



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 194608

Present:

CARPIO, J.,  
*Chairperson,*  
BRION,  
PEREZ,  
SERENO, and  
REYES, JJ.

- versus -

ANTONIO BARAOIL,  
Accused-Appellant.

Promulgated:

JUL 09 2012

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RESOLUTION

REYES, J.:

This is an appeal from the Decision<sup>1</sup> dated May 26, 2010 of the Court of Appeals (CA) in CA-G.R. CR-1C No. 03546, which affirmed with modification the Decision<sup>2</sup> dated August 15, 2008 of the Regional Trial Court (RTC), Branch 51 of Tayug, Pangasinan, in Criminal Case Nos. T-3682 and T-3683, finding Antonio Baraoil (accused-appellant) guilty for two crimes of rape defined and penalized under Republic Act (R.A.) No. 8353 and the Revised Penal Code.

<sup>1</sup> Penned by Associate Justice Antonio L. Villamor, with Associate Justices Jose C. Reyes, Jr. and Florito S. Macalino, concurring; *rollo*, pp. 2-19.

<sup>2</sup> Penned by Judge Ulysses Raciles Butuyan; CA *rollo*, pp. 13-26.

On October 20, 2004, the accused-appellant was charged in two informations<sup>3</sup> for the crime of rape allegedly committed, as follows:

**Criminal Case No. T-3682**

That on or about 2:00 o'clock in the afternoon of August 8, 2004, inside the comfort room adjacent to the Apo Rice Mill at Brgy. San Maximo, [M]unicipality of Natividad, [P]rovince of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously insert his penis into the vagina of [AAA], a minor[,] 5 years of age and thereafter finger the vagina of said [AAA], against her will and consent, to the damage and prejudice of said [AAA].

CONTRARY to Article 335 of the Revised Penal Code, as amended by Republic Act 8353.<sup>4</sup>

**Criminal Case No. T-3683**

That on or about 2:30 o'clock in the afternoon of August 8, 2004, inside the comfort room adjacent to the Apo Rice Mill located at Brgy. San Maximo, [M]unicipality of Natividad, [P]rovince of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there wilfully, unlawfully and feloniously suck the vagina of said [AAA], a minor, 5 years of age, against her will and consent, to the damage and prejudice of said [AAA].

CONTRARY to Article 335 of the Revised Penal Code, as amended by Republic Act 8353.<sup>5</sup>

During arraignment, the accused-appellant pleaded not guilty. Trial on the merits proceeded.

The accused-appellant is a neighbor of the victim's (AAA) family whom they consider and respect like an uncle.

According to the evidence of the prosecution, on August 8, 2004, at about 2:00 p.m., five (5) year old AAA was walking near the house of the accused-appellant when the latter saw her. He asked where she was going then he invited her to take a ride with him on his bicycle. AAA acceded

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<sup>3</sup> Id. at 5-8.

<sup>4</sup> Id. at 5.

<sup>5</sup> Id. at 7.

because accused-appellant is a friend of her parents. The accused-appellant and AAA biked together towards the town rice mill. BBB, the elder sister of AAA, saw them. Worried about AAA's safety, BBB sought the help of CCC, her other sister, and their cousin DDD to look for AAA.

Upon arriving at the rice mill, the accused-appellant parked his bicycle against the wall, and pulled AAA inside the mill's comfort room. He pulled AAA's shorts as she was not wearing underwear. The accused-appellant then sat on a toilet bowl and unzipped his pants. He lifted AAA, seated her on his lap, and inserted his penis into AAA's vagina. AAA did not shout despite feeling pain.

The accused-appellant threatened AAA not to tell his mother or father about what happened or else he will repeat the act. He then inserted his right forefinger in AAA's vagina. AAA saw his finger that was thrust into her. AAA did not shout although she was about to cry. The accused-appellant removed his finger then pulled up his pants.

At that moment, BBB, CCC, and DDD arrived at the rice mill and saw the accused-appellant's bicycle. They entered and heard thumping sounds coming from the comfort room. The accused-appellant then suddenly opened its door and walked out. AAA followed him after a while towards his bicycle looking visibly sweating and walking with difficulty.

CCC approached the accused-appellant and told him that they will take AAA home. The accused-appellant refused and told them that he will take AAA home after buying a new pair of slippers he needed for himself. He bought the pair of slippers and a chocolate-filled biscuit for AAA.

After half an hour, the accused-appellant took AAA back to the comfort room of the same rice mill. There, he undressed her and sucked her vagina. While doing this, AAA begged the accused-appellant to take her

home. The accused-appellant stopped and boarded her to his bicycle and brought her home.

The next day, DDD asked AAA what happened when she was with the accused-appellant. AAA did not say anything but she started to cry until she told her mother EEE all that transpired. On August 10, 2004, EEE brought AAA to the police station where they reported the incident.

For the defense, the accused-appellant denied the charges and proffered an alibi by stating that he was with his friend Renato at the fish pond at the time when the alleged rape took place. He claimed that they were fishing from 7:30 to 10:00 in the morning. They also drank gin at around 3:00 p.m. and went home at 4:00 p.m. He, moreover, claimed that AAA was nice to him before the alleged rape. However, AAA's family got mad at him after he disconnected their jumper connection from the power source. They even threatened that they will hack him to death. Thus, the accusation of AAA's family was a means of revenge.

On August 15, 2008, the RTC rendered its Decision, the decretal portion of which reads:

WHEREFORE, finding the accused GUILTY beyond reasonable doubt of two crimes of rape, respectively defined and penalized under Republic Act No. 8353 amending the Revised Penal Code provisions on rape, the Court hereby sentences him to suffer the following:

1. the indeterminate penalty of from (sic) six (6) years of prision correccional maximum as minimum to ten (10) years of prision mayor medium as maximum, for the rape committed as charged in Criminal Case No. T-3683; and,
2. the death sentence of a protracted kind, namely reclusion perpetua, for the rape committed in Criminal Case No. T- 3682.

Pursuant to the stipulations arrived at by the parties at the pre-trial stage, the accused is likewise condemned to indemnify the private complainant for damages in the agreed total sum of [P]200,000.00; and, to pay the costs.

SO ORDERED.<sup>6</sup>

The trial court lent credence to the testimony of AAA that she was raped. The trial court found her testimony categorical, straightforward and candid. Moreover, in upholding the credibility of AAA, the trial court relied heavily on established doctrines in rape cases.

On September 1, 2008, the accused-appellant filed a notice of appeal.<sup>7</sup> The CA, in a Decision dated May 26, 2010, affirmed the accused-appellant's conviction with modification, *viz:*

1. In Criminal Case No. T-3682, appellant is ordered to pay private complainant AAA, the amounts of [P]75,000.00 as civil indemnity, [P]50,000.00 as moral damages and [P]25,000.00 as exemplary damages.

2. In Criminal Case No. T-3683, appellant is convicted of Acts of Lasciviousness under Art. III, Sec. 5(b) of R.A. No. 7610, in relation to Art. 336 of the Revised Penal Code. He is sentenced to imprisonment of twelve (12) years and one (1) day of reclusion temporal, as minimum, to fifteen (15) years, six (6) months and [twenty] 20 days of reclusion temporal, as maximum, and; to pay the complainant AAA [P]15,000.00 as fine, [P]20,000.00 as civil indemnity, [P]15,000.00 as moral damages and [P]15,000.00 as exemplary damages.

In both cases, costs against the appellant.

SO ORDERED.<sup>8</sup>

The CA sustained the conviction of the accused-appellant after finding that the testimony of AAA was credible, natural, convincing and consistent with human nature and the normal course of things. There was no reason to overturn the accused-appellant's conviction under Criminal Case No. T-3682 for the crime of statutory rape considering that AAA was undeniably under 12 years old and that the accused-appellant had carnal knowledge with her. Furthermore, the CA also found that the acts of accused-appellant fall under the category of Acts of Lasciviousness under Article 336 of the Revised

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<sup>6</sup> Id. at 72.

<sup>7</sup> Id. at 27.

<sup>8</sup> *Rollo*, pp. 18-19.

Penal Code in conjunction with Section 5, R.A. No. 7610 (*Special Protection of Children Against Abuse, Exploitation and Discrimination Act*). However, with respect to the damages, the CA corrected the trial court's disposition on the matter and specifically awarded civil indemnity automatically upon proof of the commission of the crime, moral damages, and exemplary damages in view of the victim's minority.

Hence, this case.

The primary issue in this case is whether or not the accused-appellant's guilt has been proven beyond reasonable doubt *vis-a-vis* his main defense that the rape charges were merely concocted to get back at him as leverage against his act of disconnecting the jumper owned by AAA's family.

It should be noted that the records of this case were elevated to this Court on December 8, 2010, pursuant to the CA Resolution dated June 23, 2010, which gave due course to the notice of appeal filed by accused-appellant. In compliance with this Court's Resolution dated January 12, 2011, the parties submitted their respective manifestations stating that they are no longer filing Supplemental Briefs with this Court and are adopting all the allegations, issues and arguments adduced in their Briefs before the CA.

This Court sustains accused-appellant's conviction.

The law presumes that an accused in a criminal prosecution is innocent until the contrary is proven. This basic constitutional principle is fleshed out by procedural rules which place on the prosecution the burden of proving that an accused is guilty of the offense charged by proof beyond reasonable doubt. Whether the degree of proof has been met is largely left to the trial courts to determine. However, an appeal throws the whole case open for review such that the Court may, and generally does, look into the

entire records if only to ensure that no fact of weight or substance has been overlooked, misapprehended, or misapplied by the trial court.<sup>9</sup>

Courts use the following principles in deciding rape cases: (1) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) due to the nature of the crime of rape in which only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense. Due to the nature of this crime, conviction for rape may be solely based on the complainant's testimony provided it is credible, natural, convincing, and consistent with human nature and the normal course of things.<sup>10</sup>

After a meticulous review of the records of the instant case, the Court holds that the totality of the evidence adduced by the prosecution proved the guilt of the accused-appellant beyond reasonable doubt.

This Court finds no cogent reason to disturb the trial court's appreciation of the credibility of the prosecution witnesses' testimony. Findings of trial court relative to the credibility of the rape victim are normally respected and not disturbed on appeal, more so, if affirmed by the appellate court. This rule may be brushed aside in exceptional circumstances, such as when the court's evaluation was reached arbitrarily, or when the trial court overlooked, misunderstood or misapplied certain facts or circumstances of weight and substance which could affect the result of the case.<sup>11</sup> The assessment of the credibility of witnesses is a domain best left to the trial court judge because of his unique opportunity to observe their deportment and demeanor on the witness stand; a vantage point denied

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<sup>9</sup> *People v. De los Santos, Jr.*, G.R. No. 186499, March 21, 2012.

<sup>10</sup> *People v. Cruz*, G.R. No. 186129, August 4, 2009, 595 SCRA 411, 418-419.

<sup>11</sup> *People v. Navarette, Jr.*, G.R. No. 191365, February 22, 2012.

appellate courts - and when his findings have been affirmed by the CA, these are generally binding and conclusive upon this Court.<sup>12</sup>

We quote with approval the following findings of the CA as to the ordeal gone through by AAA in the hands of the appellant, *viz*:

AAA testified in a spontaneous and straightforward manner and never wavered in positively identifying appellant as her rapist despite grueling cross-examination. The trial court thus found the testimony of AAA to have been amply corroborated... who bravely, unabashedly, straightforwardly and consistently narrated in court her harrowing ordeal, vexation and pain in the hands of the accused.

AAA was categorical in stating that appellant inserted his penis into her vagina:

Q: And when the two of you were inside the comfort room of the rice mill, what did the accused do if any?

A: He undressed me and then he sat on the toilet bowl, he unzipped his pants and he thereafter placed me on his top.

Q: And while he was placing you on his top, what did he do next if any?

A: He inserted his penis into my vagina.

Q: What did you do or feel when he inserted his penis into your vagina?

A: I felt pain sir.

xxx xxx

Q: And after he inserted his penis into your vagina, and after he told you that, what happened next if any?

A: He inserted his finger into my vagina sir.

Even on cross, examination AAA was unwavering:

Q: And when he sat on the toilet bowl you said he opened his zip?

A: Yes, sir.

Q: And then he lifted you and then place you on his top, is that correct?

A: Yes, sir,

Q: And then you felt pain because he was able to insert his penis into your vagina, is that what you mean?

A: Yes, sir.

<sup>12</sup>

Supra note 9.

Q: Now you would like to tell the Honorable Court that when he lifted you [and] placed you on hi (*sic*) lap and then at that time his penis entered your vagina?

A: Yes, sir.

A young girl would not usually concoct a tale of defloration; publicly admit having been ravished and her honor tainted; allow the examination of her private parts; and undergo all the trouble and inconvenience, not to mention the trauma and scandal of a public trial, had she not in fact been raped and been truly moved to protect and preserve her honor, and motivated by the desire to obtain justice for the wicked acts committed against her.

x x x x

x x x It is well-settled that the presentation of the medico-legal to testify on the examination of the victim and the medical certificate itself are not indispensable in a prosecution for rape. x x x

x x x x

Verily, AAA was able to prove through her testimony that appellant inserted his penis into her vagina, thereby consummating his intention to have carnal knowledge of her. After all, the prevailing rule is that when a woman of tender age says that she was raped, she has stated everything that is necessary to prove the commission of the crime. x x x

x x x x

We find no reason to overturn the conviction of appellant under Criminal Case No. T-3682 for the crime of statutory rape, it having been proven that AAA was under seven years of age when she was raped. The elements thereof had been overwhelmingly established in this case, specifically: (1) that the accused had carnal knowledge of a woman; and (2) that the woman was below 12 years of age.

On the other hand, the crime of rape by sexual assault was not duly established by the prosecution. x x x

x x x x

Under jurisprudential law, a person's tongue can be considered as an 'instrument or object' with which the crime of rape by sexual assault may be perpetrated. In the instant case, however, the record shows that no actual insertion of the tongue was done by appellant to bring the act within coverage of Art. 266-A (2) of the RPC. Not by any stretch of the imagination can the word "suck" be considered as an insertion. Thus, the act complained of cannot be considered rape by sexual assault.

Nonetheless, appellant's act falls under the category of crime of Acts of Lasciviousness, as defined under Art. 336 of the Revised Penal Code: x x x

x x x [I]n conjunction with Republic Act No. 7610, otherwise known as the *Special Protection of Children Against Abuse, Exploitation*

*and Discrimination Act, Section 5 x x x:*<sup>13</sup>

The accused-appellant's defense of alibi deserves scant consideration. Alibi is an inherently weak defense because it is easy to fabricate and highly unreliable. To merit approbation, the accused-appellant must adduce clear and convincing evidence that he was in a place other than the *situs criminis* at the time the crime was committed, such that it was physically impossible for him to have been at the scene of the crime when it was committed. Since alibi is a weak defense for being easily fabricated, it cannot prevail over and is worthless in the face of the positive identification by a credible witness that an accused perpetrated the crime.<sup>14</sup>

As to the award of damages, this Court, however, believes that the amounts so awarded should be modified in line with existing jurisprudence regarding the amounts thereof such that civil indemnity is reduced to ₱50,000.00 instead of ₱75,000.00 while exemplary damages is changed to ₱30,000.00 instead of ₱25,000.00.<sup>15</sup> The accused-appellant is further liable for interest of 6% *per annum* on all the civil damages.

**WHEREFORE**, the assailed Decision dated May 26, 2010 of the Court of Appeals in CA-G.R. CR-HC No. 03546 is **AFFIRMED** with the **MODIFICATION** that in Criminal Case No. T-3682, accused-appellant Antonio Baraoil is ordered to pay civil indemnity in the amount of ₱50,000.00, moral damages in the amount of ₱50,000.00 and ₱30,000.00 as exemplary damages, plus interest of 6% *per annum* on each of the amounts awarded reckoned from the finality of this decision.

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<sup>13</sup> *Rollo*, pp. 9-15.

<sup>14</sup> *People v. Arpon*, G.R. No. 183563, December 14, 2011.

<sup>15</sup> *Id.*

**SO ORDERED.**

  
**BIENVENIDO L. REYES**  
Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson, Second Division

  
**ARTURO D. BRION**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**MARIA LOURDES P. A. SERENO**  
Associate Justice

**CERTIFICATION**

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

  
**ANTONIO T. CARPIO**  
Senior Associate Justice  
(Per Section 12, R.A. 296,  
The Judiciary Act of 1948, as amended)