

THIRTEENTH DIVISION

[CA-G.R. CR NO. 01294, August 16, 2006]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MANUEL "BOY" HERMOCILLA, ACCUSED-APPELLANT.**

DECISION

VILLON, J.:

This is an appeal interposed by accused-appellant Manuel "Boy" Hermocilla from the Decision dated June 30, 2005 of Branch 31, Regional Trial Court^[1] of Agoo, La Union, finding him guilty beyond reasonable doubt of the crime of Rape as defined and penalized under Article 335 of the Revised Penal Code as amended by RA 7659, and further amended by RA 8353 in relation to RA 7610, otherwise known as "*Special Protection of Children against Child Abuse, Exploitation and Discrimination Act.*"

Appellant stands charged with the crime of rape in two (2) separate criminal informations, committed as follows:

"Family Court Case No. A-435

The undersigned prosecutor upon sworn criminal complaint signed by the offended party MARYLYN UNOS accuses MANUEL "BOY" HERMOCILLA of the crime of RAPE, committed as follows:

That on or about the year 1999, in the Municipality of Rosario, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously, have sexual intercourse with his stepdaughter Marylyn Unos, a eleven (11) year old minor, against her will, to her damage and prejudice.

CONTRARY TO LAW.^[2]

"Family Court Case No. A-436

The undersigned Prosecutor upon sworn criminal complaint signed by the offended party MARYLYN UNOS accuses MANUEL "BOY" HERMOCILLA of the crime of RAPE, committed as follows:

That on or about the year 2002, in the Municipality of Rosario, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously, have sexual intercourse with his stepdaughter Marylyn Unos, a eleven (11)

year old minor, against her will, to her damage and prejudice.

CONTRARY TO LAW".^[3]

The facts upon which the finding of guilt was based are summarized by the Solicitor General and are hereby adopted as follows:

"Sometime in the year 1999 when she was in her third grade, private complainant Marylyn Unos was watching television in the house of her grandmother. Appellant Manuel Hermocilla, who is the common law spouse of Marylyn's mother, then arrived and called for her. Appellant ordered Marylyn to come home to cook as her mother was set to arrive. Marylyn immediately went home.^[4]

When Marylyn was about to start cooking, appellant suddenly pulled her towards her room. Thereat, appellant removed her shorts as well as her underwear. Marylyn was ordered to lie down in the bed while appellant started removing his short pants and brief.^[5]

Thereafter, appellant inserted his finger into the victim's vagina, who was crying in bed while appellant was performing this beastly act. Subsequently, appellant inserted his penis to Marylyn's vagina. Marylyn immediately felt pain and begged appellant to stop, which the latter did.^[6]

After said incident, appellant did not make any more attempts to insert his penis to Marylyn's private part. However, Marylyn's ordeal at the hands of appellant did not end there. On several occasions thereafter, appellant repeatedly molested Marylyn by forcibly inserting his finger into her genitals. The last time appellant sexually abused Marylyn was when the latter was already in her sixth grade, sometime in 2001 to 2002. At that time, Marylyn was in their house cleaning when appellant suddenly pulled her again towards her room. Appellant immediately removed her short pants and her panty. Thereafter, he proceeded in inserting his finger into her vagina.^[7]

The series of sexual abuses finally reached its end when Marylyn's father arrived and took her to Baguio where she studied for a year. She latter went back to La Union to live again with her mother and appellant after finishing her second year in high school.^[8] Shortly after her return to their house in La Union, appellant embraced Marylyn in an apparent attempt to molest her again. This time however, Marylyn immediately resisted and shouted at him. Appellant became angry and hit her with his hand. Thereafter, he threatened to stab Marylyn with a bolo and yelled at her to get out of the house. Marylyn went out of the house crying but was chased by appellant. When she refused to go home, appellant held her and brought her inside the house where she was ordered to go to sleep.^[9]

She went to school the next day and was seen crying by her cousin Anton. When the latter asked her why she was crying, she narrated the

incident the day before when appellant threatened her with a bolo. Suspecting that Marylyn was hiding something, Anton convinced her to open up to him. She told Anton everything about her ordeal in the hands of appellant, how the latter sexually molested her from the start up to the last incident. Eventually, the series of events that followed led to appellant's arrest and prosecution for the crime of rape".^[10]

Professing innocence, appellant testified as follows:

From January until March of 1999, appellant resided in Manila and transferred only sometime in November of the same year, to Rosario, La Union. Appellant lived in the house of his brother-in-law (Orlando Barao) together with his common-law wife, the latter's siblings and herein complainant Marylyn Unos.

Sometime in 2004, appellant was summoned by their barangay captain to answer questions regarding a complaint lodged against him by complainant. Appellant was asked by the barangay captain if complainant's accusations were true. He vehemently denied the same after which, he was mauled by the persons present thereat, namely, Jose Laroya, Lewelyn Barao, Camilo Parrocha, Anthony Tan and Egmy Molina. Appellant likewise heard that the barangay captain asked for a gun which was later poked against him. Then appellant was forcibly taken to the Police Station of Rosario, La Union.^[11]

Appellant insisted on his innocence and claimed that he treated complainant as his own daughter and that he maintained such treatment even until he was incarcerated in December of 2004. He also stated that he bought her clothes, shoes and attended to her other needs.^[12]

After trial, the prosecution moved to amend the Information in Family Court Case No. A-436 to prove that the crime was committed by appellant by means of inserting his finger into complainant's genital.^[13] Finding such amendment unnecessary, the trial court denied the prosecution's Motion^[14] in its Order^[15] dated June 23, 2005.

After the prosecution and defense rested their respective cases, the court *a quo* rendered its Decision dated June 30, 2005, the dispositive portion of which reads:

"WHEREFORE, upon the foregoing circumstances, the Court finds accused MANUEL "Boy" HERMOCILLA guilty beyond reasonable doubt of the crime of RAPE committed by him upon Marylyn Unos in Criminal Case No. FC-435 and is hereby sentenced to DEATH in accordance with the legal provision that provides that when the victim is under eighteen (18) years of age and the offender is a stepparent or the common-law spouse of the mother the penalty is death. With respect to the other charge of rape^[^], which was the subject of an aborted attempt to amend the wording of the criminal Information as the motion to amend the Information was denied (already explained supra), the Court finds accused MANUEL "Boy" HERMOCILLA guilty of RAPE again beyond reasonable doubt committed by him upon Marylyn Unos as the phrase "instrument or object" includes a human finger or any part of a human body. He is sentenced again to DEATH.

SO ORDERED.”^[16]

Aggrieved, the accused interposed this appeal, ascribing to the court *a quo* the following assignment of errors, to wit:

“I

THE COURT *a quo* GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF RAPE DESPITE THE PROSECUTOR'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II

THE COURT *a quo* GRAVELY ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH DESPITE THE FACT THAT RELATIONSHIP WAS INACCURATELY ALLEGED IN THE INFORMATION”.^[17]

The pivotal issue presented before Us is one of credibility. Conclusions as to the credibility of witnesses in rape cases lie heavily on the sound judgment of the trial court. The reason for this is that the trial judge enjoys the peculiar advantage of observing directly and at first-hand the witness's deportment and manner of testifying and is, therefore, in a better position to form accurate impressions and conclusions on the basis thereof.^[18] The High Court more eloquently stated this rule in *People vs. De Guzman*, thus:

“In the resolution of the factual issues, the Court relies heavily on the trial court for its evaluation of the witnesses and their credibility. Having the opportunity to observe them on the stand, the trial judge is able to detect that sometimes thin line between fact and prevarication that will determine the guilt or innocence of the accused. That line may not be discernible from a mere reading of the impersonal record by the reviewing court. The record will not reveal those telltale signs that will affirm the truth or expose the contrivance, like the angry flush of an insisted assertion or the sudden pallor of a discovered lie or the tremulous mutter of a reluctant answer or the forthright tone of a ready reply.... Only the judge trying the case can see all these and on the basis of his observations arrive at an informed and reasoned verdict.”^[19]

In this case, complainant's testimony was given in a candid and straightforward manner and there appears no record of some fact or circumstance of weight and influence which has been overlooked or its significance misinterpreted by the court *a quo*. Thus, we quote complainant's testimony as follows:

“Q: Miss Unos, do you know the accused in this case Manuel Boy Hermocilla?

A: Yes, sir.

Q: And why do you know this person?

A: Because he is my step-father, sir.

Q: And could you tell us the name of your mother?

A: Luzviminda Barao, sir.

Q: And you (sic) natural father, what is the name of your natural father?

A: Saturnino Unos, sir.