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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

Republic of the Philippines JUL 26 2017
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 212934
Plaintiff-Appellee,

Present:

- versus -

VELASCO, JR., J.,
Chairperson,
BERSAMIN,
REYES,
JARDELEZA, and
TIJAM, JJ.

BLAS GAA y RODRIGUEZ,
Accused-Appellant,

Promulgated:

June 7, 2017

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DECISION

TIJAM, J.:

Accused-appellant Blas Gaa y Rodriguez questions the Decision¹ dated February 13, 2014 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04906, which affirmed the Decision² dated February 10, 2011 rendered by the Regional Trial Court (RTC), Branch 62 of Gumaca, Quezon in Criminal Case Nos. 7972-G and 7973-G, finding accused-appellant guilty of two counts of Qualified Rape.

Accused-appellant was charged with two counts of Qualified Statutory Rape under separate Informations, to wit:

Criminal Case No. 7972-G

That on or about 8:00 o'clock in the morning of the 4th day of April

¹Penned by Associate Justice Ramon A. Cruz, concurred in by Associate Justices Hakim S. Abdulwahid and Romeo F. Barza, *Rollo*, pp. 2-16.

²CA *rollo*, pp. 53-57.

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2001 at Barangay XXX³, Municipality of Atimonan, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with force and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of one AAA⁴, a minor, 9 years old, 5 months and 1 day old, against her will.

That the accused is the legitimate father of the victim AAA.

Contrary to Law.⁵

Criminal Case No. 7973-G

That on or about the month of March 2003 at Barangay XXX, Municipality of Atimonan, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with force and intimidation, did then and there willfully, unlawfully, and feloniously have carnal knowledge of one AAA, a minor, 11 years old, against her will.

That the accused is the legitimate father of the victim AAA.

Contrary to Law.⁶

Upon arraignment, the accused-appellant pleaded not guilty to the charges. Trial ensued.

The pertinent facts of the case, as summarized by the CA, are as follows:

For the first count of qualified statutory rape, in Criminal Case No. 7972-G:

On or about 8:00 o'clock in the morning of April 4, 2001, 'AAA' was at their house located at Brgy. XXX, Atimonan, Quezon, together with his father, Blas Gaa. AAA's mother was working in Mandaluyong City while her younger brother was ordered by Blas Gaa to fetch water outside their house. Alone with Blas Gaa, AAA was asked by him to remove her shorts and panty. Blas Gaa also removed his own shorts and brief and placed himself on top of AAA. He tried to insert his penis to AAA's vagina for several times. AAA felt pain because of the poking act of her father but was able to evade his penis. Blas Gaa did not succeed in penetrating AAA's vagina but his penis was in the 'bokana' (sic) of AAA's vagina. Blas Gaa also inserted his fingers inside AAA's vagina and she

³ The specific barangay where the crime was committed is omitted pursuant to A.M. No. 12-7-15-SC "Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions and Final Orders Using Fictitious Names".

⁴The real name of the victim and of the members of her immediate family are withheld pursuant to Republic Act No. 7610 otherwise known as the "Special Protection of Children against Abuse, Exploitation and Discrimination Act" and A.M. No. 12-7-15-SC entitled "Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions and Final Orders Using Fictitious Names".

⁵ CA roollo, p. 40.

⁶ Id.

described this act to be "kinali-kalikot" and "sinundut-sundot". While Blas Gaa was doing this, he told AAA that she should behave and should not stop him from what he was doing. She did not report to anybody the April 4, 2001 incident until April 7, 2003.

After April 4, 2001, AAA repeatedly had the same experience from Blas Gaa. She said that the incident happened many times.

The last incident happened sometime in March 2003.

For the second count of qualified
statutory rape, in Criminal Case No.
7973-G:

Sometime in March 2003, AAA was in their bedroom when Blas Gaa threatened to kill her with a bolo. Just like the 2001 incident, Blas Gaa removed his brief and shorts and AAA was able to see his penis. He forced his penis against her vagina while she was in a lying position. She tried to evade him but he was threatening her with his bolo. She is mad at him for what he did to her and cannot forgive him. She first reported the incident to her mother on April 6, 2003 because her younger brother saw Blas Gaa on top of her. He was the one who first told their mother about the incident and AAA's mother asked her if it were (sic) true so she told her it was true. AAA's mother got mad and filed the cases against Blas Gaa.

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On the part of the defense, Blas Gaa testified that on April 4, 2001, between 7-10 a.m., he was in the surroundings of his house cutting grass. He only returned to the house to drink water. He denied raping AAA, his daughter, and threatening to kill her. He also denied the incident which happened sometime in March 2003. He said that the reason that AAA accused him of rape is because his wife was having an affair with another man. He suggested to his wife to have AAA medically examined and that the medical certificate shows a negative result for laceration, spematozoa, among others.⁷

On February 10, 2011, the RTC found accused-appellant guilty beyond reasonable doubt of the charges, *viz*:

WHEREFORE, Accused Blas Gaa y Rodriguez is found GUILTY beyond reasonable doubt of two counts of qualified statutory rape and he is sentenced to suffer the penalty of reclusion perpetua, without eligibility for parole in each of the two counts of rape. Accused is ordered to pay the victim AAA in each of the two counts P50,000.00 moral damages, P50,000.00 as exemplary damages and another P50,000.00 as civil indemnity:

Costs against the accused.

⁷ *Rollo*, pp. 4-6.

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SO ORDERED.⁸

On appeal, the CA affirmed with modification the ruling of the RTC, as follows:

WHEREFORE, premises considered, the RTC Decision dated February 10, 2011 is AFFIRMED, but with MODIFICATION as to monetary awards. The RTC Decision should read, as follows:

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"WHEREFORE, Accused Blas Gaa y Rodriguez is found GUILTY beyond reasonable doubt of two counts of qualified statutory rape and he is sentenced to suffer the penalty of reclusion perpetua, without eligibility for parole in each of the two counts of rape. Accused is ordered to pay the victim AAA in each of the two counts P75,000.00 moral damages, P75,000.00 as exemplary damages and another P30,000.00 as civil indemnity.

Costs against the accused.

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SO ORDERED.⁹

Hence, this appeal with accused-appellant raising the following assignment of errors:

I. THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE BEYOND REASONABLE DOUBT THE RELATIONSHIP BETWEEN THE VICTIM AND THE ACCUSED-APPELLANT.

II. THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.¹⁰

Article 266-A of the Revised Penal Code (RPC) provides that Rape is committed:

⁸ CA *rollo*, p. 57.

⁹ *Rollo*, p. 15.

¹⁰ CA *rollo*, p. 39.

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1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

- a) Through force, threat or intimidation;
- b) When the offended party is deprived of reason or is otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority;
- d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

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Whereas, Article 266-B of the RPC provides the penalties for the crime of rape:

ART. 266-B. Penalties. – Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

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The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

- 1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

Statutory rape is committed by sexual intercourse with a woman below 12 years of age regardless of her consent, or the lack of it, to the sexual act. Proof of force, intimidation, or consent is unnecessary as they are not elements of statutory rape, considering that the absence of free consent is conclusively presumed when the victim is below the age of 12. At that age, the law presumes that the victim does not possess discernment and is incapable of giving intelligent consent to the sexual act. Thus, to convict an accused of the crime of statutory rape, the prosecution carries the burden of proving: (a) the age of the complainant; (b) the identity of the accused; and (c) the sexual intercourse between the accused and the complainant.¹¹

The accused-appellant's argument that the prosecution failed to prove his relationship to AAA fails to persuade Us. Here, both the RTC and the CA found that the prosecution had sufficiently proved that the accused-appellant is AAA's father. Such finding is conclusive on this Court for, after all, We are not a trier of facts.

We quote with conformity the finding of the CA that accused-appellant is the father of AAA, to wit:

¹¹ *People v. Guillermo B. Cadano, Jr.*, G.R. No. 207819, March 12, 2014.



Accused-appellant admitted, on several occasions, that he is the father of AAA. In his Memorandum dated September 15, 2010, he phrased the issue to be resolved in this manner: 'Whether or not Accused Blas Gaa is guilty of raping his own daughter AAA', a clear admission of his relationship with the victim. There, he did not raise the issue of whether AAA was his daughter. Similarly, as pointed out by the People in its Appellee's Brief, during accused-appellant's cross-examination on September 15, 2009, he admitted that AAA was one of his two children.

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AAA's birth certificate also shows that Blas Rodriguez Gaa is her father. It is clear as crystal that accused-appellant is the father of AAA. His claim that he is not is obviously his futile attempt to defend himself and remove the qualifying circumstance of the rape for which he was convicted in order to lower his penalty.¹²

As to the second assignment of error, accused-appellant claims that the testimony of AAA did not show that accused-appellant was able to insert his penis to the vagina of AAA, however slight. Thus, taken together with the absence of hymenal laceration in the medical report, the same creates a doubt as to whether the rape was consummated.

We are not convinced.

In rape cases, the credibility of the victim is almost always, the single most important issue. If the testimony of the victim passes the test of credibility, which means it is credible, natural, convincing and consistent with human nature and the normal course of things, the accused may be convicted solely on that basis.¹³

The rule is settled that when the decision hinges on the credibility of witnesses and their respective testimonies, the trial court's observations and conclusions deserve great respect and are accorded finality, unless the records show facts or circumstances of material weight and substance that the lower court overlooked, misunderstood or misappreciated, and which, if properly considered, would alter the result of the case.¹⁴ This is so because trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying, their demeanor and behavior in court. Trial judges enjoy the advantage of observing the witness' deportment and manner of testifying, her "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath" — all of which, are useful aids for an accurate determination of a witness' honesty and sincerity. Trial judges, therefore, can better determine if such

¹² *Rollo*, pp. 8-10.

¹³ *People v. Enrique Ceballos Jr. y Cabrales*, G.R. No. 169642, September 14, 2007.

¹⁴ *People v. Quirino Cabral y Valencia*, G.R. No. 179946, December 23, 2009.

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witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies. The rule finds an even more stringent application where the said findings are sustained by the CA.¹⁵

Here, the RTC found AAA's testimony straightforward, candid and was delivered in a convincing manner which leaves no room for doubt that AAA was in fact raped by accused-appellant.¹⁶ We see no cogent reason to depart from the foregoing rule, since the accused-appellant failed to demonstrate that the RTC and the CA overlooked, misunderstood or misapplied some facts of weight and substance that will alter the assailed Decision.

AAA was steadfast in stating that the penis of accused-appellant touched the "bokana" of her vagina, thus:

COURT:

Q. When you said that you avoid (sic) the penis of your father, you are saying that his penis did not actually enter into your vagina?

A. No, Your Honor.

Q. But the very penis itself touched your vagina, is it not?

A. Yes, Your Honor.

ATTY. CABAGUE:

Your Honor, may the victim clarify what portion of the vagina touch (sic).

COURT:

Alright, let us ask her.

Q. What portion of your vagina did your father's 'ari' touch?

A. The inside portion of my vagina, Your Honor.

ATTY. CABAGUE:

Q. But it did not touch the lip of your vagina?

A. 'Nagdikit po'.

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PROS. MATA:

Redirect, Your Honor.

Q. When you said 'sa may parting gitna' and that it touched the lip, where is that?

A. Near the hole, ma'am (sa may butas).

¹⁵ *People v. Anastacio Amistoso y Broca*, G.R. No. 201447, January 9, 2013, citing *People v. Aguilar*, G.R. No. 177749, December 17, 2007.

¹⁶ CA *rollo*, p. 55.

Q. You said that it touched the hole, do we get correctly that it touched the hole of your vagina?

A. Yes, ma'am.¹⁷

The foregoing testimony establishes the fact that accused-appellant's penis penetrated, however slight, the lips of the female organ or the labia of the pudendum. As such, the crime of rape was consummated.

It is well-settled that full penetration of the female genital organ is not indispensable. It suffices that there is proof of the entrance of the male organ into the labia of the pudendum of the female organ. Any penetration of the female organ by the male organ, however slight, is sufficient. Penetration of the penis by entry into the lips of the vagina, even without rupture or laceration of the hymen, is enough to justify conviction for rape.¹⁸

With Our finding that the rape was consummated, We now determine whether accused-appellant should be charged with simple statutory rape or qualified statutory rape. As We have ruled earlier, the relationship of the accused-appellant with the victim has been sufficiently proved by the prosecution. Likewise, AAA's minority was established by her Birth Certificate¹⁹, showing that AAA was born on November 3, 1991. Thus, AAA was below 12 years of age at the time of the commission of the two rape incidents.

Since the elements of minority of AAA and the relationship of the accused-appellant with AAA were alleged in the two Informations and that the same were sufficiently proven by the prosecution during the trial, We agree with the CA that accused-appellant is guilty of two counts of Qualified Statutory Rape. Thus, the CA is correct in imposing upon the accused-appellant the penalty of *reclusion perpetua* without eligibility for parole, in lieu of the death penalty, pursuant to Section 3²⁰ of Republic Act No. 9346 (RA 9346), entitled as "An Act Prohibiting the Imposition of Death Penalty in the Philippines."

However, We modify the amounts awarded to AAA in view of recent jurisprudence²¹ imposing a minimum amount of Php 100,000 as civil indemnity; Php 100,000 as moral damages; and Php 100,000 as exemplary damages in cases where the proper penalty for the crime committed by the accused is death but where it cannot be imposed because of the enactment of RA 9346.²²

¹⁷Rollo, pp. 11-12.

¹⁸People v. Alejandro Viojela y Asartin, G.R. No. 177140, October 17, 2012.

¹⁹ Exhibit "A" for the prosecution. Exhibits folder, p. 1.

²⁰ Sec. 3. Persons convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua by reason of this Act, shall not be eligible for parole under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended.

²¹ People v. Gambao, G.R. No. 172707, October 1, 2013 and People v. Edilberto Pusing y Tamor, G.R. No. 208009, July 11, 2016.

²² People v. Gambao, id.

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Thus, We increase the award of civil indemnity from Php 75,000 to Php 100,000; moral damages from Php 75,000 to Php 100,000; and exemplary damages from Php 30,000 to Php 100,000.

Further, a legal interest of 6% per annum will be imposed on the total amount of damages awarded to AAA counted from the date of the finality of this judgment until fully paid.

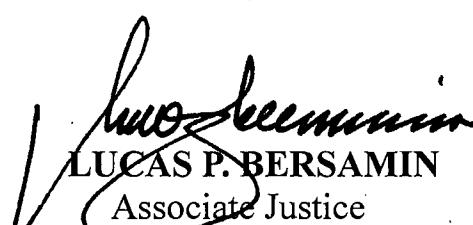
WHEREFORE, the foregoing considered, the appeal is **DISMISSED**. The Court of Appeals' Decision dated February 13, 2014 in CA-G.R. CR-H.C. No. 04906 finding BLAS GAA y RODRIGUEZ **GUILTY** beyond reasonable doubt of two counts of Qualified Statutory Rape and sentencing him to suffer the penalty of *reclusion perpetua*, without eligibility for parole, for each count of Qualified Statutory Rape is **AFFIRMED WITH MODIFICATIONS** that: (a) the award of civil indemnity, moral damages and exemplary damages are increased to One Hundred Thousand Pesos (P100,000); and (b) interest at the rate of 6% per annum is imposed on all damages awarded from the date of the finality of this judgment until fully paid.

SO ORDERED.


NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

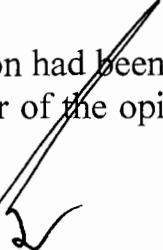

LUCAS P. BERSAMIN
Associate Justice


BIENVENIDO L. REYES
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice

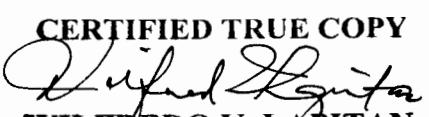
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

JUL 26 2017


MARIA LOURDES P. A. SERENO
Chief Justice