



Republic of the Philippines  
 Supreme Court  
 Manila

**SECOND DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff-Appellee,*

**CR. No. 190622-**

- versus -

Present:

CARPIO, *Chairperson,*  
 BRION,  
 DEL CASTILLO,  
 PEREZ, *and*  
 PERLAS-BERNABE, *JJ.*

**RODOLFO DE JESUS y MENDOZA,**  
*Accused-Appellant.*

Promulgated:  
 OCT 07 2013

x-----x

**DECISION**

**DEL CASTILLO, J.:**

Assailed before this Court is the September 18, 2009 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-GR. CR-11-C. No. 01923 which affirmed the December 29, 2005 Decision<sup>2</sup> of the Regional Trial Court (RTC) of Pasig City, Branch 159 finding appellant Rodolfo de Jesus y Mendoza guilty beyond reasonable doubt of the crime of rape.

Records show that on July 29, 2004, appellant was charged with the crime of rape in an Information<sup>3</sup> that reads as follows:

On or about July 24, 2004, in Pasig City and within the jurisdiction of this Honorable Court, the accused, by means of force, threats or intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge [of]

<sup>1</sup> CA rollo, pp. 100-122; penned by Associate Justice Priscilla J. Baltazar-Padilla and concurred in by Associate Justices Josefina Guera-Salonga and Celia C. Tibrea-Lagogo.  
<sup>2</sup> Records, pp. 104-112; penned by Judge Rodolfo R. Bonifacio.  
<sup>3</sup> Id. at 1-2.

“AAA”,<sup>4</sup> 11 years old, a minor, against her will and consent, which is aggravated by the circumstances of treachery and abuse of superior strength, to the damage and prejudice of the said victim.

Contrary to law.<sup>5</sup>

During his arraignment on September 14, 2004, appellant pleaded not guilty.<sup>6</sup> After pre-trial, trial on the merits ensued.

### ***Version of the Prosecution***

The prosecution presented the victim, “AAA;” her mother, “BBB;” Michael Boca (Boca), a security guard at Mega Parking Plaza; Dr. Paul Ed dela Cruz Ortiz (Dr. Ortiz), the Medico-Legal Officer who conducted the physical examination of the victim; and SPO2 Nilda Balagot, the police investigator on duty at the Women’s and Children Concerned Unit, Pasig City Police Station, as witnesses. Based on their testimonies, the following facts emerged:

“AAA” was born on November 26, 1992.<sup>7</sup> On July 24, 2004, at around 3:00 o’clock in the afternoon, then 11-year old “AAA” went to the Pasig public market to buy a pair of slippers. However, “AAA” was not able to buy her pair of slippers because appellant suddenly grabbed her left arm and pulled her towards the nearby Mega Parking Plaza. “AAA” was surprised and confused. She cried and tried to free herself from the grasp of the appellant, to no avail. Upon reaching the fourth floor of Mega Parking Plaza, appellant pulled “AAA’s” shorts and panty down to her knees. Appellant likewise pulled down his pants. Appellant then sat on the stairs, placed “AAA” on his lap, inserted his penis into her vagina and performed push and pull movements. “AAA” was overcome with fear and she felt pain in her vagina.

Meanwhile, Boca, the security guard assigned at the Mega Parking Plaza, was conducting a roving patrol when he heard the cry of “AAA.” He went to the fourth floor of the building which was at that time unoccupied by any vehicle. He was however surprised to see “AAA” seated on the lap of the appellant. Boca also saw appellant insert his penis into the vagina of “AAA” and then perform sexual movements. Immediately upon seeing the sexual molestations, Boca grabbed appellant’s arm, handcuffed him and brought him to the *barangay* hall.

---

<sup>4</sup> “The real names of the victim and of the members of her immediate family are withheld pursuant to Republic Act No. 7610 (*Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act*) and Republic Act No. 9262 (*Anti- Violence Against Women and Their Children Act of 2004*).” *People v. Teodoro*, G.R. No. 175876, February 20, 2013.

<sup>5</sup> Records, p. 1.

<sup>6</sup> Id. at 18.

<sup>7</sup> Id. at 11.

Dr. Ortiz examined the person of “AAA” and found shallow healed lacerations. Although there were no external signs of application of trauma, Dr. Ortiz opined that the lacerations could have been caused by a blunt penetrating force such as a penis and that “AAA” might have been sexually abused.

### ***Version of the Defense***

The only witness for the defense is the appellant himself. At the time of the incident, he was 63 years of age and worked as a porter at the Pasig public market. He claimed that even before the July 24, 2004 incident, he already knew “AAA” as the latter used to ask money from him. He denied having raped “AAA.” He narrated that on July 24, 2004, he saw “AAA” urinating near the stairs of the second floor of the Mega Parking Plaza while he was just standing nearby. Suddenly, Boca, the security guard, arrived and handcuffed him. He was thereafter brought to the authorities. He could not think of any reason or motive why “AAA” would file a rape charge against him.

### ***Ruling of the Regional Trial Court***

On December 29, 2005, the RTC rendered its Decision finding appellant guilty of rape. The dispositive portion of the Decision reads:

WHEREFORE, finding the accused GUILTY beyond reasonable doubt of the crime of rape, RODOLFO DE JESUS is hereby sentenced to suffer the penalty of reclusion perpetua with all the accessory penalties prescribed by law, and to indemnify the offended party in the amount of ₱50,000.00 as civil indemnity ex delicto and ₱50,000.00 as moral damages.

SO ORDERED.<sup>8</sup>

### ***Ruling of the Court of Appeals***

Appellant appealed to the CA. However, in its September 18, 2009 Decision, the appellate court dismissed the appeal and affirmed the Decision of the RTC, viz:

WHEREFORE, the instant appeal is DISMISSED. The Decision of the court a quo is SUSTAINED.

SO ORDERED.<sup>9</sup>

---

<sup>8</sup> Id. at 112.

<sup>9</sup> CA *rollo*, p. 121.

Hence, this appeal raising the lone assignment of error, *viz*:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME OF RAPE DESPITE FAILURE ON THE PART OF THE PROSECUTION TO PROVE THAT THERE WAS INDEED A SEXUAL INTERCOURSE BETWEEN THE ACCUSED-APPELLANT AND THE PRIVATE COMPLAINANT.<sup>10</sup>

Appellant argues that there is no evidence showing that he inserted his penis into the vagina of “AAA.” He claims that if he indeed raped “AAA,” then the latter’s physical examination should have shown fresh lacerations instead of old healed lacerations considering that “AAA” was examined immediately after the alleged incident.

### **Our Ruling**

The appeal lacks merit.

Contrary to appellant’s contention, there is ample proof that his penis penetrated the vagina of the victim. “AAA” categorically testified thus:

Q. So when you were pulled to the fourth floor by that person, what happened there?

A. He undressed me, sir.

Q. You said that he undressed you, what [were] your clothes then at the time when he undressed you?

A. I was wearing a garterized short, sir.

Q. Aside from the short, what else?

A. None, sir.

Q. [Were] you not wearing any underwear at that time?

A. No more, sir, except my panty.

Q. Your panty is also garterized?

A. Yes, sir.

Q. You said that he undressed [you], up to what part of your body did he pull down your short and your panty?

Interpreter:

Witness pointing to the portion between her knee and ankle.

---

<sup>10</sup> Id. at 39.

Prosec. Obuñgen:

Q. When he was undressing you, what did he tell you, if any?

A. None, sir.

Q. While he was undressing you, what were you doing then?

A. I was crying, sir.

Q. Aside from crying, what else did you do?

A. I shouted, sir.

x x x x

Q. When you shouted, what did he do, if any?

A. He was inserting his organ [into] my organ, sir.

x x x x

Q. You said that the person tried to insert his private organ [into] your private part. [What] did you feel at that time that he [was] trying to put his private part [into] your private part?

A. I felt nervous, sir.

Q. Aside from feeling nervous, [what] did you feel? Were you hurt?

A. I was afraid, sir.

Q. Aside from feeling afraid, what else?

A. It was painful, sir.

x x x x

Q. How painful [was] your vagina when he was inserting his private part x x x?

A. It was painful, sir.

Q. When he was inserting his private part [into] your vagina, how long a time did he [try] to insert his private part [into] your private part?

A. Maybe about fifteen minutes, sir.

Q. [When] he was inserting his private part [into] your private part, how did you act?

A. I was struggling, sir.

x x x x

Q. If that person who violated your honor is in the courtroom, can you point to him?

A. Yes, sir.

Interpreter:

Witness [is] pointing to a person seated near the door of the room wearing yellow t-shirt, blue denim pants and red slippers who identified himself as Rodolfo de Jesus.

- Q. When he had inserted his private part [into] your private part, what else happened?
- A. That was the time when the security guard arrived.<sup>11</sup>

The RTC found the testimony of “AAA” to be credible. She positively identified appellant as the malefactor and never wavered in her assertion that it was appellant who raped her. This finding was affirmed by the CA.<sup>12</sup> “Prevailing jurisprudence uniformly holds that findings of fact of the trial court, particularly when affirmed by the [CA], are binding upon this Court. As a general rule, on the question whether to believe the version of the prosecution or that of the defense, the trial court’s choice is generally viewed as correct and entitled to the highest respect because it is more competent to conclude so, having had the opportunity to observe the witnesses’ demeanor and deportment on the witness stand as they gave their testimonies. The trial court is, thus, in the best position to weigh conflicting testimonies and to discern if the witnesses [are] telling the truth. There is no cogent reason for us to depart from the general rule in this case.”<sup>13</sup>

Also, it is worth to note that the victim, “AAA,” was a minor. She was only 11 years old when she was raped. When placed on the witness stand to narrate her harrowing experience at the hands of the appellant, “AAA” was only 12 years of age.

Testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has in fact been committed. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true. Youth and immaturity are generally badges of truth and sincerity. Considering her tender age, AAA could not have invented a horrible story. x x x<sup>14</sup>

In addition, the foregoing testimony of “AAA” was corroborated by the testimony of Boca. He testified that while he was conducting his roving patrol, he heard a cry emanating from the fourth floor of the parking building. When Boca reached the fourth floor, he saw “AAA” seated on the lap of the appellant. Boca also testified that he saw appellant insert his penis into the vagina of “AAA” and perform sexual movements, viz:

---

<sup>11</sup> TSN, March 1, 2005, pp. 9-13.

<sup>12</sup> CA *rollo*, pp. 111, 116.

<sup>13</sup> *People v. Piosang*, G.R. No. 200329, June 5, 2013.

<sup>14</sup> *Id.*

- Q. Mr. Boca, on July 24, 2004, what was your occupation?  
A. I was a security guard, sir.
- Q. Where were you assigned as security guard on x x x July 24, 2004?  
A. Pasig Mega Parking, Pasig City, Pasig Public Market.
- Q. On that day, what was your tour of duty?  
A. From 7:00 o'clock in the morning up to 7:00 o'clock in the evening, sir.
- Q. At 3:00 o'clock in the afternoon, where were you?  
A. I was conducting a roving patrol, sir.
- Q. So you were assigned at Mega Parking, how many stories [does] Mega Parking have?  
A. It consists of four stories.
- Q. So [at] 3:00 o'clock of that day you were a roving guard?  
A. Yes, sir.
- Q. On that particular hour, do you remember x x x any unusual incident that happened?  
A. None except that I heard a child crying.

x x x x

- Q. At [the] time you heard the child crying, where were you then?  
A. I was on the third floor going up to the 4<sup>th</sup> floor.
- Q. Did you reach the 4<sup>th</sup> floor?  
A. Yes, sir.
- Q. What happened at the 4<sup>th</sup> floor?  
A. I heard a child shouting "hwag po."

x x x x

- A. When I [heard] the child, I went where they were located, and I saw Rodolfo de Jesus *na naka angkla po si de Jesus kay "AAA"*.
- Q. You said '*naka angkla*', could you demonstrate the particular position of "AAA" and de Jesus at that time?

Court Interpreter:

Witness [is] motioning that the accused was holding the child, and the accused sat down with motion of bringing up and down the child towards him.

Pros. Obuñgen:

- Q. Besides seeing and observing de Jesus and "AAA" is '*naka angkla*' on de Jesus, what else did you observe of De Jesus, what was his attire at that time.  
A. He was wearing pants, but (nakahubad) he was undressed.

x x x x

Q. So the pants of de Jesus was lowered below the knees?

A. It was lowered and it was on the floor.

Q. How about "AAA" x x x?

A. Her shorts, I saw that it was removed by the accused and the accused forcibly placed his organ [into] her.

x x x x

Q. How long a time did you see and observe x x x de Jesus having and performing sexual movements?

A. I saw them for about twenty-five seconds, sir.

Q. So, when you observed de Jesus molesting this "AAA", what did you do next?

A. I grabbed hold of the left arm of the accused and placed a handcuff on his hand.

Pros. Obuñgen-

Q. Will you please point to de Jesus, if he is here?

A. Yes, sir.

Q. Please point to him.

x x x x

Court-Interpreter-

Witness tapped the shoulder of a person wearing orange t-shirt and denim pants, wearing slippers, who gave his name as Rodolfo de Jesus.<sup>15</sup>

Notwithstanding the rigorous cross-examination, Boca remained steadfast in his identification of the appellant as the rapist. He also categorically declared that he saw appellant insert his penis into the vagina of "AAA," viz:

Q. You said that you were on the third floor going to the 4<sup>th</sup> floor at 3:00 p.m. when you heard a child crying, is that what you said?

A. Yes, ma'am.

Atty. Cabacungan-

Q. And what did you intend to do on the 4<sup>th</sup> floor when you went up there?

A. To conduct roving patrol.

Q. You said that you saw the accused, and how far was he to you when you first saw him?

A. About six to seven (6-7) meters.

---

<sup>15</sup> TSN, July 18, 2005, pp. 3-7.

x x x x

- Q. And what was the child wearing then when you first saw her?  
A. Her shorts were lowered below the knee and the shirt was pulled up, ma'am.
- Q. And what was the accused sitting on?  
A. The accused was seated on the stairs.
- Q. Where were you when you first saw the accused?  
A. I passed through where the vehicles pass and the accused was seated on the stairs.
- Q. What about the child, was she facing you or [was] her back [towards] you?  
A. She was facing me and she was crying. I felt that she did not notice me.

x x x x

- Q. How long did it take you when you went up from the time you heard the crying of the victim to the time you [saw] the accused, how long did it take?  
A. About ten (10) seconds, ma'am.
- Q. So, when you first saw the accused, you still waited and observed or you ran immediately towards them?  
A. I moved closer to them slowly to find out what was happening.

x x x x

- Q. And x x x the child x x x was sitting on the lap of the accused?  
A. Yes, ma'am. And she was being held by Rodolfo de Jesus and forcibly [inserting] his penis [into] the organ of the child.
- Q. But you did not see the organ inserted [into] the organ of the girl?  
A. I saw it, ma'am.
- Q. You saw it?  
A. Yes, ma'am.
- Q. How big is the organ of the accused? Was it fully inserted[,] half or one-fourth inserted?  
A. Probably half of the penis [was] inserted.
- Q. Are you sure of that or x x x you did not see actually the organ of the x x x accused inserted [into] the organ of the victim, and what you are saying only is the presumption based on the action of the accused?  
A. No, ma'am, because I really saw the penis of the accused x x x inserted [into] the organ of the girl, and I also got rattled when I saw the girl, and I grabbed hold of the left arm of the accused.<sup>16</sup>

---

<sup>16</sup> Id. at 11-16.

Moreover, the results of the physical examination on “AAA” did not discount the possibility that “AAA” was raped. The Initial Medico-Legal Report<sup>17</sup> reads in part:

Hymen: Annular, thin, with single-located centrally orifice. Shallow healed lacerations are noted at 4, 5, 7, and 9’oclock positions. x x x

Conclusion: Findings are suggestive of blunt penetrating force to the hymen. There are no external signs of application of any form of trauma.

Remarks: Sexual abuse cannot be totally ruled out.

When placed on the witness stand, Dr. Ortiz testified:

Q. So you found the existence of lacerations on the private part of the victim?

A. Yes, sir.

Q. What could have been the cause of lacerations on the private part of the victim?

A. Any blunt object, sir, blunt solid object, sir.

Q. Like what Doctor?

A. Pencil or finger or erect or half-erect penis, sir.

x x x x

Q. Doctor, this kind of injuries on the private part of the victim could have been the result of blunt object like the private part of a man?

A. That would be a possibility, yes, sir.<sup>18</sup>

The defense, however, insists that appellant could not have raped “AAA” considering that “AAA’s” hymenal lacerations were already old and healed. We are not convinced. In *People v. Amistoso*<sup>19</sup> this Court held that the fact that the examining doctor found healed lacerations “does not negatively affect AAA’s credibility nor disprove her rape.” Citing *People v. Orilla*<sup>20</sup> the Court ruled that –

The absence of fresh lacerations in Remilyn’s hymen does not prove that appellant did not rape her. A freshly broken hymen is not an essential element of rape and healed lacerations do not negate rape. In addition, a medical examination and a medical certificate are merely corroborative and are not

---

<sup>17</sup> Records, p. 87.

<sup>18</sup> TSN, June 14, 2005, pp. 9-10.

<sup>19</sup> G.R. No. 201447, January 9, 2013, 688 SCRA 376, 391.

<sup>20</sup> 467 Phil. 253, 274 (2004).

indispensable to the prosecution of a rape case. The credible disclosure of a minor that the accused raped her is the most important proof of sexual abuse.<sup>21</sup>

Finally, we find appellant's version of the incident highly untenable. Although still a child, "AAA" was already a grade six student at the time she was raped. It is therefore highly improbable for "AAA" to just squat near the stairs of the public market and urinate, much more considering that appellant was supposedly just standing nearby.

Article 266-A of the Revised Penal Code defines rape while Article 266-B provides for its penalties, viz:

Art. 266-A. *Rape, When and How Committed.* - Rape is committed –

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 otherwise unconscious;

x x x x

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;

x x x x

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

Rape of a minor under 12 years of age is statutory rape. "The elements of statutory rape are that: (a) the victim is a female under 12 years or is demented; and (b) the offender has carnal knowledge of the victim. x x x [N]either the use of force, threat or intimidation on the female, nor the female's deprivation of reason or being otherwise unconscious, nor the employment on the female of fraudulent machinations or grave abuse of authority is necessary to commit statutory rape."<sup>22</sup> In statutory rape, there are only two elements that need to be established, to wit: 1) carnal knowledge or sexual intercourse; and 2) that the woman is below 12 years of age. In this case, the prosecution satisfactorily established the fact of carnal knowledge. It is likewise beyond dispute that "AAA" was only 11 years of age at the time she was raped. Her Certificate of

<sup>21</sup> *People v. Amistoso*, supra note 19.

<sup>22</sup> *People v. Teodoro*, supra note 4.

Live Birth<sup>23</sup> showed that she was born on November 26, 1992. Both the RTC and the CA therefore correctly held appellant guilty of the crime of statutory rape and imposed upon him the penalty of *reclusion perpetua*.

As regards damages, jurisprudence declares that:

x x x There is no longer any debate that the victim in statutory rape is entitled to a civil indemnity of ₱50,000.00, moral damages of ₱50,000.00, and exemplary damages of ₱30,000.00. The award of civil indemnity of ₱50,000.00 is mandatory upon the finding of the fact of rape. Similarly, the award of moral damages of ₱50,000.00 is mandatory, and made without need of allegation and proof other than that of the fact of rape, for it is logically assumed that the victim suffered moral injuries from her ordeal. In addition, exemplary damages of ₱30,000.00 are justified under Article 2229 of the Civil Code to set an example for the public good and to serve as deterrent to those who abuse the young.<sup>24</sup>

In this case, we note that both the RTC and the CA correctly awarded civil indemnity in the amount of ₱50,000.00 and moral damages in the amount of ₱50,000.00. Both courts however failed to award exemplary damages to which “AAA” is entitled. Accordingly, we award exemplary damages to “AAA” in the amount of ₱30,000.00. In addition, all the damages shall earn interest at the rate of 6% *per annum* from date of finality of this judgment until fully paid in conformity with prevailing jurisprudence.<sup>25</sup>

**WHEREFORE**, the September 18, 2009 Decision of the Court of Appeals in CA-GR. CR-ILC. No. 01923 is **AFFIRMED** with modifications that appellant Rodolfo de Jesus y Mendoza is further ordered to pay “AAA” the amount of ₱30,000.00 as exemplary damages, plus interest of 6% *per annum* on all damages awarded from date of finality of this judgment until fully paid.

**SO ORDERED.**

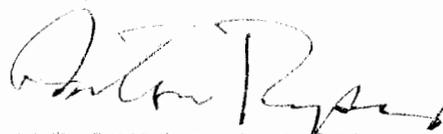
  
MARIANO C. DEL CASTILLO  
*Associate Justice*

<sup>23</sup> Records, p. 11.

<sup>24</sup> *People v. Todorco*, supra note 4.

<sup>25</sup> *Id.*

WE CONCUR:



**ANTONIO T. CARPIO**

*Associate Justice*

*Chairperson*



**ARTURO D. BRION**

*Associate Justice*



**JOSE PORTUGAL PEREZ**

*Associate Justice*



**ESTELA M. PERLAS-BERNABE**

*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.



**ANTONIO T. CARPIO**

*Associate Justice*

*Chairperson*

## 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.



**MARIA LOURDES P. A. SERENO**

*Chief Justice*