible and worthy of belief since it was sufficiently corroborated by her mother and the medical findings of Dr. Kierulf. Hence, AAA's positive identification of her stepfather as her rapist prevailed over his unsubstantiated denial. Moreover, the trial court found accused-appellant's alibi weak as he was not able to prove that it was physically impossible for him to be at the *locus criminis* when the rape incident occurred. Furthermore, the trial court found the accused-appellant's imputation of ill motive on the part of AAA's mother for initiating the instant case unconvincing and preposterous. Thus, the trial court found him guilty beyond reasonable doubt for the crime charged in its assailed Judgment, the dispositive portion of which reads:<sup>[5]</sup>

WHEREFORE, premises considered, judgment is hereby rendered finding WILFREDO BUTAD y Lamoste guilty beyond reasonable doubt of the crime of Qualified Rape and is sentenced to RECLUSION PERPETUA. He is ordered to pay the victim AAA Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity, Seventy-Five Thousand Pesos (P75,000.00) as moral damages and Thirty Thousand Pesos (P30,000.00) as exemplary damages, ALL with interest at the rate of 6% per annum from the date of finality of this judgment. No costs.

If the accused is a prisoner, the period of his detention shall be credited if he abides with the rules and regulations covering detained prisoners if not for only four-fifths (4/5) thereof.

SO ORDERED.

Hence, the current appeal before Us.

### **The Issue:**

The sole issue in this appeal is whether or not the accused-appellant's guilt was proven beyond reasonable doubt by the prosecution.

### **The Court's Ruling**

*The appeal is bereft of merit.*

Concededly, in rape cases, the accused may be convicted solely on the testimony of the victim, provided it is credible, convincing, and consistent with human nature and the normal course of things.<sup>[6]</sup> Here, the testimony of AAA concerning her traumatic experience in the hands of her stepfather certainly deserves full credence. As aptly pointed out by the trial court:<sup>[7]</sup>

It is to be noted that the victim here is a minor, who was only 8 years old at the time of the rape incident, yet, she was consistent, candid and genuine in her testimony that she was molested by accused many times. It would also be unnatural for a mother to subject her daughter to humiliation and shame had the same be not true. This Court has held time and again that testimonies of rape victims who are young and immature deserve full credence, considering that no young woman, especially of tender age, would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being subject to a public trial, if she was not motivated solely by the desire to obtain justice for the wrong committed against her. Youth and immaturity are generally badges of truth. It is highly improbable that a girl of tender years, one not yet exposed to the ways of the world, would impute to any man a crime so serious as rape if she claims is not true.

It is oft repeated that factual findings of the trial court on the credibility of witnesses and their testimonies are entitled to the highest respect and will not be disturbed on appeal, in the absence of any clear showing that it overlooked, misunderstood or misapplied some facts or circumstance of weight and substance which would have affected the result of the case.<sup>[8]</sup> Evidently, no misapprehension or misapplication was committed by the court *a quo* owing to the positive identification of appellant and the faithful account made by AAA herself.

In *People v. Efren Maglente*,<sup>[9]</sup> the Supreme Court explicitly ruled that:

When the offended party is a young and immature girl testifying against a parent, courts are inclined to lend credence to her version of what transpired. Youth and immaturity are given full weight and credit. Incestuous rape is not an ordinary crime that can be easily invented because of its heavy psychological toll. It is unlikely that a young woman of tender years would be willing to concoct a story which would subject her to a lifetime of gossip and scandal among neighbors and friends and even condemn her father to death.