



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 199100

Present:

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

-versus-

ROSENDO AMARO,
Accused-Appellant.

Promulgated:

JUL 18 2014

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DECISION

PEREZ, J.:

For consideration is the appeal by appellant Rosendo Amaro from the Decision¹ dated 30 March 2011 of the Court of Appeals in CA-G.R. CR-HC No. 02801, affirming the 26 February 2007 Decision² of the Regional Trial Court (RTC) of Palawan and Puerto Princesa City, Branch 50, which found him guilty beyond reasonable doubt of the crime of forcible abduction with rape.

On 26 May 1998, appellant was charged with the crime of forcible abduction with rape committed as follows:

That on or about the 26th day of March, 1998 at more or less 5:00 in the afternoon in front of Boots & Maya located at Malvar Street, Puerto

¹ Penned by Associate Justice Mario L. Guariña III with Associate Justices Apolinario D. Bruselas, Jr. and Manuel M. Barrios, concurring. *Rollo*, pp. 2-8.

² Presided by Acting Presiding Judge Jocelyn Sundiang Dilig. *CA rollo*, pp. 23-29.

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Princesa City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of deceit at the beginning and of force and intimidation later and with lewd designs, did then and there willfully, unlawfully and feloniously abduct one [AAA],³ a seven (7) year old girl, by forcing her and took her to his house at Bgy. Tagburos, Puerto Princesa City and without any justifiable reason, accused detained and deprived her of her liberty for a period of twenty eight (28) [sic] days; that while she is being detained accused ROSENDO AMARO had carnal knowledge of said AAA all committed against her will.⁴

Appellant pleaded not guilty. Trial then proceeded.

AAA, who was then only 7 years old, testified that she was walking on her way home from school when she passed by Boots & Maya store. She met a man, whom she later identified in court as the appellant, who asked her to buy cigarettes. After buying the cigarettes and handing it to appellant, the latter gave her bread and banana cue. After eating them, she suddenly became dizzy and passed out. AAA was brought to the house of appellant. When she regained consciousness, she saw appellant naked. Appellant then undressed her, kissed her on the lips and neck, and inserted his penis into her vagina, causing her to feel pain. AAA cried but appellant covered her mouth with his hand. AAA was detained for six (6) days and was raped five (5) times by appellant. AAA clarified that appellant's penis touched the outer portion of her vagina.

During the cross-examination, AAA admitted that she voluntarily went with appellant because the latter promised to bring her home.⁵

On the last day of her detention, AAA and appellant went out of the house. On their way to San Jose, a certain Aunt Ruthie saw AAA walking and immediately picked her up and brought her to the police station. Appellant noticed AAA being taken away but he did nothing.⁶

The prosecution also presented AAA's mother, BBB, to corroborate her daughter's testimony. BBB narrated that on 26 March 1998, she was in the house when AAA came home at around noon time to eat. Thereafter,

³ The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of their immediate family or household members, shall not be disclosed to protect her privacy and fictitious initials shall, instead, be used, in accordance with *People v. Cabalquinto*, 533 Phil. 703 (2006) and A.M. No. 04-10-11-SC dated 19 October 2004.

⁴ Records, p. 1.

⁵ TSN, 9 November 1998, p. 15.

⁶ Id. at 5-11.

AAA told BBB that she had to go back to school. At around 5:00 p.m. when AAA had not come home, BBB went to the school to look for her. When the teacher told BBB that that school children had already been sent home, she proceeded to the police station to report her missing daughter. After six (6) days, AAA was found by BBB's former employer who brought her to the police. Upon receiving a call from the police, BBB immediately went to the police station and saw her daughter. BBB observed that AAA was still in shock and could not walk properly so she was brought to the doctor on the following day. She only learned that her daughter was raped after the medical examination.

Appellant testified on his behalf. He denied abducting and raping AAA but admitted that he brought the latter to his house when AAA approached him asking for bread first, before begging him to take her with him because she was always being scolded by her parents. Upon reaching his house, appellant entrusted AAA to the care of Florante Magay's sister. Appellant then went back to town to attend to his work as a mason. He only decided to go back home when he heard his name on the radio in connection with the disappearance of a girl. He picked up the child in *Barangay* Tagbueros and brought her to her house in Buncag. AAA walked alone towards her house.⁷

On 26 February 2007, the trial court rendered judgment in this wise:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused ROSENDO AMARO GUILTY beyond reasonable doubt of the crime of Forcible Abduction with Rape, as defined and penalized under Article 342 and Article 266-B of the Revised Penal Code as amended by RA 8353 in relation to Article 48 thereof. The accused is hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to pay the costs. He is likewise ordered to pay the complainant-victim [AAA] the amount of FIFTY THOUSAND (₱50,000.00) PESOS as civil indemnity and FIFTY THOUSAND (₱50,000.00) PESOS as moral damages.⁸

The trial court found AAA's testimony as credible and straightforward and supported by medical findings.

From the aforesaid decision, appellant appealed to the Court of Appeals.

⁷ TSN, 14 July 2004, pp. 4-12.

⁸ CA *rollo*, p. 29.

On 30 March 2011, the Court of Appeals promulgated a Decision affirming the ruling of the RTC.

Both parties opted not to file their Supplemental Briefs and instead adopted their Briefs filed before the appellate court.⁹

In this appeal, appellant contends that the prosecution's evidence is insufficient to sustain his conviction. According to appellant, he did not rape AAA because the latter was not in his custody at the time said incident allegedly happened. Appellant adds that he entrusted AAA to the custody of Florante Magay's sister because he was working. Appellant also insists that AAA voluntarily went with him to his house.

Thus, the resolution of this case hinges on whether or not the prosecution was able to establish from the testimony of the complainant the guilt of the accused for the crime of forcible abduction with rape beyond reasonable doubt.

The elements of the crime of forcible abduction, as defined in Article 342 of the Revised Penal Code, are: (1) that the person abducted is any woman, regardless of her age, civil status, or reputation; (2) that she is taken against her will; and (3) that the abduction is with lewd designs. On the other hand, rape under Article 266-A is committed by having carnal knowledge of a woman by: (1) force or intimidation, or (2) when the woman is deprived of reason or is unconscious, or (3) when she is under twelve years of age.

The prosecution was able to prove all these elements in this case. The victim, AAA was a seven (7) year-old girl who was taken against her will by appellant who told her that he knew her mother and that he would bring her home.¹⁰ At her tender age, AAA could have easily been deceived by appellant. The employment of deception suffices to constitute the forcible taking, especially since the victim is an unsuspecting young girl. It is the taking advantage of their innocence that makes them easy culprits of deceiving minds.¹¹ The presence of lewd designs in forcible abduction is established by the actual rape of the victim.¹²

⁹ *Rollo*, pp. 16-18 and 21-22.

¹⁰ *CA rollo*, p. 19.

¹¹ *People v. Ablaneda*, 409 Phil. 552, 557 (2001).

¹² *Id.*

During the direct examination, AAA recounted the rape incident and positively identified appellant as the perpetrator, thus:

Q: When Rosendo undressed himself what happened next?

x x x x

A: He undressed me.

PROSECUTOR SENA:
(to witness)

Q: And after you were undressed by Rosendo what happened next?

A: He kissed me.

Q: Where were you kissed by Rosendo?

A: In lips, Sir.

Q: Only your lips was kissed by Rosendo?

A: On my neck.

Q: Aside by being kissed by Rosendo, what else did he do to you?

A: He inserted his penis to my vagina.

Q: What do you mean by “totoy?”

(No answer)

PROSECUTOR SENA:
(to Court)

May I change the question, Your Honor.

COURT:
All right.

PROSECUTOR SENA:
(to witness)

Q: [AAA], in what part of the body of Rosendo can you find that *totoy* that you said?

(Witness pointed to her private part)

Q: And that *bilalay* that you mentioned in what part of your body can you find that?

(The same, witness pointed to her private part)

Q: Were you able to see that *totoy* of Rosendo?

A: Yes, Sir.

Q: And how big was that?

(witness demonstrated the length more or less 5 inches)

Q: About how – the diameter, how big is the diameter?

COURT:

It is not necessary to prove that, the size.

PROSECUTOR SENA:

Just to prove.

(to witness)

Q: When the penis of Rosendo was being tried by Rosendo to penetrate your vagina[,] what did you feel?

A: Painful, Sir.¹³

The fact of sexual intercourse is corroborated by the medical findings that the victim suffered from laceration on the upper and lower part of the *introitus*.¹⁴

Appellant was properly charged of the complex crime of forcible abduction with rape. AAA's abduction was a necessary means to commit rape. Sexual intercourse with AAA was facilitated and ensured by her abduction.¹⁵

In the prosecution of rape cases, conviction or acquittal depends on the complainant's testimony because of the fact that usually only the participants are witnesses to their occurrences. The issue therefore boils down to credibility. Significantly, findings of fact of the trial court should not be disturbed on appeal since conclusions as to the credibility of witnesses in rape cases lie heavily on the sound judgment of the trial court which is in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying.¹⁶

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,

¹³ TSN, 9 November 1998, pp. 8-9.

¹⁴ Records, p. 4.

¹⁵ *People v. Sapurco*, 315 Phil. 561, 569 (1995).

¹⁶ *People v. Arnaiz*, G.R. No. 171447, 29 November 2006, 538 SCRA 479, 492.

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.¹⁷ Moreover, AAA testified in a straightforward manner.

On the other hand, appellant set-up the defense of denial and alibi. It is jurisprudential that denial and alibi are intrinsically weak defenses which must be buttressed by strong evidence of non-culpability to merit credibility. Mere denial, without any strong evidence to support it, can scarcely overcome the positive declaration by the child-victim of the identity of the appellant and his involvement in the crime attributed to him.¹⁸ Alibi is evidence negative in nature and self-serving and cannot attain more credibility than the testimonies of prosecution witnesses who testify on clear and positive evidence.¹⁹

The appellate court is correct in affirming the imposition of the penalty of *reclusion perpetua* by ratiocinating, to wit:

The presence of lewd intentions is established by the conduct of the accused during the abduction. When the girl is defiled, the forcible abduction becomes the means to commit the rape, and since rape is the more serious offense, under Article 48 of the Revised Penal Code, the complex crime of forcible abduction with rape is committed and penalized by *reclusion perpetua*, the penalty proper to rape.²⁰

For clarity, the lower courts should have emphasized that *reclusion perpetua* as the proper penalty for the crime of statutory rape was imposed in lieu of death penalty pursuant to Republic Act No. 7659. When Republic Act No. 9346 prohibited the imposition of death penalty, persons convicted of offenses punished with death penalty will now be reduced to *reclusion perpetua*. And in line with our recent ruling in *People v. Gambao*²¹ where we order an increase in the amount of damages to ₱100,000.00 each for civil indemnity, moral and exemplary damages, we deem it necessary to increase the amount of damages accordingly.

In addition, interest at the rate of 6% per annum shall be imposed on all damages awarded from date of finality of this judgment until fully paid.²²

¹⁷ *People v. Piosang*, G.R. No. 200329, 5 June 2013.

¹⁸ *People v. Colorado*, G.R. No. 200792, 14 November 2012, 685 SCRA 660, 672.

¹⁹ *People v. Alfredo*, G.R. No. 188560, 15 December 2010, 638 SCRA 749, 760-761.

²⁰ *Rollo*, pp. 6-7.

²¹ G.R. No. 172707, 1 October 2013.

²² *People v. Gunda*, G.R. No. 195525, 5 February 2014.


WHEREFORE, premises considered, the Decision dated 30 March 2011 of the Court of Appeals in CA-G.R. CR-HC No. 02801 is **AFFIRMED**, subject to the **MODIFICATION** that **ROSENDO AMARO** shall pay ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages and ₱100,000.00 as exemplary damages, plus interest of 6% per annum on the amount of damages, reckoned from the finality of this decision until full payment.

SO ORDERED.




JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:




ANTONIO T. CARPIO
Associate Justice
Chairperson



ARTURO D. BRION
Associate Justice




MARIANO C. DEL CASTILLO
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

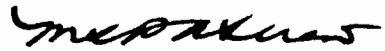
ATTESTATION

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
Second Division 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