



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 181491

Present:

LEONARDO-DE CASTRO,
Acting Chairperson,
BERSAMIN,
DEL CASTILLO,
VILLARAMA, JR., and
PERLAS-BERNABE, JJ.

-versus-

Promulgated:

HENRY ARCILLAS,
Accused-Appellant.

30 JUL 2012

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D E C I S I O N

BERSAMIN, J.:

The rape of a female over 12 years but under 18 years of age by the common-law spouse of her mother is qualified rape. Yet, the crime is only simple rape, although the State successfully proves the common-law relationship, where the information does not properly allege the qualifying circumstance of relationship between the accused and the female. This is because the right of the accused to be informed of the nature and cause of the accusation against him is inviolable.

Henry Arcillas had been convicted of qualified rape by the Regional Trial Court in Masbate City (RTC) and meted the death penalty, which the law in force at the time prescribed. The Court of Appeals (CA) affirmed the finding of guilt, but found him guilty only of simple rape due to his common-law relationship with the victim's mother not having been properly

alleged in the information and accordingly imposed *reclusion perpetua*. He is now before the Court to make his final plea for exoneration.

Antecedents

AAA,¹ allegedly Arcillas' step-daughter, brought a complaint dated May 22, 2000 for qualified rape against him.² After due proceedings, the Office of the Provincial Prosecutor of Masbate ultimately filed on August 29, 2000 an information charging him with qualified rape in the RTC, averring:

That on or about May 12, 2000 at more or less 11:00 o'clock in the evening thereof, at Brgy. Magsaysay, Municipality of Uson, Province of Masbate, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then the step-father of AAA, with deliberate intent, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with his own step-daughter, AAA, a 13-year-old girl, against her will.

CONTRARY TO LAW.³

The summary of the parties' evidence is rendered by the Court of Appeals (CA) in its decision promulgated June 26, 2007,⁴ follows:

The prosecution presented in evidence the testimonies of five (5) witnesses, namely: CCC, BBB, Dr. Allen Ching, AAA and SPO4 Aurora Moran. The trial court summarized their testimonies as follows:

AAA had just graduated from the Emilio S. Boro Elementary School in Cataingan, Masbate, sometime in March 2000. She was then living with her grandmother, DDD, in Alimango, Cataingan, Masbate. Immediately after her graduation, her mother, BBB, fetched her and brought her to Magsaysay, Uson, Masbate, where they lived together along with AAA's siblings and her mother's live-in partner, accused Henry Arcillas.

¹ The real names of the victim and of the members of her immediate family are withheld pursuant to Republic Act No. 7610 (*Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act*) and Republic Act No. 9262 (*Anti-Violence Against Women and Their Children Act of 2004*). See *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

² Original records, pp. 3-4.

³ Original Records, p. 1.

⁴ *Rollo*, pp. 2-18; penned by Associate Justice Mariflor P. Punzalan-Castillo, with Associate Justice Marina L. Buzon (retired) and Associate Justice Rosmari D. Carandang concurring.

In the evening of May 12, 2000, AAA, then barely thirteen (13) years old, as evidenced by her certificate of live birth, went to sleep in a room shanty located in Magsaysay, Uson, Masbate, together with her two sisters, CCC and EEE, her mother and the latter's live-in partner, accused Henry Arcillas. The shanty consisted of a single room measuring more or less four (4) square meters. At around 11:00 o'clock in the evening, AAA was awakened when she felt that somebody was lying on top of her. She found out that accused Henry Arcillas was on top of her. She noticed that she had no more short pants and panties and that she felt pain in her vagina. She also noticed that something had been inserted into her vagina and that the accused was making a push and pull movement on top of her. She then pushed away the accused and awakened her mother Josie, who was just asleep near her. BBB then stood up and immediately lighted the gas lamp. She saw the accused beside AAA still naked. AAA told her mother that she was sexually abused by Henry Arcillas. BBB then grabbed an ax and struck the accused with it but the latter was not hit. Before BBB was awakened, CCC, who was at the right side of AAA, was awakened first because she heard the latter crying. She then saw Henry Arcillas already at the post of their hut.

AAA then went out of their shanty and thought of going back to her grandmother in Alimango, Cataingan, Masbate. BBB prevented her from traveling to Cataingan because it was almost midnight, and told her instead that they would have to go to the said place together some other time. Meanwhile, BBB drove Henry Arcillas away. AAA was able to go to her grandmother in Alimango, Cataingan, Masbate only about two weeks after the incident because her mother would not give her money for her fare. BBB explained that she was suffering from fever at that time and no one could tend to her.

Thereafter, BBB complained to Jimmy Lorena, the Barangay Kagawad of Magsaysay, Uson, Masbate. Jimmy Lorena then summoned Henry Arcillas and during the confrontation where AAA was also present, Henry Arcillas was made to sign a statement and was made to promise that he would not do the same act again. Despite the confrontation, however, the victim, with the help of her cousin, Evelyn Daligdig, still lodged a complaint for rape against Henry Arcillas before the Uson Police Station. She was investigated by SPO4 Aurora Moran, who prepared the complaint as well as the victim's statement ("Deklarasyon").

The victim was physically examined at the Cataingan District Hospital on May 23, 2000 by Dr. Nerissa A. Deparine, who issued a medical certificate reflecting the following findings:

“External: Incomplete healed laceration at 5, 7 and 9 o'clock position;
Internal: Admits 2 fingers without resistance.”

It was Dr. Allen Ching, however, who testified on, and interpreted, the findings of Dr. Nerissa Deparine. Dr. Ching claimed that he and Dr. Nerissa Deparine knew each other as both were employed in Cataingan, Masbate, and that he was familiar with the signature of Dr. Nerissa Deparine since the latter usually referred to him some of her patients.

The defense, on the other hand, presented two witnesses, namely: the accused, Henry Arcilla, and Jimmy Lorena, a Barangay Kagawad of

Magsaysay, Uson, Masbate. The trial court summarized their testimonies as follows:

Henry Arcillas testified that he was a widower since 1996 although he had a live-in partner, BBB. He admitted that AAA was his step-daughter. In the afternoon of May 12, 2000, Henry Arcillas had a drinking spree in the house of the owner of the thresher where he worked. They started drinking hard liquor (Tanduay) at 4:00 in the afternoon until 6:00, after which he went home very drunk. He then went to sleep together with his live-in partner, BBB, and the latter's three daughters, CCC, EEE and AAA. The house where they slept was a one-room shanty. BBB was on his left side while AAA was on his right. At around 11:00 o'clock in the evening, Henry Arcillas was awakened when AAA complained to her mother that he held her shorts. At that juncture, his live-in partner tried to strike him with an ax. Henry claimed that he was able to touch the body of AAA but he did not know what part of her body he had touched nor which part of his body had touched AAA. He, however, denied having sexually molested the latter.

During the incident, the complainant's mother got so mad at Henry Arcillas that she drove him away. After almost two weeks, AAA went to the place of her grandmother in Alimango, Cataingan, Masbate. AAA and her relatives then returned to Magsaysay, Uson, Masbate and lodged a complaint before Jimmy Lorena, the Barangay Kagawad of Magsaysay, Uson, Masbate. During the confrontation, a certain Belen complained that Henry Arcillas committed acts of lasciviousness upon her niece AAA, who was also present. When confronted about the incident on May 12, 2000, AAA alleged that the accused touched her short pants prompting her to kick him. Thus, the intention of Henry Arcillas did not materialize.

Jimmy Lorena claimed that he was able to settle the case amicably in his house. In fact, Henry Arcillas executed an affidavit promising that he would not commit the same offense anymore. A certain Francisco Oliva was the one who prepared said affidavit but Jimmy had lost the copy of the same. The defense claimed that what the complainant AAA alleged in that confrontation was that the accused only touched her short pants but she was not raped. Finally, the accused Henry Arcillas claimed that the motive of AAA in filing the case for rape against him was due to the fact that the complainant was against his relationship with her mother and that she wanted to take her mother from him.

Ruling of the RTC

On March 8, 2004, the RTC convicted Arcillas of qualified rape based on the foregoing evidence and meted the death penalty on him,⁵ disposing:

WHEREFORE, being convicted of such heinous crime of Qualified Rape, accused Henry Arcillas is hereby sentenced to suffer the capital penalty of DEATH; to indemnify the said victim the sum of FIFTY

⁵ Original Records, p. 114.

THOUSAND (PhP50,000.00) PESOS; to pay the latter the sum of FIFTY THOUSAND (PhP50,000.00) PESOS as for moral damages; and to pay the costs.

SO ORDERED.

Ruling of the CA

In his appeal in the CA, Arcillas assigned to the RTC the following errors, namely:

I.

THE TRIAL COURT GRAVELY ERRED IN FAILING TO CONSIDER THE MOTIVE BEHIND THE FILING OF THE INSTANT CASE AGAINST THE ACCUSED-APPELLANT.

II.

THE COURT A *QUO* GRAVELY ERRED IN IMPOSING THE SUPREME PENALTY OF DEATH DESPITE THE DEFECTIVE ALLEGATION OF RELATIONSHIP IN THE INFORMATION.

On June 26, 2007, the CA affirmed the finding of guilt against Arcillas but downgraded the crime to simple rape on the ground that the information did not allege that he was her mother's common-law husband, instead of the victim's step-father, the qualifying circumstance the information alleged.⁶ It decreed as follows:

WHEREFORE, premises considered, the March 8, 2005 Decision of the Regional Trial Court of Masbate City, Masbate, Branch 48, is *MODIFIED*. Accused-appellant is found guilty beyond reasonable doubt of the crime of Simple Rape and is hereby sentenced to suffer the penalty of *reclusion perpetua*. In all other respects, the assailed Decision is *AFFIRMED*.

SO ORDERED.

The CA supported its affirmance in this wise:

xxx We agree with the accused-appellant that the trial court erred in convicting him of Qualified Rape and in imposing the death penalty in view of the defective allegation in the information. Indeed, even the Solicitor General agrees with the accused-appellant on this point.

⁶ CA *rollo*, pp. 93-108.

It must be noted that the Information alleged that accused-appellant was the step-father of the rape victim. The evidence shows, however, that he was merely the common-law husband or live-in partner of the latter's mother. In order that the accused may be convicted of qualified rape, the circumstances of relationship and minority must be jointly **alleged** in the Information and **proved** during trial. Thus, the accused can only be convicted of simple rape where the information alleges that the accused is the step-father of the victim but the evidence shows that he is merely the common-law husband of the natural mother of the victim.

In *People vs. Escultor*, the Supreme Court held:

Nevertheless, the death penalty is not the correct penalty for the two counts of rape committed by appellant because the two informations in Criminal Case No. CEB-BRL-478 and CEB-BRL-479 failed to correctly state appellant's relationship with Jenelyn. To justify the death penalty, the prosecution must specifically allege in the information and prove during the trial the qualifying circumstances of the minority of the victim and her relationship to the offender. The information must jointly allege these qualifying circumstances to afford the accused his right to be informed of the nature and cause of the accusation against him. Sections 8 and 9 of Rule 110 of the Revised Rules of Criminal Procedure expressly mandate that the qualifying circumstance should be alleged in the information.

Although the prosecution proved that appellant was the common-law spouse of (AAA's) mother, what appears in the informations is that the victim is the *stepdaughter* of appellant. A stepdaughter is the daughter of one's spouse by a previous marriage. For appellant to be the stepfather of (AAA), he must be legally married to (AAA's) mother. However, appellant and the victim's mother were not legally married but merely lived in common-law relation. **The two informations failed to allege specifically that appellant was the common-law spouse of the victim's mother. Instead, the two informations erroneously alleged the qualifying circumstance that appellant was the stepfather of the victim.** Hence, appellant is liable only for two counts of simple statutory rape punishable with *reclusion perpetua* for each count. (*Emphasis Ours*)

Thus, accused-appellant should have been convicted of simple rape only, punishable by *reclusion perpetua*. For this reason, We need not disturb anymore the trial court's award of ₱50,000.00 as civil indemnity. The rule is that, if the rape was attended by any of the qualifying circumstances that require the imposition of the death penalty, the civil indemnity shall be ₱75,000.00. But since accused-appellant should only be convicted of simple rape, the civil indemnity should only be ₱50,000.00 as awarded by the lower court. The award of moral damages in the amount of ₱50,000.00 is also in order, being in consonance with prevailing jurisprudence.

In any event, the imposition of the death penalty is no longer allowed in view of the passage of R.A. No. 9346 which prohibits its imposition and instead mandates, in lieu of the capital punishment, the imposition of the penalty of *reclusion perpetua* or life imprisonment. Thus, even if the

lower court was correct in convicting the accused-appellant of qualified rape, the penalty should still be *reclusion perpetua*.⁷

Issues

Arcillas thus assails the CA's decision as contrary to the facts, the law and jurisprudence.

Ruling

The CA correctly affirmed the conviction of Arcillas for simple rape.

The statutory provisions relevant to this review are Article 266-A and Article 266-B of the *Revised Penal Code*, which provide:

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.

x x x x

Article 266-B. *Penalties.* – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1. **when the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law-spouse of the parent of the victim.** x x x

x x x x

⁷ Id. at 106-107.

The elements of the offense charged are that: (a) the victim is a female over 12 years but under 18 years of age; (b) the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim; and (c) the offender has carnal knowledge of the victim either through force, threat or intimidation; or when she is deprived of reason or is otherwise unconscious; or by means of fraudulent machinations or grave abuse of authority.

AAA rendered a complete and credible narration of her ordeal at the hands of the accused, whom she positively identified in court. Her testimony was corroborated on material points by BBB and her own sister as well as by the medico-legal evidence adduced. With both the RTC and the CA considering AAA as a credible witness whose testimony should be believed, we accord great weight to their assessment. The trial judge was placed in the unique position to discern whether she was telling the truth or inventing it after having personally observed AAA's conduct and demeanor as a witness.⁸ The trial judge's evaluation, affirmed by the CA, is binding on the Court, and cannot be disturbed, least of all rejected in its entirety, unless Arcillas successfully showed facts or circumstances of weight that the RTC and the CA might have overlooked, misapprehended, or misinterpreted that, if duly considered, would materially affect the disposition of the case differently.⁹ Alas, he did not make that showing here.

In his defense, Arcillas denied committing rape against AAA. He insisted that he merely touched her body during a moment of intoxication. The RTC and the CA rejected the denial and explanation. The Court holds that both lower courts rightly did so, considering that AAA's positive declarations of what he had done to her in order to have carnal knowledge of her against her will were far more credible than his denial and explanation that were negative evidence by nature. His explanation lacked weight

⁸ *People v. Lantano*, G.R. No. 176734, January 28, 2008, 542 SCRA 640, 651-652.

⁹ *People v. Domingo*, G.R. No. 184958, September 17, 2009, 600 SCRA 280, 288; *Gerasta v. People*, G.R. No. 176981, December 24, 2008, 575 SCRA 503, 512.

because it was too convenient and too easy to utter. Worse, the explanation did not stand well in the face of the circumstances that transpired. Of great significance was that AAA roused her mother who was slumbering close by in order to forthwith denounce Arcillas. AAA's spontaneity in doing so entirely belied the explanation. The roused BBB then got up and quickly lighted a lamp, and in that illumination she saw him naked by the side of the victim. Indignant, BBB quickly grabbed an axe and struck him with it, but he was lucky to avoid the blow and to grab the ax away from BBB. Yet, the dispossession of the axe did not deter BBB from angrily banishing him from her home thereafter. To us, BBB's indignant reaction was that of a mother vindicating her young child against his rapacity. Such circumstances reflected the gravity of the crime just perpetrated against her daughter.

The CA disagreed with the RTC's pronouncing Arcillas guilty of qualified rape and imposing the death penalty, and ruled instead that he was liable only for simple rape because the information failed to allege his being the common-law husband of the victim's mother. As to the penalty, the CA punished him with *reclusion perpetua*.

We concur with the CA on both actions.

Rape is qualified and punished with death when committed by the victim's parent, ascendant, step-parent, guardian, or relative by consanguinity or affinity within the third civil degree, or by the common-law spouse of the victim's parent.¹⁰ However, an accused cannot be found guilty of qualified rape unless the information alleges the circumstances of the victim's over 12 years but under 18 years of age and her relationship with him. The reason is that such circumstances alter the nature of the crime of rape and increase the penalty; hence, they are special qualifying circumstances.¹¹ As such, both the age of the victim and her relationship with the offender must be specifically alleged in the information and proven

¹⁰ Article 266-A and Article 266-B, *Revised Penal Code*.

¹¹ *People v. Ferolino*, 386 Phil. 161 (2000).

beyond reasonable doubt during the trial; otherwise, the death penalty cannot be imposed.¹²

The minority of AAA was sufficiently alleged in the information that stated that she was “a 13-year-old girl.” The Prosecution established that her age when the rape was committed on May 12, 2000 was thirteen years and two months by presenting her birth certificate revealing her date of birth as March 15, 1987.¹³ As to her relationship with Arcillas, the information averred that he was “then the step-father of AAA.” It turned out, however, that he was not her stepfather, being only the common-law husband of BBB. The RTC itself found that he and BBB were only “live-in partners.” In addition, AAA’s birth certificate disclosed that her father was CCC, who had been married to BBB,¹⁴ who was widowed upon the death of CCC in 1996. No evidence was adduced to establish that BBB and Arcilla legally married after CCC’s death.¹⁵

Arcillas’ being the common-law husband of BBB at the time of the commission of the rape, even if established during the trial, could not be appreciated because the information did not specifically allege it as a qualifying circumstance. Otherwise, he would be deprived of his right to be informed of the charge lodged against him.¹⁶

As to the civil liability, both lower courts united in ordering Arcillas to pay to AAA ₱50,000.00 as civil indemnity and another ₱50,000.00 as moral damages. They were correct. Civil indemnity is mandatory upon the finding of the fact of rape, while moral damages are proper without need of proof other than the fact of rape by virtue of the undeniable moral suffering of AAA due to the rapes.

¹² *People v. Bayya*, 384 Phil. 519 (2000); *People v. Maglente*, 366 Phil. 221 (1999); *People v. Ilao*, 357 Phil. 656 (1998); *People v. Ramos*, 357 Phil. 559 (1998).

¹³ Original records, p. 72.

¹⁴ TSN of August 6, 2001, p. 5.

¹⁵ *People v. Salazar*, G.R. No. 181900, October 20, 2010, 634 SCRA 307.

¹⁶ *People v. Negosa*, G.R. Nos. 142856-57, August 25, 2003, 409 SCRA 539, 552-553.

In addition, Arcillas was liable for exemplary damages. According to the *Civil Code*, exemplary damages may be imposed in criminal cases as part of the civil liability “when the crime was committed with one or more aggravating circumstances.”¹⁷ The law permits such damages to be awarded “by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.”¹⁸ Accordingly, the CA and the RTC should have recognized the entitlement of AAA to exemplary damages on account of the attendance of her minority and the common-law relationship between him and her mother. It did not matter that such qualifying circumstances were not taken into consideration in fixing his criminal liability, because the term *aggravating circumstances* as basis for awarding exemplary damages under the *Civil Code* was understood in its generic sense. As the Court well explained in *People v. Catubig*:¹⁹

The term “aggravating circumstances” used by the *Civil Code*, the law not having specified otherwise, is to be understood in its broad or generic sense. The commission of an offense has a two-pronged effect, one on the public as it breaches the social order and the other upon the private victim as it causes personal sufferings, each of which is addressed by, respectively, the prescription of heavier punishment for the accused and by an award of additional damages to the victim. The increase of the penalty or a shift to a graver felony underscores the exacerbation of the offense by the attendance of aggravating circumstances, whether ordinary or qualifying, in its commission. **Unlike the criminal liability which is basically a State concern, the award of damages, however, is likewise, if not primarily, intended for the offended party who suffers thereby. It would make little sense for an award of exemplary damages to be due the private offended party when the aggravating circumstance is ordinary but to be withheld when it is qualifying. Withal, the ordinary or qualifying nature of an aggravating circumstance is a distinction that should only be of consequence to the criminal, rather than to the civil, liability of the offender. In fine, relative to the civil aspect of the case, an aggravating circumstance, whether ordinary or qualifying, should entitle the offended party to an award of exemplary damages within the unbridled meaning of Article 2230 of the *Civil Code*.**

For exemplary damages, therefore, the Court holds that the amount of ₱25,000.00 is reasonable and proper.

¹⁷ Article 2230, *Civil Code*.

¹⁸ Article 2229, *Civil Code*.

¹⁹ G.R. No. 137842, August 23, 2001, 363 SCRA 621, 635.

Lastly, the Court deems it appropriate to impose interest at the rate of 6% *per annum* on the monetary awards reckoned from the finality of this decision to complete the quest for justice and vindication on the part of AAA. This is upon the authority of Article 2211 of the *Civil Code*, which states that in crimes and quasi-delicts interest as a part of the damages may, in a proper case, be adjudicated in the discretion of the court.


WHEREFORE, the Court **AFFIRMS** the decision promulgated by the Court of Appeals on June 26, 2007 in all respects, subject to the modifications that **HENRY ARCILLAS** shall pay to AAA the further sum of ₱25,000.00 as exemplary damages; and that he shall be liable for interest of 6% *per annum* on the monetary awards reckoned from the finality of this decision.


Costs of suit to be paid by the accused.


SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

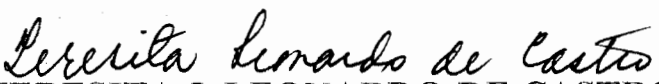

MARIANO C. DEL CASTILLO
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

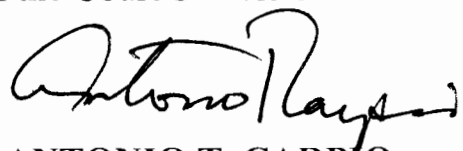
ATTESTATION

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.


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)