



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 187732

Present:

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

- versus -

FELIX MORANTE,
Accused-Appellant.

Promulgated:

NOV 28 2012

X

X

DECISION

LEONARDO-DE CASTRO, J.:

Before this Court is an appeal of the November 6, 2008 **Decision**¹ of the Court of Appeals in CA-G.R. CR.-H.C. No. 02815² affirming with modification the April 20, 2007 **Decision**³ of the Regional Trial Court

* Per Special Order No. 1356 dated November 13, 2012.

¹ Rollo, pp. 2-24; penned by Associate Justice Normandie B. Pizarro with Associate Justices Edgardo P. Cruz and Fernanda Lampas Peralta, concurring.

² Entitled *People of the Philippines v. Felix Morante*.

³ CA rollo, pp. 58-66; penned by Judge Andres B. Soriano.

(RTC), Branch 13, Malolos, Bulacan in Crim. Case Nos. 2277-M-00 to 2283-M-00, entitled *People of the Philippines v. Felix Morante*, finding appellant Felix Morante guilty beyond reasonable doubt of the crimes of violation of Section 5(b)⁴ of Republic Act No. 7610⁵ and six counts of rape as defined in Article 266-A of the Revised Penal Code.

The facts as found by the RTC follow.

On August 8, 2000, seven informations were filed against appellant for the following crimes:

A) Violation of Section 5, Republic Act No. 7610:

In Criminal Case No. 2283-M-00:

That [o]n or about the month of December, 1999, in x x x and within the jurisdiction of this Honorable Court, the above-named [appellant], taking advantage of the minority of the complainant AAA who was then twelve (12) years of age and of his moral ascendancy and influence over her as common-law husband of her mother, did then and there wil[l]fully, unlawfully and feloniously, by means of force and intimidation and with lewd designs, fondle the breasts of said AAA, kiss her and take other unwarranted liberties of her body which degraded and demeaned her intrinsic worth and dignity as a human being.⁶

⁴ Republic Act No. 7610, Section 5 provides:

Section 5. *Child Prostitution and Other Sexual Abuse*. – Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

x x x x

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subjected to other sexual abuse: *Provided*, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: *Provided*, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be *reclusion temporal* in its medium period[.]

⁵ AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION, AND FOR OTHER PURPOSES

⁶ Records of Crim. Case No. 2283-M-00.

B) Six separate counts of rape as defined under Article 266-B of the Revised Penal Code uniformly stating:

In Criminal Case Nos. 2277-M-00 / 2278-M-00 / 2279-M-00 / 2280-M-00 / 2281-M-00 / 2282-M-00:

That on or about the 10th day of January, 2000,⁷ in x x x and within the jurisdiction of this Honorable Court, the above-named [appellant] did then and there wil[l]fully, unlawfully and feloniously, with lewd designs and by means of force, violence and intimidation have carnal knowledge of AAA, a girl of twelve years of age and daughter of his common-law wife, BBB, against her will and consent.⁸

On arraignment, appellant pleaded not guilty for all crimes charged.⁹ After pre-trial was conducted, the cases were consolidated and trial ensued.

The prosecution presented AAA as its witness. It also presented AAA's birth certificate¹⁰ and medical certificate¹¹ by Dr. Ivan Richard Viray (Dr. Viray).

AAA testified that appellant is her stepfather. AAA and her siblings lived with their mother, BBB, and appellant in a one-storey house/apartment. Sometime in December 1999, at midnight, while she was sleeping and her mother and siblings were not one foot away from her, she was suddenly awakened as somebody heavy settled on top of her. She awoke to find appellant on top of her, kissing her cheeks, and feeling her up. Appellant thereafter removed his clothing and had carnal knowledge of her. She was not able to alert her mother for fear that appellant might kill them. After the deed, appellant got off her and went back to sleep.¹²

⁷ 11th day of January, 2000 in Crim. Case No. 2278-M-00; 12th day of January, 2000 in Crim. Case No. 2279-M-00; 13th day of January, 2000 in Crim. Case No. 2280-M-00; 14th day of January, 2000 in Crim. Case No. 2281-M-00 and 15th day of January, 2000 in Crim. Case No. 2282-M-00.

⁸ Records, p. 1.

⁹ Id. at 13.

¹⁰ Id. at 89.

¹¹ Id. at 91.

¹² CA *rollo*, p. 60.

AAA also testified that every night from January 10 to 15, 2000, appellant, despite living with the family in close quarters, repeatedly violated her, all the while threatening to kill her if she made any noise or reported the incident to anyone else.¹³

On cross-examination, however, AAA testified that on January 10 to 15, 2000 she lived with her aunt in Masuso, Calumpit, Bulacan and while staying there, she slept beside her aunt and woke up early morning the following day.¹⁴

On redirect examination, AAA clarified that she and her mother lived in the same house as her aunt and her children, together with appellant. She maintained that appellant had carnal knowledge of her despite living in close quarters and with several people around.¹⁵

AAA's testimony was corroborated by the findings of Dr. Viray. He testified that upon his examination of AAA, he found that she sustained healed lacerations at two (2), seven (7), nine (9) and ten (10) o'clock positions and deep lacerations at three (3) and eleven (11) o'clock positions. The examination revealed that AAA was in a non-virgin state physically; that she had no external signs of application of any form of trauma; and that the probable date of laceration could be "more than one week, month, or year" and might be considered permanent. He said that the probable cause of the lacerations could be the insertion of a hard object or erected penis.¹⁶

Appellant, in his defense, presented his testimony as well as that of his daughter, Nora, as evidence.

¹³ Id. at 60-62.

¹⁴ Id. at 60-61.

¹⁵ Id. at 62.

¹⁶ Id.

Appellant denied all the charges against him. He stated that AAA was the daughter of his common-law wife. He, however, disclaimed any knowledge of sexual abuse committed in December 1999 and from January 10, 2000 to January 15, 2000. He said that AAA, BBB, and CCC, AAA's aunt, harbored ill feelings against him for intervening in an alleged fight among the three ladies involving the salary earned by AAA from her baby-sitting job. They thus orchestrated his downfall. He said that he treated AAA as he would his own daughter. He added that it was impossible for him to have done anything to AAA since she worked as a helper in Bocaue, Bulacan for four months, from January 13, 2000 to April 6, 2000.¹⁷

Appellant's natural daughter, Nora Morante, testified that AAA was her father's stepdaughter and she treated AAA as a sister. She stated that on January 10 and 11, 2000, AAA was at her employer's house in Bocaue, Bulacan.¹⁸

After considering the evidence presented by both parties, the RTC rendered the April 20, 2007 Decision finding appellant guilty of the crimes charged, to wit:

After a careful consideration of the evidences presented herein both by the prosecution as well as the defense, the Court is of the opinion and so holds that the prosecution has successfully established beyond reasonable doubt the commission of the offenses charged therein. The testimony of [AAA] herein is consistent in all material respects and there is no showing that said witness, in testifying against [appellant] herein could have been motivated by any ill or grudge against the [appellant]. Her testimony is supported by the medical findings herein which showed that [AAA] was no longer a virgin weeks after the incident.

The Court therefore finds as established facts that in the months of December 1999 and January 2000, [appellant] and his stepdaughter, [AAA] (aged 12 years old) having been born on December 30, 1987 were

¹⁷ Id. at 63-64.

¹⁸ Id. at 64.

living together under one roof with the latter's mother; that one evening in the month of December 1999, while [AAA] was asleep in their house at Bunsuran, Pandi, Bulacan, she was awakened by the heavy weight of the accused who was then fondling her breasts, touching and kissing her, that on the same evening, the accused managed to undress her and insert his penis into her vagina even as they were lying beside the mother of [AAA]; that [AAA] could [neither] complain nor resist as she was afraid that the [appellant] might kill her and her mother; that the incident was repeated on six (6) other occasions, particularly in the evenings of January 10, 11, 12, 13, 14 and 15, all in the year 2000, this time in the residence of [AAA's] auntie in Masuso, Pandi, Bulacan.

The Court is not unaware of the apparent contradiction in the testimony of [AAA] when put on cross where she apparently stated that in the evening of January 10, 2000 to January 15, 2000, she slept with her Tita and the latter's siblings continuously thru the night such that nothing untoward happened to her. On redirect however, she managed to explain and confirm that indeed she was raped by the [appellant] herein in those evenings.

The Court [is] likewise x x x not unmindful of the defense raised by the accused that on some of the material dates given, particularly January 11, 2000 onwards to January 15, 2000, he could not have raped [AAA] because the latter was already actually employed and living as a babysitter in Bocaue, Bulacan. Other than his own self-serving testimony and that of [his] natural child, no other witness came forward to support the defense raised by the [appellant]. x x x.

The defense of denial raised therefore cannot be considered strong enough to debunk the positive identification made by [AAA] against him.

WHEREFORE, premises considered, the Court finds the [appellant] guilty beyond reasonable doubt, as follows:

- (a) In Crim. Case No. 2283-M-00, Violation of Sec. 5 RA 7610, and hereby sentences him to suffer the indeterminate penalty of ten (10) years of *prision mayor* as minimum to fifteen (15) years of *reclusion temporal* as maximum.
- (b) In Crim. Case Nos. 2277-M-00 to 2282-M-00, on six (6) counts of Rape punished under the Revised Penal Code, and hereby sentences him to suffer the penalty of *reclusion perpetua* on each count.

The accused is likewise directed to indemnify [AAA] in the amount of ₱50,000.00 for each count of the offenses (total amount of ₱350,000.00).¹⁹ (Italicization added.)

¹⁹

Id. at 65-66.

Appellant filed his notice of appeal on May 22, 2007.²⁰

The Court of Appeals in its November 6, 2008 Decision found no merit in the appellant's appeal. It noted that while there seemed to be inconsistencies between AAA's testimony in the direct and cross-examinations, she was able to explain these during the redirect examination.²¹ It, thus, affirmed the findings of the trial court but modified the penalty imposed and award of damages, to wit:

WHEREFORE, the appealed decision is **AFFIRMED** with **MODIFICATION**, in that, the maximum penalty in Crim. Case No. 2283-M-2000 is increased to seventeen (17) years, four (4) months and one (1) day, the civil indemnity for each count of rape in Crim. Cases Nos. 2277-M-2000 up to 2282-M-2000 is increased to Seventy-Five Thousand Pesos (Php75,000.00), and the moral and exemplary damages in the amounts of Fifty Thousand (Php50,000.00) and Twenty-Five Thousand Pesos (Php25,000.00), respectively, for each count of rape are awarded.²²

Appellant filed his notice of appeal on November 19, 2008.²³

Appellant's confinement was confirmed on August 28, 2009.²⁴ Both the Office of the Solicitor General (OSG) and appellant manifested that they would adopt the pleadings filed in the Court of Appeals in lieu of supplemental briefs.²⁵

Appellant basically argues that his guilt for the crimes charged was not proven beyond reasonable doubt because of alleged inconsistencies in AAA's testimony and was thus rendered without basis.

²⁰ Id. at 18.

²¹ *Rollo*, p. 14.

²² Id. at 23-24.

²³ Id. at 25-26.

²⁴ Id. at 35.

²⁵ Id. at 32-34 and 40-42.

The appeal must be dismissed for lack of merit.

The pertinent provisions of law in this case are found in Section 5(b), Republic Act No. 7610, which provides that:

Section 5. *Child Prostitution and Other Sexual Abuse.* – Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

x x x x

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subject to other sexual abuse: *Provided*, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: *Provided*, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be *reclusion temporal* in its medium period[.]

Likewise applicable is Article 266-A of the Revised Penal Code, which states that:

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:

- 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.

2. By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

We reiterate the jurisprudential principle of affording great respect and even finality to the trial court's assessment of the credibility of witnesses. In *People v. Arpon*,²⁶ we stated:

[W]hen the decision hinges on the credibility of witnesses and their respective testimonies, the trial court's observations and conclusions deserve great respect and are often accorded finality. The trial judge has the advantage of observing the witness' deportment and manner of testifying. Her "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath" are all useful aids for an accurate determination of a witness' honesty and sincerity. **The trial judge, therefore, can better determine if witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies.** Unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case, its assessment must be respected for it had the opportunity to observe the conduct and demeanor of the witnesses while testifying and detect if they were lying. **The rule finds an even more stringent application where said findings are sustained by the [Court of Appeals].** (Citation omitted, emphases added.)

We have also stated in *People v. Dion*²⁷ that:

Due to its intimate nature, rape is usually a crime bereft of witnesses, and, more often than not, the victim is left to testify for herself. Thus, in the resolution of rape cases, the victim's credibility becomes the primordial consideration. It is settled that when the victim's testimony is straightforward, convincing, and consistent with human nature and the normal course of things, unflawed by any material or significant inconsistency, it passes the test of credibility, and the accused may be convicted solely on the basis thereof. **Inconsistencies in the victim's testimony do not impair her credibility, especially if the**

²⁶ G.R. No. 183563, December 14, 2011, 662 SCRA 506, 523.

²⁷ G.R. No. 181035, July 4, 2011, 653 SCRA 117, 133.

inconsistencies refer to trivial matters that do not alter the essential fact of the commission of rape. The trial court's assessment of the witnesses' credibility is given great weight and is even conclusive and binding. x x x. (Citations omitted, emphasis added.)

Given that in the present case, the courts *a quo* have sufficiently addressed the question on the alleged inconsistencies in the testimony of AAA and appellant does not present to this Court any scintilla of evidence to prove that the testimony of the witness was not credible, the Court must uphold the assessment of the RTC as affirmed by the Court of Appeals.

In any event, we agree with the Court of Appeals when it said:

It is also notable that AAA was able to reconcile such inconsistency during her re-direct examination when she explained that the house she was referring to, when she was with CCC and the latter's children, was also the same house she slept in with her mother and siblings because they all live in one (1) house. x x x.²⁸

Alleged inconsistencies do not detract from AAA's credibility as a witness. A rape victim is not expected to make an errorless recollection of the incident, so humiliating and painful that she might in fact be trying to obliterate it from her memory. Thus, a few inconsistent remarks in rape cases will not necessarily impair the testimony of the offended party.²⁹

However, in line with current jurisprudence, we modify the award for moral damages and exemplary damages for each count of rape awarded by the Court of Appeals in Criminal Cases No. 2277-M-00 to 2282-M-00, we increase the award for moral damages to ₱75,000.00 and the award for exemplary damages to ₱30,000 for each count of rape. In addition, and in conformity with current policy, we also impose on all the monetary awards

²⁸ Rollo, p. 14.

²⁹ *People v. Rubio*, G.R. No. 195239, March 7, 2012, 667 SCRA 753, 762.

for damages interest at the legal rate of 6% *per annum* from date of finality of this Decision until fully paid.³⁰

WHEREFORE, the appeal is **DISMISSED**. The November 6, 2008 Decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 02815 is **AFFIRMED WITH MODIFICATION**. Appellant Felix Morante is **GUILTY** beyond reasonable doubt of **Violation of Section 5, Republic Act No. 7610 and six (6) counts of RAPE as defined in Article 266-A and penalized in Article 266-B of the Revised Penal Code**. In addition to civil indemnity of Seventy-Five Thousand Pesos (₱75,000.00) awarded by the Court of Appeals, appellant is also ordered to pay AAA moral damages of Seventy-Five Thousand Pesos (₱75,000.00) and exemplary damages of Thirty Thousand Pesos (₱30,000.00) for each count of rape. All monetary awards for damages shall earn interest at the legal rate of 6% per annum from date of finality of this Decision until fully paid.

No pronouncement as to costs.

SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

³⁰

People v. Dominguez, Jr., G.R. No. 180914, November 24, 2010, 636 SCRA 134, 163-165.

WE CONCUR:



MARIA LOURDES P. A. SERENO

Chief Justice

Chairperson



LUCAS P. BERSAMIN

Associate Justice



MARTIN S. VILLARAMA, JR.

Associate Justice



JOSE PORTUGAL PEREZ

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