Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee,

- *versus* -

RICARDO PIOSANG, Accused-Appellant.

G.R. No. 200329

Present:

SERENO, *CJ.*, Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
LEONEN,[*] *JJ.*

Promulgated:

JUN 05 2013

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DECISION

LEONARDO-DE CASTRO, *J.*:

For Our resolution is the appeal of the Decision[1] dated April 28, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04303, which affirmed with modifications the Decision[2] dated November 26, 2009 of the Regional Trial Court (RTC) of Quezon City, Branch 94, in Criminal Case No. Q-99-82565, finding accused-appellant Ricardo Piosang, *alias* Ricric, guilty of raping AAA,[3] a minor.

Upon the sworn complaint of AAA's mother, the City Prosecutor of Quezon City filed with the RTC an Information dated January 8, 1999, charging accused-appellant with rape, committed as follows:

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* Per Raffle dated May 8, 2013.

1 *Rollo*, pp. 2-7; penned by Associate Justice Estela M. Perlas-Bernabe (now a member of this Court) with Associate Justices Bienvenido L. Reyes (also a member of this Court) and Elihu A. Ybañez, concurring.

2 CA *rollo*, pp. 12-19; penned by Presiding Judge Roslyn M. Rabara-Tria.

3 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).

> That on or about the 8th day of July 1998 in Quezon City[,] Philippines, the above-named accused thru force and intimidation did then and there wilfully, unlawfully and feloniously commit acts of sexual abuse upon the person of one [AAA] a minor 4 years of age by then and there inserting his penis into the vagina of said complainant and thereafter had carnal knowledge of her.[4]

When arraigned on April 24, 2000, accused-appellant pleaded "not guilty."[5]

At the trial, the prosecution presented the testimonies of (1) AAA,[6] the victim; (2) BBB,[7] the mother of AAA; (3) CCC,[8] another minor who witnessed the rape; (4) DDD,[9] mother of CCC; and (5) Police Senior Inspector (P/Sr. Insp.) Mary Ann Gajardo (Gajardo),[10] Medico Legal Officer of the Philippine National Police (PNP) Crime Laboratory, Camp Crame, Quezon City, who appeared on behalf of Dr. Tomas Suguitan, the physician who conducted the physical examination of AAA.

The defense, for its part, called to the witness stand accused-appellant[11] himself and his mother Remedios Piosang[12] (Remedios). The testimony of another defense witness, Lorna Montero, was stricken out from the record for her failure to appear for the continuation of her cross-examination despite notice.

The RTC rendered its Decision on November 26, 2009 finding accused-appellant guilty beyond reasonable doubt of raping AAA and imposing upon him the following penalties:

> WHEREFORE, finding accused RICARDO PIOSANG GUILTY beyond reasonable doubt of the crime of rape under Article 266-A par. 1, Revised Penal Code in relation to Section 5(b) Article III of R.A. 7610, he is hereby sentenced to suffer the penalty of RECLUSION PERPETUA. He is further ordered to pay private complainant AAA ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages and ₱25,000.00 as exemplary damages and the costs of suit.[13]

Accused-appellant appealed to the Court of Appeals.

The prosecution's version of events, as determined by the Court of Appeals, is as follows:

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4 Records, p. 1.
5 Id. at 25.
6 TSN, January 16, 2001, March 19, 2001, and October 1, 2001.
7 TSN, September 18, 2000, October 4, 2000, and October 24, 2000.
8 TSN, August 8, 2000, August 21, 2000, and August 22, 2000. CCC died during the pendency of the case before the RTC.
9 TSN, November 22, 2000.
10 TSN, February 27, 2001. Dr. Suguitan was unable to personally testify because he was left comatose after a vehicular accident.
11 TSN, June 11, 2008.
12 TSN, June 6, 2006, March 12, 2007, and June 27, 2007.
13 CA *rollo*, pp. 18-19.

> On July 8, 1998, AAA was playing with some friends when then eleven-and-a-half-year-old CCC, her neighbor, called and asked her to play computer with him at the house of herein accused-appellant, RICARDO PIOSANG or "RICRIC" on instructions of the latter. At the invitation, AAA readily joined CCC, and together with accused-appellant proceeded to his house.
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> On the way, however, AAA and CCC were suddenly pushed inside accused-appellant's comfort room, which was built separately from the house. Inside, accused-appellant whipped out a *"bente nueve"* or fan knife and pointed it to CCC, telling the two children to keep quiet, otherwise, he will kill them. After accused-appellant had barred the door shut, he instructed CCC to hold AAA from behind, which CCC obeyed by clutching AAA on her stomach. Accused-appellant removed his short pants, then applied something reddish on his penis and, while AAA was standing atop the toilet bowl being held by CCC from the back, inserted the same into her vagina and made pumping motions while standing. The victim AAA could only cry.
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> After having satiated his carnal desires against AAA, accused-appellant once again pointed the knife at CCC and told him to likewise insert his penis into AAA's private part. CCC pretended to do what [he] was told, and while doing so, the latter masturbated and, when he ejaculated, wiped the semen on the helpless AAA's mouth. Thereafter, he reiterated his threats to kill them if they told anyone of what happened, and then let them go home. Before AAA went out of the comfort room, however, accused-appellant gave her a five-peso coin to buy candy, which she threw away.
>
> AAA did not reveal what happened to her on that fateful day. Months later, however, or on September 23, 1998, while AAA and her mother, BBB, were playing, BBB told her daughter not to let anyone touch her private part. After being silent for a moment, AAA suddenly blurted out, "*Mama, bastos si Kuya Ric Ric and Kuya CCC,*" because, according to AAA, they inserted their penises into her vagina. At this revelation, BBB confronted CCC's mother, DDD, who made her son disclose what truly happened to AAA. CCC tearfully narrated what accused-appellant did on July 8, 1998 and that he threatened to kill both him and AAA if they reported the matter.
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> Upon medical examination, AAA was found to have "shallow healed lacerations at 3 and 8 o'clock positions" on her genital area, and that she was in non-virgin state physically.[14] (Citations deleted.)

The Court of Appeals likewise summarized the evidence for the defense:

> In defense, accused-appellant completely denied the charges and claimed that he was at home on the day in question, letting his hair dry at the garage of their house, when a neighbor named MARIETTA told him that DDD, CCC's mother was looking for him. Accused-appellant then proceeded to DDD's house where he heard CCC crying and saying,

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14 *Rollo*, pp. 3-4.

> "*that's enough, that's enough, I will not do it again*." Accused-appellant then deemed it best not to continue on, so he went home. A few minutes later, DDD arrived and called on accused-appellant, to which the latter's mother replied that they will just follow ("*Susunod na lang kami*"). Accused-appellant and his mother went to the house of AAA and BBB, where CCC admitted having raped AAA, as a result of which, DDD hit him repeatedly. Accused-appellant even suggested bringing AAA to be examined by a doctor.[15] (Citations omitted.)

In its Decision dated April 28, 2011, the Court of Appeals affirmed with modifications the RTC judgment and decreed thus:

> **WHEREFORE**, premises considered the appealed judgment of conviction is hereby **AFFIRMED** with **MODIFICATIONS**, ordering accused-appellant RICARDO PIOSANG to pay the victim civil indemnity of ₱75,000.00, moral damages of ₱75,000.00 and exemplary damages of ₱30,000.00. The rest of the *Decision* stands.[16]

Hence, accused-appellant comes before us on appeal with the same lone assignment of error he raised before the Court of Appeals:

> THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT.[17]

Accused-appellant denies raping AAA and points to CCC, instead, as the perpetrator. Accused-appellant calls attention to CCC's initial refusal to reveal the incident when confronted by the latter's mother, DDD. Remedios even testified seeing a furious DDD whipping CCC after CCC admitted to raping AAA. In addition, accused-appellant points out that he would not have suggested to AAA's parents that AAA be physically examined by a doctor if he was actually the one who raped AAA. Lastly, accused-appellant insists that an Atty. Labay of the Office of the Vice Mayor, Quezon City, contacted him by telephone offering to settle the case in exchange for money, thus, supporting accused-appellant's claims of innocence and of an attempt to cover-up CCC's guilt for the crime charged.

Accused-appellant's appeal essentially challenges the findings of fact of the RTC, as affirmed by the Court of Appeals, giving more weight and credence to the evidence of the prosecution as compared to those of the defense.

Accused-appellant's appeal has no merit.

Prevailing jurisprudence uniformly holds that findings of fact of the trial court, particularly when affirmed by the Court of Appeals, are binding

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15 Id. at 5.
16 Id. at 7.
17 CA *rollo*, p. 31.

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 were telling the truth.[18] There is no cogent reason for us to depart from the general rule in this case.

AAA, who was six years old by the time she testified in court, had consistently, positively, and categorically identified accused-appellant as her abuser. Her testimony was direct, candid, and replete with details of the rape.

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.[19] Considering her tender age, AAA could not have invented a horrible story. As aptly found by the RTC and we quote:

> The offended party testified in a straightforward manner and positively identified the accused in open court as the very person who inserted his penis into her vagina. Her candid narration of the dastardly act done upon her by the accused has the earmark of truth and sincerity. Her testimony was taken on three (3) different dates but not once did she waiver in pointing to the accused as the person who inserted his penis into her vagina. She even clarified that CCC only pretended to put his penis into her vagina when he was ordered by the accused to do so. x x x.
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> The court finds no reason why private complainant would impute against accused so grave a charge if it were not true. The tender age of the offended party and her candidness in narrating her debasing experience are badges of truth and sincerity. For her to fabricate the facts of rape and to charge the accused falsely of a crime is certainly beyond her mental capacity. x x x.[20]

And although AAA's testimony was already convincing proof, by itself, of accused-appellant's guilt, it was further corroborated by the testimony of CCC, who personally witnessed the rape, and by the medico-

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18 *People v. Lolos*, G.R. No. 189092, August 9, 2010, 627 SCRA 509, 516.
19 *People v. Araojo*, G.R. No. 185203, September 17, 2009, 600 SCRA 295, 307.
20 CA *rollo*, p. 17.

legal findings which reported healed lacerations on AAA's genital area and AAA's non-virgin physical state.[21]

In contrast, accused-appellant averred that he was at home, letting his hair dry in the garage, at the time of AAA's rape. We have oft pronounced that both denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime. Thus, as between a categorical testimony which has a ring of truth on one hand, and a mere denial and alibi on the other, the former is generally held to prevail.[22] Moreover, for the defense of alibi to prosper, the appellant must prove that he was somewhere else when the offense was committed and that he was so far away that it was not possible for him to have been physically present at the place of the crime or at its immediate vicinity at the time of its commission.[23] In the case at bar, AAA was raped in the detached comfort room of accused-appellant's house on July 8, 1998, at which time, accused-appellant claimed that he was in the garage of the very same house. Obviously, accused-appellant was in the immediate vicinity of the *locus criminis* at the time of commission of the crime.

Accused-appellant's theory that he was falsely charged with rape because the actual rapist, CCC, was a minor and could not be held criminally liable, is baseless and illogical. We stress that AAA clearly testified that it was only accused-appellant who inserted his penis into AAA's vagina and that CCC merely pretended to have also done so. Accused-appellant failed to impute any ill motive on the part of AAA to single him out from all other neighbors and untruthfully charge him with the rape. As we held in *People v. Agcanas*[24]:

> Positive identification where categorical and consistent and without any showing of ill motive on the part of the eyewitness testifying on the matter prevails over a denial which, if not substantiated by clear and convincing evidence is negative and self-serving evidence undeserving of weight in law. They cannot be given greater evidentiary value over the testimony of credible witnesses who testify on affirmative matters.

We likewise give scant consideration to accused-appellant's averments that he advised BBB to have AAA examined by a doctor to determine what really happened and that a certain Atty. Labay (presumably acting on behalf of BBB) offered to settle the case in exchange for money, since these were solely based on his testimony, thus, completely unsubstantiated and self-serving.

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21 Records, p. 41.

22 *People v. Narido*, 374 Phil. 489, 508 (1999).

23 *People v. Delabajan and Lascano*, G.R. No. 192180, March 21, 2012, 668 SCRA 859, 866.

24 G.R. No. 174476, October 11, 2011, 658 SCRA 842, 847, cited in *People v. Caisip*, 352 Phil. 1058, 1065 (1998).

The crime of rape is now defined and penalized under Articles 266-A and 266-B of the Revised Penal Code, as amended by Republic Act Nos. 7659 and 8353,[25] to wit:

> 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:
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> 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
>
> ART. 266-B. *Penalties.* – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua.*
>
> x x x x
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> The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:
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> x x x x
>
> 5) When the victim is a child below seven (7) years old.

We elucidated in *People v. Dollano, Jr.*[26] that:

> Rape under paragraph 3 of the above-mentioned article is termed statutory rape as it departs from the usual modes of committing rape. What the law punishes is carnal knowledge of a woman below twelve years of age. Thus, the only subject of inquiry is the age of the woman and whether carnal knowledge took place. The law presumes that the victim does not and cannot have a will of her own on account of her tender years. x x x. (Citations omitted.)

AAA was born on July 21, 1994, as evidenced by the Certification from the Civil Registrar's Office, so she was almost four years of age when the crime was committed.[27] Resultantly, accused-appellant was charged and proven guilty of statutory rape.

Following Republic Act No. 9346, the RTC, as affirmed by the Court of Appeals, correctly imposed upon accused-appellant the penalty of *reclusion perpetua* in lieu of death, but we specify that it is without the eligibility of parole. The Court of Appeals also properly awarded in AAA's favor the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as

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25 Republic Act No. 8353, otherwise known as the Anti-Rape Law of 1997, took effect on October 22, 1997. AAA's rape was committed on July 8, 1998.

26 G.R. No. 188851, October 19, 2011, 659 SCRA 740, 753.

27 AAA was only thirteen days short of four years.

moral damages, and ₱30,000.00 as exemplary damages. An award of civil indemnity *ex delicto* is mandatory upon a finding of the fact of rape, and moral damages may be automatically awarded in rape cases without need of proof of mental and physical suffering.[28] Exemplary damages are also called for, by way of public example, and to protect the young from sexual abuse.[29]

We additionally order the accused-appellant to pay interest of six percent (6%) per annum from the finality of this judgment until the amount of damages thus awarded is fully paid.[30]

WHEREFORE, the instant appeal is **DENIED** and the Decision dated April 28, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04303 is hereby **AFFIRMED with the following MODIFICATIONS**: (1) accused-appellant RICARDO PIOSANG is sentenced to suffer the penalty of *reclusion perpetua* without the eligibility of parole; and (2) that said accused-appellant is additionally ordered to pay the victim interest of six percent (6%) per annum from the finality of this judgment until the amount of damages thus awarded is fully paid.

SO ORDERED.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

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28 *People v. Atadero*, G.R. No. 183455, October 20, 2010, 634 SCRA 327, 348.
29 *People v. Garcia*, G.R. No. 177740, April 5, 2010, 617 SCRA 318, 335.
30 *People v. Atadero,* supra note 28 at 349.

LUCAS P. BERSAMIN
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
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