



**Republic of the Philippines  
Supreme Court  
Manila**

**FIRST DIVISION**

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

**G.R. No. 181202**

Present:

LEONARDO-DE CASTRO,  
Acting Chairperson,  
BERSAMIN,  
VILLARAMA, JR.,  
PEREZ,\* and  
REYES, JJ.

- versus -

**EDGAR PADIGOS,**  
Accused-Appellant.

Promulgated:

**DEC 05 2012**

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**DECISION**

**LEONARDO-DE CASTRO, J.:**

This is an appeal from the Decision<sup>1</sup> dated July 20, 2007 of the Court of Appeals in CA-G.R. CEB-CR.-H.C. No. 00344, entitled *People of the Philippines v. Edgar Padigos*, which affirmed with modification the Judgment<sup>2</sup> dated September 26, 2005 of the Regional Trial Court (RTC) of Cebu City, Branch 14 in Criminal Case Nos. CBU-64584 & CBU-64585. The trial court found appellant Edgar Padigos guilty beyond reasonable

\* Per Special Order No. 1385 dated December 4, 2012.

<sup>1</sup> Rollo, pp. 3-18; penned by Associate Justice Priscilla Baltazar Padilla with Associate Justices Pampio A. Abarintos and Stephen C. Cruz, concurring.

<sup>2</sup> CA rollo, pp. 30-38.

doubt of the crime of rape as defined and penalized under Article 266-A of the Revised Penal Code, in relation to Republic Act No. 7610 or the “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act.”

The Information in Criminal Case No. CBU-64584 charged appellant with the crime of rape in relation to Republic Act No. 7610, while the Information in Criminal Case No. CBU-64585 charged him with the crime of acts of lasciviousness also in relation to Republic Act No. 7610. The relevant portions of said Informations read:

#### CRIMINAL CASE NO. CBU-64584

That sometime in the evening of the 26<sup>th</sup> day of August, 2002, at x x x and within the jurisdiction of this Honorable Court, the above-named accused, moved by lewd design, did then and there wil[l]fully, unlawfully and feloniously have carnal knowledge with his own daughter, “AAA”<sup>3</sup> who is a minor 6 years of age, that resulted to devirginizing her and causing her great dishonor.<sup>4</sup>

#### CRIMINAL CASE NO. CBU-64585

That sometime in the evening of the 27<sup>th</sup> day of August, 2002, at x x x and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent and with lewd design, did then and there willfully, unlawfully and feloniously let his own daughter, “AAA” who is a minor 6 years of age, masturbate his penis, which act is constitutive of physical abuse which debases, degrades or demeans the intrinsic worth and dignity of the victim as a human being.<sup>5</sup>

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<sup>3</sup> The Court withholds the real name of the victims-survivors and uses fictitious initials instead to represent them. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate families or household members, are not to be disclosed. (*See People v. Cabalquinto*, 533 Phil. 703 [2006].)

<sup>4</sup> Records, p. 1.

<sup>5</sup> Id. at 2.

Upon arraignment, appellant pleaded not guilty to both charges.<sup>6</sup>

The facts of this case, as narrated in the assailed July 20, 2007 Decision of the Court of Appeals, are as follows:

The government presented as its witnesses, the minor victim and Dr. Naomi Poca. The defense, on the other hand, only had accused-appellant for its witness.

#### THE PROSECUTION'S THEORY-

The evidence for the [S]tate discloses that "AAA" who was then only six-years old was sleeping inside their house on August 26, 2002 when her father, herein accused-appellant raped her. He undressed her and removed her panty. He also took off his pants. He inserted his penis into her vagina and made push and pull movements. She felt pain in her private organ. Her mother was not around as it was only her and her father who were home.

The next day or on August 27, 2002, accused-appellant made her hold his penis. He, on the other hand, touched her genitals and inserted his fingers into her vagina causing her to feel pain.

She related the incidents to her mother who simply gave her father a fierce piercing stare but did nothing. She also confided to her aunt, sister of her mother, who brought her to a doctor for medical examination and to the police station to report the matter.

She was examined by Dr. Yu and Dr. Aznar of the Vicente Sotto Memorial Medical Center. Since the two physicians were no longer connected with the said hospital, it was one Dr. Naomi Poca who was called to the witness stand who, testifying on the medical certificate (Exh. "B") issued by the two doctors, came-up with the following declarations, thus –

"Based on the medical certificate issued by Dr. Yu and Dr. Aznar, their written findings include, 1x1 cm. healed circular scar frontal lateral side left sec. to varicella, healed circular scar with the torso back abdomen sec. to varicella, 3x3 cm. wound in left foot aspect sec. to varicella, height 110.5 cm., weight, 17.65 cm., well developed nourished cooperative if not explain, tunner crescent in shape with 2x1 11:00 o'clock position with minimal amount of vaginal bleeding. The first finding, 1x1 cm. healed circular scar refers to head and nect, (sic) the second, healed 1x1 cm. circular torso back refers to torso

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<sup>6</sup>

Id. at 17.

and abdomen, the third, 3x3 cm. open wounds refers to extremities, the well developed nourished cooperative refers to general development and the next finding, Tanner 1 refers to the hymen and the last.”

#### THE ACCUSED-APPELLANT’S THEORY –

The present charges were merely fabricated by his wife as they have been estranged from each other because she was cohabiting with another man prior to the incidents complained of. His wife prevented their daughter/victim herein from returning to their house. On or before August 26, 2002, he met his wife and requested her to allow their daughter to live with him because she did not want their child to live under immoral circumstances. His wife strongly refused telling her he could get their child only over their child’s dead body. A few days hence, to his surprise, he was arrested by police authorities and was detained at the Talisay City Jail for having raped his own daughter. Their daughter never returned to their house since he and his wife separated.<sup>7</sup> (Citation omitted.)

After trial on the merits, the trial court convicted appellant of the crimes of rape and acts of lasciviousness both in relation to Republic Act No. 7160. The dispositive portion of the September 26, 2005 Judgment of the trial court reads as follows:

WHEREFORE, in view of the foregoing premises, the court finds accused, **EDGAR PADIGOS, GUILTY** beyond reasonable doubt of **RAPE** in relation to R.A. 7[61]0 and, considering the aggravating qualifying circumstance of relationship to and minority of the victim, imposes upon him the supreme penalty of **DEATH** by lethal injection.

Accused is, likewise, sentenced to a penalty of imprisonment of **TEN (10) YEARS and ONE (1) DAY to TWELVE (12) YEARS of PRISION MAYOR** for the **ACTS OF LASCIVIOUSNESS** he committed and found **GUILTY** beyond reasonable doubt.

In addition, Accused is ordered to pay the victim, [AAA], the following amounts:

- 1.) ₱50,000.00, as damages *ex delicto*;
- 2.) ₱50,000.00, as moral damages;
- 3.) ₱25,000.00, as exemplary damages;

The Department of Social Welfare and Development, Region VII,

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<sup>7</sup> Rollo, pp. 5-7.

Cebu City is ordered to take custody of the minor, [AAA], for her to undergo rehabilitation.<sup>8</sup>

Hoping for a reversal of his conviction, appellant elevated his case to the Court of Appeals which denied his appeal and affirmed with modification the trial court judgment in a Decision dated July 20, 2007, the dispositive portion of which states:

**WHEREFORE**, the appealed Decision of the court *a quo* is **AFFIRMED** with modification as to the penalty.

Accused-appellant is found guilty of the crimes of Rape and Acts of Lasciviousness in relation to Republic Act 7610 and is hereby sentenced to *reclusion perpetua* for the first crime and to an indeterminate penalty of twelve (12) years, ten (10) months and twenty (20) days as minimum to seventeen (17) years and four (4) months as maximum of *reclusion temporal*.

The award of civil damages is retained.<sup>9</sup> (Italicization added.)

Hence, appellant now seeks redress with this Court through the present appeal wherein he merely adopted the Appellant's Brief he submitted to the Court of Appeals in lieu of submitting a Supplemental Brief as permitted by this Court. In this appeal, appellant puts forward a single assignment of error, to wit:

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIMES CHARGED AGAINST HIM DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.<sup>10</sup>

In his appeal, appellant asserts that the trial court should not have given full credence and weight to the testimony of AAA because she allegedly failed to give a straightforward and consistent narration of the events surrounding the incidents at issue. Appellant maintains that AAA's

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<sup>8</sup> CA rollo, p. 38.

<sup>9</sup> Rollo, pp. 17-18.

<sup>10</sup> CA rollo, p. 20.

testimony is not worthy of belief because it allegedly lacked details as to how the crimes of rape and acts of lasciviousness were actually committed.

We are not persuaded.

Appellant's appeal is hinged principally on the credibility of the victim's testimony. Appellant insists that AAA's testimony is not credible enough to warrant appellant's conviction of the two felonies attributed to him.

In the recent case of *People v. Bosi*,<sup>11</sup> we reiterated a long held principle that when the credibility of the victim is at issue, the Court gives great weight to the trial court's assessment. Expounding on the said principle, we declared in that case that the trial court's finding of facts is even conclusive and binding if it is not shown to be tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. The wisdom behind this rule is that the trial court had the full opportunity to observe directly the witnesses' deportment and manner of testifying, thus, it is in a better position than the appellate court to properly evaluate testimonial evidence.

In the case at bar, both the trial court and the Court of Appeals categorically held that AAA is a credible witness and that her testimony deserves full faith and belief. In spite of the brevity of her testimony, the trial court considered the same as delivered in a clear and straightforward manner that is devoid of any pretense or equivocation.

An examination of the transcript of AAA's testimony would indicate that the crime of rape was indeed committed by appellant. The relevant

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<sup>11</sup> G.R. No. 193665, June 25, 2012.

portion of said testimony reads:

PROS. CALDERON:

Q. Now, you were then in your house at that time. Can you remember now?

A. Yes, Sir.

Q. While you were sleeping, can you remember what happened to you?

A. Yes, Sir.

Q. Can you tell this court what happened to you?

A. I was raped, Sir.

Q. Who raped you?

A. My father.

Q. Is your father around?

A. Yes, Sir.

Q. Can you please point him out?

A. That one.

COURT INTERPRETER:

The witness is pointing to the accused who responded to his name as Edgar Padigos.

PROS. CALDERON:

Q. Do you understand the word rape?

A. Yes.

Q. What do you understand by the word rape?

A. [It is a] malicious word.

Q. What did your father do to you?

A. I was raped.

Q. How did he do it?

- A. His penis was inserted in my vagina, Sir.
- Q. How did he do it?
- A. He made push and pull movements.
- Q. What about your dress, were you still wearing it?
- A. He undressed me, Sir.
- Q. What about your panty?
- A. Also without my panty.
- Q. What about his pants?
- A. He also took off his pants.
- Q. When your father raped you, what did you do?
- A. Very painful, Sir.
- Q. Where did you feel the pain?
- A. In my vagina.<sup>12</sup>

Pertinently, this Court has repeatedly stressed that no young girl would concoct a sordid tale of so serious a crime as rape at the hands of her own father, undergo medical examination, then subject herself to the stigma and embarrassment of a public trial, if her motive was other than a fervent desire to seek justice.<sup>13</sup>

Article 266-A of the Revised Penal Code which deals with the offense of rape provides:

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

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

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<sup>12</sup> TSN, February 7, 2005, pp. 4-5.

<sup>13</sup> *People v. Osmá*, G.R. No. 187734, August 29, 2012.



- 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;
2. By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

As cemented in jurisprudence, the elements of rape under the said provision of law are: (1) the offender had carnal knowledge of the victim; and (2) such act was accomplished through force or intimidation; or when the victim is deprived of reason or otherwise unconscious; or when the victim is under 12 years of age.<sup>14</sup> Thus, sexual intercourse with a girl below 12 years old, which is the subject of this case, is considered as statutory rape in this jurisdiction.

According to the sixth paragraph of Article 266-B, the death penalty shall be imposed if the crime of rape is committed “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.”

It would appear from the death penalty imposed by the trial court that it found appellant guilty of qualified rape. This ruling was affirmed by the Court of Appeals, albeit reduced to *reclusion perpetua* in accordance with

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<sup>14</sup> *People v. Manjares*, G.R. No. 185844, November 23, 2011, 661 SCRA 227, 242.

Republic Act No. 9346.

After a careful review of the records of this case, we are persuaded that appellant is indeed guilty of qualified rape. In *People v. Pruna*,<sup>15</sup> we formulated a set of guidelines that will serve as a jurisprudential benchmark in appreciating age either as an element of the crime or as a qualifying circumstance in order to address the seemingly conflicting court decisions regarding the sufficiency of evidence of the victim's age in rape cases. The *Pruna* guidelines are as follows:

1. The best evidence to prove the age of the offended party is an original or certified true copy of the certificate of live birth of such party.

2. In the absence of a certificate of live birth, similar authentic documents such as baptismal certificate and school records which show the date of birth of the victim would suffice to prove age.

3. If the certificate of live birth or authentic document is shown to have been lost or destroyed or otherwise unavailable, the testimony, if clear and credible, of the victim's mother or a member of the family either by affinity or consanguinity who is qualified to testify on matters respecting pedigree such as the exact age or date of birth of the offended party pursuant to Section 40, Rule 130 of the Rules on Evidence shall be sufficient under the following circumstances:

- a. If the victim is alleged to be below 3 years of age and what is sought to be proved is that she is less than 7 years old;
- b. If the victim is alleged to be below 7 years of age and what is sought to be proved is that she is less than 12 years old;
- c. If the victim is alleged to be below 12 years of age and what is sought to be proved is that she is less than 18 years old.

4. In the absence of a certificate of live birth, authentic document, or the testimony of the victim's mother or relatives concerning the victim's age, the complainant's testimony will suffice provided that it is expressly and clearly admitted by the accused.

5. It is the prosecution that has the burden of proving the age of the offended party. The failure of the accused to object to the testimonial evidence regarding age shall not be taken against him.

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<sup>15</sup>

439 Phil. 440 (2002).

6. The trial court should always make a categorical finding as to the age of the victim.<sup>16</sup> (Citation omitted.)

In the case at bar, the prosecution may have been unable to present AAA's birth certificate or other authentic document such as a baptismal certificate during trial, however, that failure to present relevant evidence will not deter this Court from upholding that qualified rape was indeed committed by appellant because he himself admitted, in his counter-affidavit which formed part of the evidence for the defense and the contents of which he later affirmed in his testimony in open court, that AAA was below 7 years old around the time of the rape incident. In the Court's view, this admission from appellant, taken with the testimony of the victim, sufficiently proved the victim's minority.

Parenthetically, we are not unmindful of the observation of the trial court, to wit:

Back to the instant case, by no stretch of even a fertile imagination can this Court, observing her frail and diminutive mien, hold that AAA, at the age of 6 when she was raped, could be mistaken to be above eleven (11) years old for the offense to fall under simple rape, much more could it be mistaken that she was above 17 years old, for the accused to be saved from the supreme penalty: death. The offense of rape could, thus, only fall under subparagraph d), par. 1), ART. 266-A of R.A. 7877 – The Anti-Rape Law of 1997 (statutory rape).<sup>17</sup>

Anent the charge of acts of lasciviousness, Article 336 of the Revised Penal Code provides:

Art. 336. *Acts of lasciviousness.* – Any person who shall commit any act of lasciviousness upon other persons of either sex, under any of the circumstances mentioned in the preceding article, shall be punished by *prision correccional*.

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<sup>16</sup> Id. at 470-471.  
<sup>17</sup> CA rollo, p. 36.

Therefore, the crime of acts of lasciviousness is composed of the following elements:

- (1) That the offender commits any act of lasciviousness or lewdness;
- (2) That it is done under any of the following circumstances:
  - a. By using force or intimidation; or
  - b. When the offended party is deprived of reason or otherwise unconscious; or
  - c. When the offended party is under 12 years of age; and
- (3) That the offended party is another person of either sex.<sup>18</sup> (Citation omitted.)

Utilizing the foregoing definition as a guide, it is beyond cavil that appellant's act of making AAA hold his penis and, subsequently, of touching her vagina with his fingers can be both characterized as constituting acts of lasciviousness. As previously discussed, the moral influence or ascendancy exercised by appellant over AAA takes the place of the element of force and intimidation.

AAA's testimony in this regard provides adequate basis for appellant's guilt:

PROS. CALDERON:

Q. What about the following day?

A. He told me to hold his penis.

Q. That was the next day?

A. Yes, Sir.

Q. That would be on August 27, 2002?

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<sup>18</sup> *Flordeliz v. People*, G.R. No. 186441, March 3, 2010, 614 SCRA 225, 240-241.

A. Yes, Sir.

Q. When he made you hold his penis, what happened?

A. My father also touched my vagina.

Q. How did he touch your vagina?

A. He touched all the parts of my vagina.

Q. Did he insert his fingers?

A. Yes, Sir.

Q. What did you feel?

A. I felt pain, Sir.<sup>19</sup>

In view of the foregoing, we therefore affirm the conviction of appellant for qualified rape and acts of lasciviousness. Further, he is to suffer the penalty imposed by the Court of Appeals which is *reclusion perpetua*.

The amount of actual damages and moral damages awarded by the trial court and affirmed by the Court of Appeals which is ₱50,000.00 each is correct. However, in line with jurisprudence, the award of exemplary damages should be increased from ₱25,000.00 to ₱30,000.00.<sup>20</sup>

**WHEREFORE**, premises considered, the Decision dated July 20, 2007 of the Court of Appeals in CA-G.R. CEB-CR.-H.C. No. 00344, finding appellant Edgar Padigos guilty in Criminal Case Nos. CBU-64584 and CBU-64585, is hereby **AFFIRMED** with the **MODIFICATIONS** that:

(1) The award of exemplary damages is increased to Thirty Thousand Pesos (₱30,000.00); and

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<sup>19</sup> TSN, February 7, 2005, pp. 5-6.

<sup>20</sup> *People v. Ortega*, G.R. No. 186235, January 25, 2012, 664 SCRA 273, 292.

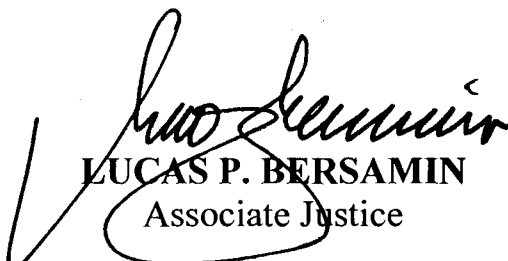
(2) Appellant Edgar Padigos is ordered to pay the private offended party interest on all damages awarded at the legal rate of six percent (6%) *per annum* from the date of finality of this judgment.

No pronouncement as to costs.

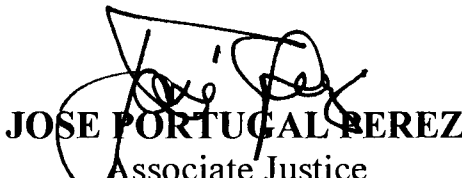
**SO ORDERED.**


  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice  
Acting Chairperson, First Division

WE CONCUR:

  
**LUCAS P. BERSAMIN**  
Associate Justice


  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**BIENVENIDO L. REYES**  
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.

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice  
Acting Chairperson, First Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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.

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