

SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE G.R. No. 250640
PHILIPPINES,

Plaintiff-Appellee, Present:

- versus -

LEONEN, J.,
Chairperson,
HERNANDO,
INTING,
DELOS SANTOS, and
LOPEZ, J., JJ.

JOSEPH LUIGI POLVUS
ORDANEZA,

Accused-Appellant.

Promulgated:

May 5, 2021

Mis-ADC Batt

X-----X

DECISION

DELOS SANTOS, J.:

The Case

This ordinary Appeal challenges the Decision¹ dated September 20, 2019 of the Court of Appeals (CA) in CA-G.R. CR HC No. 01854 MIN, which affirmed the Judgment² dated January 30, 2018 of the Regional Trial Court (RTC) of Kidapawan City, Branch 61, finding accused-appellant Joseph Luigi Polvus Ordaneza (appellant) guilty beyond reasonable doubt of Statutory Rape in Criminal Case No. 3631-2016.

The Facts

Appellant was charged with the crime of Rape under Article 266-A, paragraph 1(d) of the Revised Penal Code (RPC) under the following

¹ CA rollo, pp. 91-104; penned by Associate Justice Angelene Mary W. Quimpo-Sale, with Associate Justices Edgardo T. Lloren and Loida S. Posadas-Kahulugan, concurring.

² Id. at 41-48; penned by Presiding Judge Henelinda J. Molina-Diaz.

Information, which reads:

That on or about June 4, 2016, in the Municipality of ██████, Province of Cotabato, Philippines and within the jurisdiction of this Honorable Court, the above named accused, with lewd design, did then and there willfully, unlawfully, feloniously and [forcibly] have carnal knowledge with AAA,³ 10[-]year old minor, against her will.⁴

Appellant pleaded not guilty to the charge upon arraignment. Thereafter, trial on the merits ensued.⁵

Version of the Prosecution

The evidence of the prosecution comprised of the testimonies of the minor victim, AAA, and her mother, BBB.⁶ Their testimonies sought to establish the following:

AAA was born on May 28, 2006, and was only 10 years old at the time of the incident.⁷

At around 6:30 in the evening of June 4, 2016, AAA went to a billiard hall to look for her father. Thereat, appellant, whom AAA identified as her godfather, approached and requested her to massage him. Thereafter, appellant brought AAA to his house, where he undressed himself and ordered AAA to massage his back.⁸

After the massage, appellant removed AAA's underwear and told her to lie down. He then lay on top of her, kissed her neck and licked her vagina. Appellant cried and pleaded appellant to stop, but to no avail. Appellant covered her mouth, and tried to insert his penis into her vagina.⁹

Meanwhile, worried that AAA had not returned home, BBB went to the billiard hall. Finding that she was not there, BBB proceeded to appellant's house, where her children would sometimes go. Outside appellant's house, BBB saw her daughter's slippers. She then called out

³ In accordance with Amended Administrative Circular No. 83-2015, the identities of the parties, records, and court proceedings are kept confidential by replacing their names and other personal circumstances with fictitious initials, and by blotting out the specific geographical location that may disclose the identities of the victims. To note, the unmodified CA Decision was not attached to the records to verify the real name of the victim.

⁴ CA *rollo*, p. 41, as quoted in the RTC Judgment dated January 30, 2018.

⁵ *Id.*

⁶ *Id.* at 42.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

AAA's name. Upon hearing her mother's voice, AAA went out of appellant's house and ran towards her mother. She was trembling and crying, while telling her mother how appellant sexually violated her.¹⁰

BBB declared that she saw her daughter wearing no underwear. Using a flashlight, she checked AAA and found a white fluid in her vagina. They then reported the incident to the police authorities.¹¹

Upon medical/physical examination of the child victim, Dr. Florilyn Pimentel (Dr. Pimentel) found the following: “[*labia minora*] was reddish, which was abnormal considering that it should be pinkish in color. x x x AAA's *labia minora* could have come in contact with a blunt object, such as an erect penis, which may have caused the reddening.”¹² Consequently, the medico legal report stated: “reddish [*labia minora*] 2 [degrees] secondary to alleged rape.”¹³

Version of the Defense

The defense presented appellant as their lone witness, who denied the charge against him. He declared that at around 9:00 in the evening of June 4, 2016, he arrived home and was alone. Later that night, he was awakened by police officers calling his name. He then went with them to the police station, where he was informed of the complaint.¹⁴

On cross-examination, appellant declared that AAA is his goddaughter, and that she was a minor at the time of the incident. He also affirmed that AAA gave him a massage inside his house at the time of the incident.¹⁵

The RTC Ruling

On January 30, 2018, the RTC rendered Judgment, the *fallo* of which reads:

WHEREFORE, the Court found the accused Joseph Luigi Polvus Ordaneza **GUILTY** beyond reasonable doubt of the crime of statutory rape under Article 266-A(1)(d) of the Revised Penal Code, as amended by R.A. No. 8353 in relation to Article 266-B and is accordingly sentenced to suffer *reclusion perpetua* and ordered to pay the victim AAA the

¹⁰ Id.

¹¹ Id.

¹² *Rollo*, p. 7.

¹³ Id.

¹⁴ *CA rollo*, p. 43.

¹⁵ Id.

following amounts: (a) P50,000.00 as civil indemnity; (b) 50,000.00 as moral damages; and P30,000.00 as exemplary damages, plus 6% interest per annum of the damages awarded reckoned from the finality of this decision until fully paid. With costs against the accused.

SO ORDERED.¹⁶

The RTC gave full weight to AAA's testimony, finding it to be clear and straightforward. Conversely, the RTC rejected appellant's uncorroborated denial.¹⁷

While the prosecution failed to adduce in evidence AAA's birth certificate to establish that the victim was under 12 years of age at the time of the incident, the RTC, nevertheless, convicted appellant of statutory rape, holding that the same was sufficiently testified to by the victim and her mother.¹⁸

Aggrieved, appellant appealed to the CA maintaining that the prosecution failed to prove his guilt beyond reasonable doubt. Appellant underscored on AAA's testimony that she did not feel any pain when he allegedly raped her. To appellant, said declaration negates penetration as would consummate rape.¹⁹

The CA Ruling

In the challenged Decision dated September 20, 2019, the CA affirmed the RTC Judgment, with modification as to the monetary awards. The *fallo* of the Decision reads:

IN VIEW WHEREOF, the Judgment dated January 30, 2018 of the Regional Trial Court, 12th Judicial Region, Branch 61, Kidapawan City in Criminal Case No. 3631-2016 is **AFFIRMED but with MODIFICATION** as to the monetary awards only.

Accused-appellant CCC is ordered to pay private complainant the amounts of PhP75,000.00 as civil indemnity; PhP75,000.00 as moral damages; and, PhP75,000.00 as exemplary damages. All monetary awards shall earn interest at the legal rate of 6% *per annum* from date of finality of this Decision until fully paid.

SO ORDERED.²⁰

¹⁶ Id. at 48.

¹⁷ Id. at 44-45.

¹⁸ Id. at 46-47.

¹⁹ Id. at 62.

²⁰ Id. at 103.

Hence, this Appeal.

For purposes of this Appeal, the Office of the Solicitor General (OSG) and the Public Attorney's Office manifested that they are no longer filing their respective supplementary briefs, and prayed that the Briefs submitted to the CA be considered in resolving the appeal.²¹

Once again, appellant raised the following errors:

I.

THE COURT *A QUO* GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT OF THE OFFENSE CHARGED NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT;

II.

THE COURT *A QUO* ERRED IN FINDING THAT THERE WAS A CONSUMMATED RAPE.²²

The Court's Ruling

The appeal is devoid of merit.

It bears underscoring the time-honored rule that the assessment of the trial court with regard to the credibility of witnesses deserves the utmost respect, if not finality, for the reason that the trial judge has the prerogative, denied to appellate judges, of observing the demeanor of the declarants in the course of their testimonies.²³ Indeed, the factual findings of the trial court, its calibration of the testimonies of the witnesses, and its conclusions based on its findings are generally binding and conclusive upon the Court, especially so when affirmed by the appellate court.²⁴ With more reason shall this principle apply in testimonies given by child witnesses, considering that their youth and immaturity are generally badges of truth and sincerity.²⁵ While there are recognized exceptions to the rule, the Court finds no substantial reason to overturn the congruent conclusions of the RTC and CA on the matter of AAA's credibility.

The Court affirms appellant's conviction.

²¹ *Rollo*, pp. 26-28.

²² *CA rollo*, p. 32.

²³ See *People v. Chua*, 444 Phil. 757, 766-767 (2003).

²⁴ See *People v. Iroy*, 628 Phil. 145, 152 (2010).

²⁵ *Ricalde v. People*, 751 Phil. 793, 805 (2015), citing *Pielago v. People*, 706 Phil. 460, 468 (2013); *Campos v. People*, 569 Phil. 658, 671 (2008), quoting *People v. Capareda*, 473 Phil. 301, 330 (2004); *People v. Galigao*, 443 Phil. 246, 260 (2003).

Article 266-A of the RPC, as amended by Republic Act (RA) No. 8353, defines statutory rape, thus:

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 otherwise unconscious;
 - c. By means of fraudulent machination or grave abuse of authority; and
 - 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.** (Emphasis supplied)

To hold the accused guilty of statutory rape, two (2) elements must be established namely: (1) the accused had carnal knowledge of a woman; and, (2) the woman is below 12 years of age or demented. Proof of force, threat, intimidation, or lack of consent is unnecessary, since none of these is an element of statutory rape, where the only subject of inquiry is the age of the woman and whether carnal knowledge took place.²⁶

In this case, both elements attend.

First, AAA vividly recalled her harrowing ordeal in the hands of appellant at the time of the incident. Her testimony was straightforward and spontaneous, as she intimated to the RTC how appellant ravished her.

Appellant could only raise the defense of lack of actual penetration, relying heavily on AAA's testimony that he tried inserting his penis into her vagina, and that in doing so, he told her "he cannot insert it."²⁷ Said utterance, however, does not conclusively negate rape on the basis of lack of actual penetration. In *People v. Bonaagua*,²⁸ the Court declared that the slightest penetration of the male organ or even its slightest contact with the outer lip or the *labia majora* of the vagina already consummates the crime of rape.

²⁶ See *People v. Brioso*, 788 Phil. 292, 306 (2016).

²⁷ *CA rollo*, p. 100.

²⁸ 665 Phil. 750, 769 (2011).

In this case, as found by the CA, the fact that appellant's penis touched AAA's vagina is supported by the medico-legal report stating that her *labia minora* was reddish in color, which could have been caused by introduction of a blunt object like an erect penis.²⁹


Second, the element of minority was expressly and clearly admitted by appellant in his testimony. The same was also testified to by both AAA and BBB, declaring that the victim was 10 years of age at the time of the incident. In *People v. Pruna*,³⁰ the Court found the testimony of the victim's mother as sufficient to prove the age of the victim, where the same is expressly and clearly admitted by the accused.

Thus, the CA correctly affirmed appellant's conviction for statutory rape, as well as the penalty of *reclusion perpetua*, pursuant to Articles 266-A and 266-B of the RPC, as amended by RA No. 8353.

Lastly, the award of damages of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages is in place pursuant to *People v. Jugueta*.³¹

WHEREFORE, premises considered, the appeal is **DISMISSED**. The Decision dated September 20, 2019 of the Court of Appeals (CA) in CA-G.R. CR HC No. 01854-MIN is **AFFIRMED** *in toto*. Appellant Joseph Luigi Polvus Ordanez is **GUILTY** beyond reasonable doubt of Statutory Rape under Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353, and is sentenced to *reclusion perpetua*, and further **ORDERED** to pay AAA ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. The award of damages shall earn an interest at the rate of six percent (6%) per *annum* from the date of finality of the judgment until fully paid.

SO ORDERED.



EDGARDO L. DELOS SANTOS
Associate Justice

²⁹ CA *rollo*, p. 94.

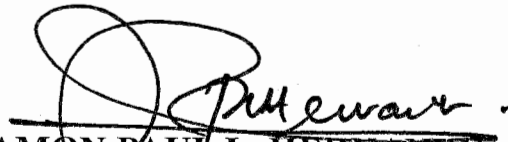
³⁰ 439 Phil. 440, 465 (2002).

³¹ 783 Phil. 806 (2016).

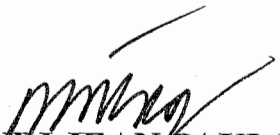
WE CONCUR:



MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson



RAMON PAUL L. HERNANDO
Associate Justice



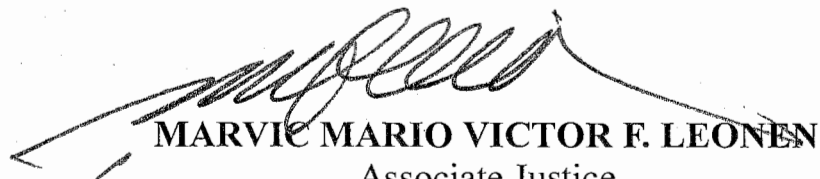
HENRI JEAN PAUL B. INTING
Associate Justice



JHOSEP R. LOPEZ
Associate Justice

ATTESTATION

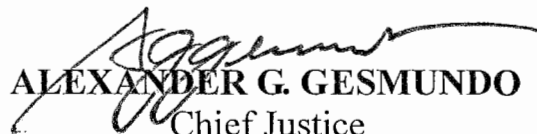
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson, Third Division

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.



ALEXANDER G. GESMUNDO
Chief Justice