



**Republic of the Philippines  
Supreme Court  
Manila**

**FIRST DIVISION**

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

**G.R. No. 200531**

Present:

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

- *versus* -

Promulgated:

**RADBY ESTOYA y MATEO,**  
Accused-Appellant.

**DEC 05 2012**

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**DECISION**

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

For Our resolution is the appeal filed by accused-appellant Radby M. Estoya (Estoya) from the Decision<sup>1</sup> dated April 28, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04364, which affirmed with modification the Decision<sup>2</sup> dated February 26, 2010 of the Regional Trial Court (RTC) of

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

<sup>1</sup> *Rollo*, pp. 2-13; penned by Associate Justice Vicente S.E. Veloso with Associate Justices Francisco P. Acosta and Edwin D. Sorongon, concurring.

<sup>2</sup> Records, pp. 112-115; penned by Presiding Judge Andres B. Soriano.

Malolos, Bulacan, in Criminal Case No. 1136-M-O6, finding Estoya guilty of raping AAA.<sup>3</sup>

Estoya was charged through an Information<sup>4</sup> filed with the RTC by the Office of the City Prosecutor of Bulacan on April 24, 2006, which reads:

That on or about the 5<sup>th</sup> day of April, 2006, in x x x and within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of the innocence of the offended party, [AAA], a minor 14 years of age, by means of force, threats, and intimidation, did then and there willfully, unlawfully and feloniously, with lewd designs, have carnal knowledge of said [AAA], against her will and without her consent, thereby placing said minor in conditions prejudicial to her normal growth and development.

When arraigned on June 5, 2006, Estoya pleaded not guilty.<sup>5</sup> Trial on the merits followed.

The prosecution presented three witnesses: (1) AAA, the victim; (2) BBB, AAA's aunt; and (3) CCC, AAA's brother.<sup>6</sup> The prosecution also submitted, among other documentary evidence, AAA's Birth Certificate,<sup>7</sup> establishing that AAA was born on September 18, 1991 and was 14 years old at the time of the incident; and the Medico Legal Report<sup>8</sup> of Dr. Pierre Paul F. Carpio (Carpio) dated April 5, 2006, finding "a shallow fresh laceration at 6 o'clock position" of the hymen and "clear evidence of penetrating trauma to the hymen."

The defense offered as sole evidence Estoya's testimony.

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<sup>3</sup> The real name of the victim is withheld to protect her identity and privacy pursuant to Section 29 of Republic Act No. 7610, Section 44 of Republic Act No. 9262, and Section 40 of A.M. No. 04-10-11-SC. See our ruling in *People v. Cabalquinto*, 533 Phil. 703 (2006).

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

<sup>5</sup> Id. at 24.

<sup>6</sup> AAA identified CCC as her nephew (TSN, December 11, 2006, p. 16) while CCC recognized AAA as his "ate" (TSN, September 24, 2007, p. 3). However, in the pleadings of the prosecution and the decisions of the RTC and Court of Appeals, CCC was referred to as AAA's brother.

<sup>7</sup> Records, p. 81.

<sup>8</sup> Id. at 84.

On February 26, 2010, the RTC rendered its Decision finding Estoya guilty beyond reasonable doubt of raping AAA and sentencing him as follows:

WHEREFORE, premises considered, the Court finds the accused guilty beyond reasonable doubt of the crime of rape as charged herein and hereby sentences him to suffer the penalty of RECLUSION PERPETUA.

The accused is likewise directed to indemnify the private complainant in the amount of ONE HUNDRED THOUSAND (₱100,000.00) PESOS.<sup>9</sup>

Aggrieved by the above decision, Estoya filed an appeal before the Court of Appeals.

The Office of the Solicitor General summarized the evidence for the prosecution in Plaintiff-Appellee's Brief, to wit:

During her school vacation in 2006 while her parents were in x x x, AAA stayed at the house of her maternal aunt, BBB, in x x x. Appellant Radby Estoya lives six (6) to seven (7) meters away from BBB's house.

On April 5, 2006, around 3:00 o'clock in the afternoon, AAA was sleeping on her aunt's bed when she was awakened because someone was on top of her. When she realized that it was appellant, she attempted to shout but her resistance was subdued by his threat that he will stab her with a knife. She realized that appellant had undressed her and suddenly felt appellant's penis entering her vagina. Due to fear, the two (2) nephews of AAA and her brother CCC, hurriedly ran out of the house to report AAA's ordeal to DDD, a neighbor.

After satisfying his lust, appellant ran away and climbed to the roof of the house. However, he immediately returned to the room and taunted AAA to report to the police if she can prove that rape was committed. Then appellant left.

Soon after, CCC and DDD arrived and saw AAA crying on the bed. DDD accompanied AAA to the police station to report the incident and later, accompanied her to the doctor for physical examination. The medical examination yielded the following result: a shallow fresh

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<sup>9</sup>

Id. at 115.

laceration at 6:00 o'clock position and clear evidence of penetrating trauma to the hymen.<sup>10</sup> (Citations omitted.)

Estoya very briefly stated his defense in his Accused-Appellant's Brief, thus:

Accused **Radby Estoya**, x x x, a 22-year old resident of Sweden Street, Harmony 1, San Jose Del Monte City, denied the imputation against him. In truth, he was cleaning his house with his nephews and nieces. Although he knew the private complainant, he was not close to her as she was, at that time, a plain acquaintance and neighbor.<sup>11</sup>

In its Decision dated April 28, 2011, the Court of Appeals affirmed Estoya's conviction by the RTC, but modified the damages awarded to AAA. The appellate court decreed:

**WHEREFORE**, premises considered, the appeal is **DENIED**. The assailed February 26, 2010 Decision is however **MODIFIED** by reducing the award of civil indemnity to ₱50,000.00 and granting on the other hand the awards of moral damages in the amount of ₱50,000.00 and exemplary damages in the amount of ₱25,000.00.<sup>12</sup>

Hence, Estoya comes before us through the instant appeal with the same lone assignment of error which he raised before the Court of Appeals:

THE COURT A *QUO* GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT FOR THE CRIME OF RAPE DESPITE THE PROSECUTION'S FAILURE TO CONVINCINGLY PROVE HIS GUILT.<sup>13</sup>

Estoya admits that although he was not able to adduce any evidence to corroborate his denial and alibi, he should not be convicted based on the

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<sup>10</sup> CA rollo, pp. 62-64.

<sup>11</sup> Id. at 36.

<sup>12</sup> Rollo, p. 13.

<sup>13</sup> CA rollo, p. 34.

weakness of his evidence. Citing *People v. Manansala*,<sup>14</sup> Estoya argues that the evidence for the prosecution must stand or fall on its own merits and cannot draw strength from the weakness of the evidence for the defense. Estoya points out several purported inconsistencies, ambiguities, and improbabilities in the evidence of the prosecution, viz, (1) CCC alleged in his *Sinumpaang Salaysay* that he was able to enter the house and thereupon, he saw AAA naked and crying while Estoya was on top of AAA, but on cross-examination, CCC admitted that he only saw AAA crying as Estoya already closed the door and CCC was unable to enter the house; (2) BBB's testimony was hearsay because she was in Manila at the time of the incident and she only received a text message from her sister, AAA's mother, that AAA had been raped; (3) AAA testified that Estoya surreptitiously entered the room where AAA was sleeping, however, it is very doubtful that Estoya could have gained entrance into the house with no one from the household noticing; and (4) it is contrary to human experience that AAA, as she was being raped, did not cry out aloud or manifest a tenacious resistance to repel the impending threat on her honor.

We find no merit in Estoya's appeal.

Estoya's appeal primarily hinges on the issue of credibility of the prosecution witnesses. It is axiomatic that when it comes to evaluating the credibility of the testimonies of the witnesses, great respect is accorded to the findings of the trial judge who is in a better position to observe the demeanor, facial expression, and manner of testifying of witnesses, and to decide who among them is telling the truth.<sup>15</sup> After a painstaking review of the records of this case, including the exhibits and transcript of stenographic

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<sup>14</sup> G.R. Nos. 110974-81, June 17, 1997, 273 SCRA 517, 519.

<sup>15</sup> *People v. Pastorete, Jr.*, 441 Phil. 286, 295 (2002).

notes, we find no reason to deviate from the findings and conclusions of the RTC.

The Revised Penal Code, as amended, describes the different ways by which rape is committed:

Article 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 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. (Emphases ours.)

AAA's testimony, given positively and candidly, established the elements of carnal knowledge accomplished by Estoya through force, threat, and/or intimidation:

Prosecutor Joson:

Q On April 5, 2006 at around 3:00 in the afternoon, do you recall of any unusual incident that happened to you, which has connection with the name Radby Estoya y Mateo?

A There was, sir.

Q What was that unusual incident that happened to you on that particular date and time?

A He undressed me, sir.

Q When you said, "he undressed me", whom are you referring to?

A (The witness pointed to the accused)

Q Where were you at the time he undressed you?

A In the room, sir.

Q What were you doing?

A I was sleeping, sir.

Q When you said you were sleeping and he undressed you, do you mean that you were awakened?

A I was awakened when he placed himself on top of me, sir.

Q You said, "he undressed you." What clothes did he undress from you?

x x x x

A Lower apparel, sir.

x x x x

Q You said that he placed his body on top of you. What happened thereafter?

A I was awakened because he placed himself on top of me, sir. I just felt that something entered my vagina, sir.

Q What happened thereafter?

A I wanted to shout at that time but he threatened to stab me with a knife, sir.

Q What happened thereafter?

A Since my two (2) nephews went outside someone shouted "Ate [DDD], Ate [DDD], help my sister!" and then somebody came into the room, sir.

Q Who entered the room? Who responded to the cry for help?

A Ate [DDD], sir.

x x x x

Q When the accused was on top of your body, actually what was he doing?

A When he was still on top of me, he kissed my cheeks, sir.

Q What else did he do?

A Only that, sir. And when Ate Candida entered the room he went to the roof, sir.<sup>16</sup>

AAA recognized Estoya because Estoya had previously introduced himself to AAA. Three times prior to April 5, 2006, Estoya visited BBB's house to ask for cold water. Estoya also lives just six to seven meters away from BBB's house, where AAA was staying on vacation for about a month already.

We give weight to AAA's categorical declaration in the earlier part of her testimony that while Estoya was on top of her, she felt something enter her vagina. AAA's testimony was corroborated by Dr. Carpio who conducted a physical examination of AAA right after the incident and reported the following:

FINDINGS: HYMEN: There is a shallow fresh laceration at 6'oclock position.

ANUS: Unremarkable

CONCLUSION : Medicolegal examination shows clear evidence of penetrating trauma to the hymen.<sup>17</sup>

When the victim's testimony of her violation is corroborated by the physician's findings of penetration, then there is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge.<sup>18</sup>

Estoya further attempts to raise doubts in AAA's testimony by questioning AAA's failure to offer tenacious resistance during the supposed sexual assault. We are not swayed. We must keep in mind that AAA was only 14 years of age at the time of the rape, and at such a tender age, she

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<sup>16</sup> TSN, December 11, 2006, pp. 13-17.

<sup>17</sup> Records, p. 84.

<sup>18</sup> *People v. Dizon*, 453 Phil. 858, 883 (2003).



could not be expected to put up resistance as would be expected from a mature woman. Also, Estoya had threatened AAA that he would stab her with a knife if she resisted. In any case, the law does not impose upon a rape victim the burden of proving resistance. Physical resistance need not be established in rape when intimidation is exercised upon the victim and she submits herself against her will to the rapist's lust because of fear for life and personal safety.<sup>19</sup>

Estoya has failed to allege and prove any improper motive on AAA's part for AAA to falsely accuse Estoya of rape. Since there was no showing of any improper motive on the part of the victim to testify falsely against the accused or to falsely implicate him in the commission of the crime, the logical conclusion is that no such improper motive exists and that the testimony is worthy of full faith and credence.<sup>20</sup> We have in many cases held that no young Filipina would publicly admit that she had been criminally abused and ravished, unless it is the truth, for it is her natural instinct to protect her honor.<sup>21</sup> We simply cannot believe that a 14-year old girl would concoct a tale of defloration, allow the examination of her private parts and undergo the expense, trouble and inconvenience, not to mention the trauma and scandal of a public trial, unless she was, in fact, raped.<sup>22</sup>

Estoya likewise makes much of the inconsistencies between CCC's *Sinumpaang Salaysay* and his testimony in open court. Said inconsistencies do not at all damage CCC's credibility as a witness. It is doctrinally settled that discrepancies and/or inconsistencies between a witness' affidavit and testimony in open court do not impair credibility as affidavits are taken *ex parte* and are often incomplete or inaccurate for lack of or absence of

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<sup>19</sup> *People v. Liwanag*, 415 Phil. 271, 297 (2001).

<sup>20</sup> *People v. Manayan*, 420 Phil. 357, 378-379 (2001).

<sup>21</sup> *People v. Celocelo*, G.R. No. 173798, December 15, 2010, 638 SCRA 576, 588.

<sup>22</sup> *People v. Alberio*, G.R. No. 152584, July 6, 2004, 433 SCRA 469, 478.

searching inquiries by the investigating officer.<sup>23</sup> We also add that CCC was only 10 years of age when he executed his *Sinumpaang Salaysay* and testified in court. It is not difficult to imagine that CCC was also overwhelmed by the circumstances, young as he was when these all happened. The important thing is that CCC was consistent in saying that he saw Estoya with AAA in BBB's house; he saw AAA crying; and he immediately ran to ask help from their neighbor, DDD. Moreover, as we pronounced previously herein, AAA's testimony alone already established the elements of rape committed against her by Estoya. At most, CCC's testimony on the events that occurred on April 5, 2006 is merely corroborative.

As AAA's rape by Estoya had been satisfactorily proven by AAA's testimony, corroborated on several aspects by CCC's testimony, we need not belabor the issue raised by Estoya as regards BBB's testimony being hearsay.

Equally undeserving of consideration is Estoya's defense of denial and alibi. Alibi cannot prevail over the positive testimony of the victim with no improper motive to testify falsely against him.<sup>24</sup> In addition, for his defense of alibi to prosper, Estoya must prove not only that he was somewhere else when the crime was committed but he must also satisfactorily establish that it was physically impossible for him to be at the crime scene at the time of commission.<sup>25</sup> On April 5, 2006, at around 3:00 p.m., Estoya claimed to be at his house, which was only around six to seven meters away from BBB's house, where AAA was raped.<sup>26</sup> The very short distance between the two houses does not foreclose the possibility of

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<sup>23</sup> *People v. Dizon*, supra note 18 at 882.

<sup>24</sup> *People v. Toquero*, 393 Phil. 446, 452 (2000).

<sup>25</sup> *People v. Galladan*, 376 Phil. 682, 686 (1999).

<sup>26</sup> TSN, December 11, 2006, p. 12.

Estoya's presence at BBB's house at the time of AAA's rape. Lastly, Estoya did not present any evidence to corroborate his alibi. He averred that he spent the day with his nephews and nieces, yet he did not present a single one to support his averment. In the face of AAA's unwavering testimony and very positive and firm identification of Estoya as her assailant, Estoya could no longer hide behind the protective shield of his presumed innocence, but he should have come forward with credible and strong evidence of his lack of authorship of the crime. Considering that the burden of evidence had shifted to Estoya but he did not discharge his burden at all, there is no other outcome except to affirm his guilt beyond reasonable doubt<sup>27</sup> for the crime of simple rape of AAA, under Article 226-A, paragraph (1)(a) of the Revised Penal Code, as amended.

Article 226-B of the Revised Penal Code, as amended, provides that rape under paragraph (1) of Article 226-A of the same Code shall be punished by *reclusion perpetua*. As for the award of damages in AAA's favor, we affirm the amounts of ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages; but we increase to ₱30,000.00 the amount of exemplary damages in line with prevailing jurisprudence.<sup>28</sup>

**WHEREFORE**, the Decision dated April 28, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04364, finding Radby M. Estoya **GUILTY** beyond reasonable doubt of the crime of **RAPE** is **AFFIRMED** with **MODIFICATION**. Estoya is **ORDERED** to pay private complainant


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<sup>27</sup> *People v. Butiong*, G.R. No. 168932, October 19, 2011, 659 SCRA 557, 576.

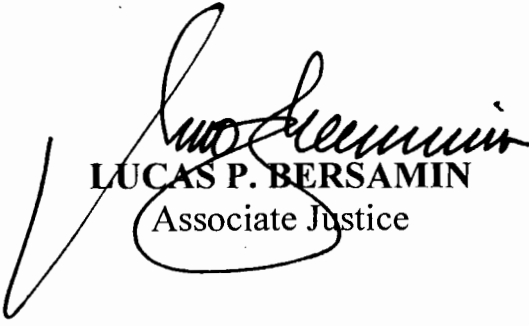
<sup>28</sup> *People v. Guillermo*, G.R. No. 177138, January 26, 2010, 611 SCRA 169, 177. In this case we held that "[w]hile the use of a deadly weapon is not one of the generic aggravating circumstances in Article 14 of the RPC, under Article 266-B thereof, the presence of such circumstance in the commission of rape increases the penalty, provided that it has been alleged in the Information and proved during trial. This manifests the legislative intent to treat the accused who resorts to this particular circumstance as one with greater perversity and, concomitantly, to address it by imposing a greater degree of liability. Thus, even if the use of a deadly weapon is not alleged in the Information but is proven during the trial, it may be appreciated to justify the award of civil liability, particularly exemplary damages." (Citations omitted.)

the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱30,000.00 as exemplary damages, plus interest at the rate of 6% per annum on all damages from the date of finality of this judgment. No 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)