

SPECIAL TWELFTH DIVISION

[CA–G.R. CR-HC. No. 06082, June 09, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO REBERTA, ACCUSED-APPELLANT.**

D E C I S I O N

DICDICAN, J.:

Well-established is the rule that testimonies of rape victims, especially child victims, are given full weight and credit^[1]. In a litany of cases, the Supreme Court had applied the well-settled rule that, when a woman, more so if she is a minor, says she has been raped, she says, in effect, all that is necessary to prove that rape was committed^[2].

Since the private complainant in this rape case is a minor, her real name and the names of her immediate relatives are withheld and, instead, fictitious initials are used pursuant to Republic Act No. 7610, otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act", and Republic Act No. 9262, also known as the "Anti-Violence Against Women and Their Children Act of 2004".^[3]

For adjudication by this Court is an appeal from the Decision^[4] rendered by Judge Isabelo T. Rojas of Branch 8 of the Regional Trial Court of the Fifth Judicial Region in Legazpi City ("trial court") on February 2013 in Criminal Cases Nos. FC-07- 0070, FC-07-0071 and FC-07-0072 convicting herein accused-appellant Rolando Reberta ("accused-appellant") of three (3) counts of rape punishable under Article 266-A paragraph 1 of the Revised Penal Code in relation to Republic Act No. 7610.

The Information^[5] filed on January 18, 2007 against the accused-appellant is cited herein to wit:

Criminal Case No. FC-07-0070

"That at about 1 o'clock in the afternoon of November 8, 2006, in Sitio Bascaran, Barangay Libod, Municipality of Camalig, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, and through force, did then and there, willfully, unlawfully and feloniously have carnal knowledge of "AAA", a 14-year old minor, against her will and consent, to her damage and prejudice.

"ACTS CONTRARY TO LAW."

The two Informations^[6] filed on June 1, 2007 read as follows:

Criminal Case No. FC-07-0071

"That at about 10 o'clock in the evening of November 30, 2006, in Sitio Bascaran, Barangay Libod, Municipality of Camalig, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, and through force, did then and there, willfully, unlawfully and feloniously have carnal knowledge of "AAA", a 14-year old minor, against her will and consent, to her damage and prejudice.

"ACTS CONTRARY TO LAW."

Criminal Case No. FC-07-0072

"That at about 12 midnight of January 7, 2007, in Sitio Bascaran, Barangay Libod, Municipality of Camalig, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, and through force, did then and there, willfully, unlawfully and feloniously have carnal knowledge of "AAA", a 14-year old minor, against her will and consent, to her damage and prejudice.

"ACTS CONTRARY TO LAW."

On January 10, 2008, upon being arraigned of the charges against him, the accused-appellant entered a plea of not guilty^[7] thereto. Subsequently, a pre-trial was conducted on February 14, 2008^[8]. A trial on the merits ensued thereafter.

During the trial, the prosecution adduced in evidence the testimonies of the following: (1) "AAA", the private complainant herein; (2) Dr. Crispa Florece ("Dr. Florece"), Municipal Health Officer of Camalig, Albay, who examined the victim and issued a medico-legal certificate thereto; (3) "BBB", the father of the private complainant; (4) Police Officer 1 Francis delos Angeles Gomez ("PO 1 Gomez"), a member of the Philippine National Police ("PNP") assigned at the Camalig Police Station in Albay, who took over the investigation of the case; and (5) Police Officer 2 ("PO2") Marly Moriones Gragas, likewise a member of the PNP stationed at PNP Camalig Women's Desk Section, who prepared the blotter report with respect to the incident involved herein.

On the other hand, the accused-appellant adduced in evidence his own testimony. The testimonies of Yolanda Reberta Cericos ("Cericos") and Lilia Galdones ("Galdones"), the daughter and the live-in partner of the accused-appellant, including, Herminia Olavares ("Olavares") were likewise presented.

The prosecution's recital of established facts is summarized as follows:

On November 8, 2006, at around 1:00 o'clock in the afternoon, the private complainant went to the house of the accused-appellant, whom he fondly calls "*lolo*" because of his old age, to deliver to him the cigarettes that she was ordered to buy. "AAA" and the accused-appellant are neighbors. Upon arriving at the accused-appellant's house, the latter closed the door and proceeded to undress "AAA". Subsequently, the accused-appellant started to kiss "AAA" on the lips and then inserted his penis into "AAA's" vagina. Since the accused-appellant was covering her mouth, the helpless "AAA" could not shout or put up any resistance.

After satisfying his lustful desire, the accused-appellant told "AAA", "*Kita ng duwa*," (It is now us.). The accused-appellant also told "AAA" that he would start giving to her his income.

At the time of the incident, "AAA" was only a minor as evidenced by her birth certificate which indicated that she was born on July 22, 1992^[9].

The second rape took place on November 30, 2006 at around 10:00 o'clock in the evening, still in the house of the accused-appellant. As narrated by "AAA", while she was asleep, the accused-appellant lied beside her and began to remove her clothes. The accused-appellant then inserted his penis into "AAA's" vagina and commanded "AAA" to keep quiet so as not to awaken the other people in the house.

The same thing happened on January 7, 2007. While "AAA" was sleeping, at around 12:00 midnight, she was awakened in her sleep by the accused-appellant. The accused-appellant then kissed her on her lips and undressed her. Thereafter, the accused-appellant again consummated his sexual desires upon the minor "AAA".

Since the accused-appellant threatened to bring her to Manila so as to keep her away from her father, "AAA" never spoke to anyone about the incident. The accused-appellant likewise cautioned her that his wife shall not be informed of the incident.

"BBB" corroborated the testimony of his daughter. According to "BBB", on January 7, 2007 at 12:00 o'clock midnight, he saw the accused-appellant sleeping beside his daughter, "AAA", in their house and embracing the latter. On the following morning, "BBB" confronted his daughter with regard to the incident but "AAA" refused to answer. "BBB" likewise questioned "AAA" about her relationship with the accused-appellant but still there was no answer from "AAA".

Subsequently, "BBB" reported the incident to Barangay Kagawad Rebecca Solano. "AAA" was then brought to Dr. Florece for medical examination.

Dr. Florece, the Municipal Health Officer who attended to the private complainant, testified that "AAA" sustained hymenal lacerations at 1, 2, 4, 6, 9 and 11 o'clock positions, which could possibly have been caused by the penetration of a hard object, such as an erect penis, into the vagina of the victim. According to Dr. Florece, the hymenal lacerations sustained by the victim was already healed when he examined the latter on January 16, 2007.

PO1 Gomez testified that he prepared the sworn statement of "BBB" which he erroneously dated as January 18, 2006 instead of January 18, 2007. Meanwhile, PO3 Gragasin was presented to identify Police Blotter No. 0299^[10] which she prepared as Women's Desk Officer on January 17, 2007.

In an attempt to absolve himself from criminal liability, the accused-appellant denied the accusations hurled against him and raised the defense of denial and alibi.

The accused-appellant denied that he raped the private complainant on November 6, 2006 on account of the fact that he was in Barangay Sua, Camalig, Albay. Allegedly, he was in Barangay Sua, which was more or less three (3) kilometers away from his house in Sitio Bascaran. He purportedly arrived thereat at around 9:00 o'clock in the morning and left the place at around 4:00 o'clock in the afternoon.

With respect to the second rape, the accused-appellant claimed that, on November 30, 2006, he and his family members, particularly, his wife, Lilia Gobot Gladiones, his daughter, Yolanda Reberta Cericos and her children, and his son-in-law, transferred to the house of their neighbor named Hermia Olavares since their house was already flooded. Allegedly, there were also other families who sought refuge at the house of Olavares, including the family of the private complainant herein.

The accused-appellant further testified that, at past 11:00 o'clock in the evening of November 30, 2006, they again transferred to another house by reason of the flood. He and his family allegedly evacuated to the house of Felician Reberta, together with their other neighbors, the family of the private complainant included. According to the accused-appellant, he was only able to return to his house on the morning of the following day.

The accused-appellant likewise denied that he had raped the minor private complainant on January 7, 2007.

When asked what could be the possible motive for the filing of the case against the accused-appellant, he answered that his neighbors harbored ill-feelings towards him because of the alleged preference that he gave in favor of his other neighbors in line with the list of typhoon victims that he prepared. He continued that it was his neighbors who started the rumors that the private complainant was his paramour.

The testimony of the accused-appellant seemed to be corroborated by his daughter, Yolanda Reberta Cericos, who testified that she was with the accused-appellant at the time of the alleged rape incident on November 30, 2006. She narrated that the flood caused by typhoon Reming had forced them to transfer to the house of Olavares, together with the accused-appellant, at around 10:30 in the morning of November 30, 2006. At around 3:00 o'clock in the afternoon, they were again evacuated to the house of Felician Reberta because the house of Olavares was already affected by the typhoon. She further testified that the family of the private complainant likewise evacuated with them to the house of Olavares. She stated that it was impossible that his father could have raped the private complainant since there were around thirty (30) persons in the small house where they were forced to evacuate.

On account of the third rape which happened on January 7, 2007, Cericos testified that she was in her father's house at around 8:00 o'clock in the morning to commemorate the death anniversary of her brother, Elizer Reberta, until late in the afternoon but she never saw the private complainant therein. Although, Cericos admitted that she was with the private complainant at around 6:00 o'clock in the evening of the same day to hear mass. They purportedly parted ways at around 9:00 o'clock in the evening.

Olavares likewise corroborated the testimony of the accused-appellant. She testified that she knew the accused-appellant and the private complainant as both of them are her neighbors. According to Olavares, the accused-appellant was a member of the barangay council of Sitio Bascaran, Camalig, Albay. She likewise admitted that, on the occasion of typhoon Reming on November 30, 2006, she accommodated the families of the private complainant and the accused-appellant to her house. However, they were all forced to evacuate to Felician Reberta's house at around 3:00 o'clock in the afternoon.

Galdones, the accused-appellant's live-in partner testified that she was with the accused-appellant on November 30, 2006 as they transferred from Olavares' house to Feliciano Reberta's house because of the flood. Concerning the first rape, she admitted that on November 8, 2006, she returned to Sitio Bascaran from Barangay Sua, together with her husband after lunch time.

Finding the testimony of the private complainant more credible, the court *a quo* rendered a Decision on February 2013, the dispositive portion of which reads:

"WHEREFORE, accused is hereby found guilty of three (3) counts of rape and is hereby sentenced to suffer the penalty of **reclusion perpetua** for each of the three (3) counts of rape. He is likewise ordered to pay 'AAA' P150,000.00 as civil indemnity, or P50,000.00 for each count of rape, since this is mandatory in rape cases, P150,000.00 as moral damages, or P50,000.00 for each count for the moral injuries she suffered; and P75,000.00 as exemplary damages, or P25,000.00 for each count of rape, to set a public example and serve as deterrent against elders who abuse and corrupt the youth.

"SO ORDERED."

The trial court ruled that the private complainant's testimony and positive identification of the accused-appellant were sufficiently borne and established by the evidence on record. According to the trial court, the accused-appellant's denial and alibi were unavailing in the face of the positive identification of the accused-appellant and the credible testimony of the private complainant.

Not satisfied with the foregoing decision, herein accused-appellant interposed the instant appeal raising as lone issue the following error that was purportedly committed by the trial court, to wit:

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The primordial issue brought before this Court for resolution is whether the court *a quo* erred in convicting herein accused-appellant beyond reasonable doubt of three (3) counts of rape.

After a careful and thorough review of the facts, law and issues of this case, we affirm the trial court's conviction of the accused-appellant of the crimes with which he was charged.

Rape is a serious transgression with severe consequences for both the accused and the complainant^[11].

The gravamen of the offense of rape is sexual intercourse with a woman against her will or without her consent^[12]. Rape is committed when the accused has carnal knowledge of the victim by force or intimidation and without consent^[13].

In reviewing rape cases, courts are guided by three settled principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, although innocent, to disprove; (2) considering the intrinsic nature of the crime, only two persons being