



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff -Appellee,

G.R. No. 189836

Present:

- versus -

SERENO, *CJ.*,
 Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 VILLARAMA, JR., and
 REYES, *JJ.*

ROMEO BUSTAMANTE y
ALIGANGA,
 Accused-Appellant.

Promulgated:

JUN 05 2013

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DECISION

LEONARDO-DE CASTRO, J.:

For our review is this appeal from the Decision¹ dated July 31, 2009 of the Court of Appeals in CA-G.R. CR.-H.C. No. 03102, entitled *People of the Philippines v. Romeo Bustamante y Aliganga*, which affirmed the Judgment² dated November 28, 2007 of the Regional Trial Court (RTC) of Tuguegarao City, Branch 3 in Criminal Case No. 7406. The trial court found appellant Romeo Bustamante y Aliganga guilty beyond reasonable doubt of the crime of rape as defined and penalized under Article 335 of the Revised Penal Code, considering that the offense was committed before the effectivity on October 22, 1997 of Republic Act No. 8353 (the Anti-Rape Law of 1997) that reclassified and defined rape as a crime against persons under Articles 266-A to 266-D of the same Code.

The pertinent portion of the Information³ charging appellant with the crime of rape reads:

That on or about February 17, 1997, and sometime prior thereto, in the Municipality of Alcala, Province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused Romeo Bustamante

¹ *Rollo*, pp. 2-13; penned by Associate Justice Myrna Dimaranan Vidal with Associate Justices Portia Aliño-Hormachuelos and Arcangelita R. Lontok, concurring.

² *CA rollo*, pp. 59-67.

³ Records, p. 10.

y Aliganga, father of the complainant, [AAA],⁴ with lewd design and by means of threat and intimidation did then and there wilfully, unlawfully and feloniously have sexual intercourse with his own daughter, the herein offended party, [AAA] for several times, starting from the time that the offended party was only eleven (11) years of age, against her will.

Upon arraignment, appellant pleaded not guilty to the charge against him.⁵

During pre-trial, appellant made an admission with regard to the identity of the victim in this case.⁶ Trial on the merits thereafter commenced.

The facts of this case, as summed by the trial court and adopted by the Court of Appeals, are as follows:

[AAA] testified that she lived with his father, the [appellant] in this case, mother and younger siblings, 3 brothers and a sister, in x x x, Alcala, Cagayan. At about lunch time or thereafter on February 17, 1997, she was alone in the second floor in their house when the [appellant] arrived. Her younger brother Jayjun was playing outside while her mother went to clean their ginger garden. The [appellant] laid her down on the floor and removed her shorts and panty. He then removed his pants, went on top of her and inserted his penis into her vagina. [Appellant] removed his penis after he ejaculated and told her not to report what had happened. [Appellant] forced her and she was not able to resist because she was still young during that time. She reported the incident to her mother and the police.

On re-direct examination, [AAA] testified that she filed the case against the [appellant] so that the latter would no longer box and maltreat her and because he raped her. On re-cross, it was revealed that [appellant] was neither armed during the incident nor covered her mouth when he laid her down. She did not shout because she was afraid. [Appellant] threatened her before he raped her.

x x x x

[Appellant] testified that in the early morning on February 7, 1997, he went to Tuguegarao with his daughter, [AAA]. He went to Mrs. Lolit Casauay, his employer, and Sgt. Poli to tell them his problem regarding [AAA] and her cousin having sex. Sgt. Poli advised [appellant] to go to Alcala Police to have his problem entered in the blotter and to go back to him after. They stayed in Tuguegarao the whole day and went back to x x x, Alcala, Cagayan about 7:00 o'clock in the evening. When they were approaching their house, Purita Torrado called for [AAA] and told [appellant] that he was a traitor. Purita Torrado and brothers, Rogelio and

⁴ 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].)

⁵ Records, p. 59.

⁶ Id. at 72-74.

Amador Torrado, then entered his house, mauled him and tied his hands. Thereafter, policemen arrived and brought him to the Municipal Hall of Alcala, Cagayan without informing him why. His daughter [AAA] charged him of the heinous crime of rape because his wife and brothers-in-law harbored ill feelings against him, blaming him to have spread the rumor that Rogelio Torrado was the father of the child of his own sister Purita Torrado. Before February 17, 1997, his daughter [AAA] admitted to him that she had sexual relations with her cousin Randy Torrado for which reason he went to Tuguegarao to help [AAA] file a complaint against said Randy Torrado. It was after they came from Tuguegarao that his daughter [AAA] charged him with rape.

On cross-examination, [appellant] testified that he did not report any barangay official that Randy Torrado sexually molested his daughter x x x , but went to a person Ernie Fiesta who was not a barangay official. He admittedly told his problem to Sgt. Poli who asked [AAA] questions but the same was not entered in the blotter of the Cagayan Police Provincial Office.

On re-direct, [appellant] further testified that it was his daughter [AAA] who told him that Randy Torrado molested her so he brought her to Tuguegarao the following day, February 17, 1997. He was not able to enter it in the blotter of Alcala police as directed by Sgt. Poli because when they arrived in Maraburab, Alcala from Tuguegarao, his brothers-in-law mauled him. He did not file any charges against his brothers-in-law.

Police Inspector Carlos T. Poli testified as follows: He was then the Assistant Chief Investigator at the Cagayan Police Provincial Headquarters on February 17, 1997. [Appellant], with his daughter [AAA] went to him. [Appellant] told him that his daughter was molested by a nephew of his wife but he could not recall the name. He advised [appellant] to have the incident reported to, and entered in the blotter of, the Alcala Police Station where the incident took place and to return for investigation. He talked to [AAA] who admitted that there was truth to the report that she was molested and that there was a second occasion. He did not enter the report in the blotter because they did not have a blotter so he advised [appellant] to have the case entered in the blotter of Alcala Police. The report was not recorded because [appellant] only sought his advice and that he would first talk to his wife as the suspect was her relative. Admittedly, he invited the wife of [appellant] to his office upon the request of her in-laws who pitied and considered the [appellant] as their son. He asked the wife if she could help but the latter could not do it because her brother and sister were interested to pursue the case.

The last witness for the defense was Lolita Casauay who testified, thus: she knew [appellant] who was the mechanic of her brother. On February 13, 1997, he met the [appellant] who asked her advice regarding his daughter who was sexually molested. She told the [appellant] to go to the police to enter the incident in the blotter. The [appellant] went to Sgt. Poli for this purpose. On February 17, 1997, the [appellant] and [AAA] went to her house in Caggay, Tuguegarao. [AAA] voluntarily related to her that she was molested by her cousin Randy Torrado. In March 1997, she learned of the charge of rape against the [appellant]. When she saw the [appellant] in jail, she went to Maraburab, Alcala, Cagayan, and called for the wife and daughter of the [appellant]. She asked the wife why the [appellant] was incarcerated and the former felt guilty of what happened to

the latter.⁷

At the conclusion of trial, the trial court convicted appellant of the crime of rape. The dispositive portion of the assailed November 28, 2007 Judgment of the trial court reads as follows:

WHEREFORE, the Court finds that the evidence on record has fully established with moral certainty the guilt of the accused beyond reasonable doubt of the felony of RAPE, defined and penalized under the provisions of Article 335, of the Revised Penal Code, as amended, and hereby sentences him:

- 1.) To suffer imprisonment of *reclusion perpetua*;
- 2.) To indemnify the private complainant [AAA] in the amount of :
 - a. ₱75,000.00 by way of civil indemnity;
 - b. ₱50,000.00 as moral damages; and,
 - c. ₱30,000.00 as exemplary damages.
- 3.) To pay the costs.⁸

Appellant elevated his case to the Court of Appeals in the hope of having a reversal of judgment; however, his appeal was denied in the assailed Decision dated July 31, 2009, the dispositive portion of which states:

WHEREFORE, premises considered, instant appeal is **DENIED**. Accordingly, the assailed Judgment, *supra*, of the court *a quo* is hereby **AFFIRMED in toto**.⁹

Hence, the appellant brought the present appeal before this Court 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. Appellant assigned two errors for our consideration, to wit:

I

THE COURT A QUO ERRED IN GIVING FULL CREDENCE TO THE TESTIMONY OF THE PRIVATE COMPLAINANT.

II

THE COURT A QUO ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME OF RAPE DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.¹⁰

⁷ Rollo, pp. 4-6.

⁸ CA rollo, pp. 66-67.

⁹ Rollo, p. 13.

¹⁰ CA rollo, p. 47.

In his appeal, appellant maintains that the accusation against him is baseless and untrue. He claims that, as evidenced by the victim's own testimony, AAA filed a false complaint of rape against him mainly due to her ill feelings towards him brought about by his purported repeated physical maltreatment of the victim.

The appeal is without merit.

It appears that the crux of appellant's appeal centers on the credibility of AAA's testimony. Accordingly, appellant implores this Court to review the same and render a judgment reversing his conviction for the crime of rape.

It is settled in jurisprudence that in a prosecution for rape, the accused may be convicted solely on the basis of the testimony of the victim that is credible, convincing, and consistent with human nature and the normal course of things.¹¹ Jurisprudence is likewise instructive that the factual findings of the trial court, especially on the credibility of the rape victim, are accorded great weight and respect and will not be disturbed on appeal.¹²

In the case at bar, both the trial court and the Court of Appeals found AAA to be a credible witness and her testimony worthy of full faith and credit. After a careful review of the records of this case, we find no reason to deviate from the findings of the lower courts.

Since the incident at issue happened prior to the enactment of Republic Act No. 8353, the trial court correctly applied Article 335 of the Revised Penal Code which provides:

Art. 335. *When and how rape is committed.* – Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age or is demented.

Therefore, according to the aforementioned provision, the elements of rape are (1) the offender had carnal knowledge of the victim; and (2) such act was accomplished through force and intimidation; or when the victim is deprived of reason or otherwise unconscious; or when the victim is under 12 years of age.

¹¹ *People v. Viojela*, G.R. No. 177140, October 17, 2012, 684 SCRA 241, 251.

¹² *People v. Laurino*, G.R. No. 199264, October 24, 2012, 684 SCRA 612, 618-619.

We agree with the appellate court that the following portion of AAA's testimony indicated the presence of the foregoing elements of the crime of rape in this case, to wit:

[PROS. SAGUCIO]

Q At about lunch time or thereafter on February 17, 1997, do you remember where were you?

A I was in our house, sir.

Q Where in particular in your house because according to you as your house has a second floor?

A At the second floor, sir.

Q At that time and day, do you have any companions in your house?

A None, sir.

Q When you were alone in your house that time and day, do you recall if any member of your family arrived?

A Yes sir, there was.

Q Who arrived?

A My father, sir.

Q Now, if your father who arrived on that time and day, can you recognize him?

A Yes, sir.

Q Will you please go down from the witness stand and point to him?

A That one sir. [The witness is pointing to a person inside the courtroom who wears T-shirt and a coldroy pants who gave his name as Romeo Bustamante when asked by the Court.]

Q When the accused arrived, where did he proceed?

A He went upstairs, sir.

Q That means that upstairs that you were?

A Yes, sir.

Q When the accused went upstairs where you were, what happened, if any?

A He laid me down, sir.

Q When the accused laid you down in a bed or to the floor?

A On the floor, sir.

Q In the upper part of your house on the second floor, are there rooms there?

A None, sir.

Q Aside from you and your father in that precise time that he laid you down to the floor, were there other persons inside the house?

A None sir, we were only two.

Q When the accused laid you down to the floor, what did he do next, if any?

A He removed my short and my panty, sir.

Q At the time that the accused removed your short and panty, were you still in that lying position?

A Yes, sir.

x x x x

Q After the accused removed your short and your panty, what did he do next if any?

A He removed also his pants, sir.

Q And after the accused removed his pants, what did he do next, if any?

A He went on top of me, sir.

Q After he went on top of you, what happened next, if any?

A He inserted his penis into my vagina, sir.

Q How long did the penis of the accused stayed inside your vagina?

A When he ejaculates that's the time he removed his penis, sir.

Q Did you not resist?

A He forced me so I was not able to resist, sir.

Q Why were you not able to resist, can you explain?

A Because he was strong and I was still young during that time, sir.

Q You said after the accused ejaculated he removed his penis, what did he do next?

A He told me not to report what had happened to me, sir.¹³

Clearly, the element of carnal knowledge is present in the foregoing narration. Furthermore, despite the absence of any evident force and intimidation, the same is still appreciated in the case at bar because it is doctrinally settled that the moral ascendancy of an accused over the victim renders it unnecessary to show physical force and intimidation since, in rape committed by a close kin, such as the victim's father, stepfather, uncle, or the common-law spouse of her mother, moral influence or ascendancy takes the place of violence or intimidation.¹⁴

In his defense, appellant interposes denial while also ascribing ill motive on the part of the victim, his own biological daughter, for accusing him of rape. However, it is well-settled that denial, if unsubstantiated by clear and convincing evidence, is a self-serving assertion that deserves no weight in law because denial cannot prevail over the positive, candid and categorical testimony of the complainant, and as between the positive declaration of the complainant and the negative statement of the appellant,

¹³ TSN, January 11, 2001, pp. 3-7.

¹⁴ *People v. Viojela*, supra note 11 at 256.

the former deserves more credence.¹⁵ Likewise, the testimonies of the witnesses presented by appellant failed to buttress his defense of denial as they merely related to tangential matters which do not seriously affect the issue of AAA's credibility.

With regard to the allegation that the accusation of rape was motivated by ill will and revenge, this Court is not surprised at this rather common excuse being raised by offenders in rape cases. We have consistently held that such alleged motives cannot prevail over the positive and credible testimonies of complainants who remained steadfast throughout the trial.¹⁶ Jurisprudence tells us that it is against human nature for a young girl to fabricate a story that would expose herself as well as her family to a lifetime of shame, especially when her charge could mean the death or lifetime imprisonment of her own father.¹⁷

Under the old rape law which is applicable in this case, the death penalty shall be imposed if the crime of rape is committed under certain enumerated circumstances which would designate the crime as qualified rape. One such particular circumstance is 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. The minority of the victim and her relationship to the accused were duly proven by her birth certificate. However, due to the effectivity of Republic Act No. 9346, otherwise known as "An Act Prohibiting the Imposition of Death Penalty in the Philippines," the trial court correctly imposed upon appellant the penalty of *reclusion perpetua*.

In view of the foregoing, we therefore affirm the conviction of appellant for qualified rape for which he is to suffer the penalty of *reclusion perpetua* without eligibility for parole in consonance with Article 335 of the Revised Penal Code and Republic Act No. 9346. The award of civil indemnity and exemplary damages is likewise upheld. However, in line with jurisprudence, the award of moral damages is increased from Fifty Thousand Pesos (₱50,000.00) to Seventy-Five Thousand Pesos (₱75,000.00).¹⁸

WHEREFORE, premises considered, the Decision dated July 31, 2009 of the Court of Appeals in CA-G.R. CR.-HC No. 03102 convicting appellant Romeo A. Bustamante for qualified rape for which he is to suffer the penalty of *reclusion perpertua* without eligibility for parole is hereby **AFFIRMED** with the **MODIFICATIONS** that:

¹⁵ *People v. Mangune*, G.R. No. 186463, November 14, 2012, 685 SCRA 578, 590.

¹⁶ *People v. Garcia*, G.R. No. 200529, September 19, 2012, 681 SCRA 465, 479-480.

¹⁷ *People v. Ending*, G.R. No. 183827, November 12, 2012, 685 SCRA 180, 189.

¹⁸ *People v. Manjares*, G.R. No. 185844, November 23, 2011, 661 SCRA 227, 246.

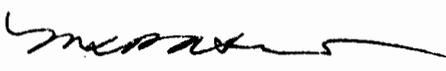
- (1) The moral damages to be paid by appellant Romeo A. Bustamante is increased from Fifty Thousand Pesos (₱50,000.00) to Seventy-Five Thousand Pesos (₱75,000.00); and
- (2) Appellant Romeo A. Bustamante is ordered to pay the private offended party interest on all damages awarded at the legal rate of six percent (6%) *per annum* from the date of finality of this judgment.

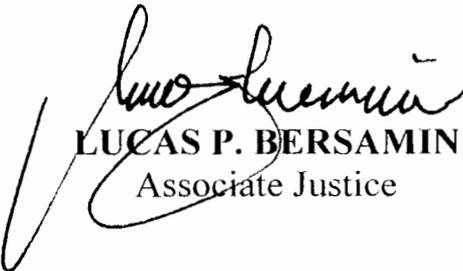
No pronouncement as to costs.

SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

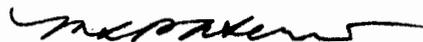

LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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