



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 201728

Present:

SERENO, C.J.,  
*Chairperson,*  
LEONARDO-DE CASTRO,  
BERSAMIN,  
VILLARAMA, JR. and  
REYES, JJ.

- versus -

Promulgated:

MARVIN CRUZ,

Accused-Appellant.

JUL 17 2013

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RESOLUTION

REYES, J.:

This is an appeal filed by accused-appellant Marvin Cruz (Cruz) from the Decision<sup>1</sup> dated November 28, 2011 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04363 which affirmed the Joint Decision<sup>2</sup> dated January 20, 2010 of the Regional Trial Court (RTC) of Lingayen, Pangasinan, Branch 68, finding him guilty beyond reasonable doubt of two (2) counts of Rape.

Cruz was charged in three (3) separate Informations for Violation of Section 5(b) of Republic Act (R.A.) No. 7610 and two (2) counts of Rape.

The Information for Violation of Section 5(b) of R.A. No. 7610 charged Cruz with the commission of the crime, as follows:

<sup>1</sup> Penned by Associate Justice Japar B. Dimaampao, with Associate Justices Sesonando E. Villon and Socorro B. Inting, concurring; *rollo*, pp. 2-22.

<sup>2</sup> CA *rollo*, pp. 15-39.

**Criminal Case No. L-8397**

That sometime on October 23, 2007, in Brgy. Dulig, Labrador, Pangasinan and within the jurisdiction of this Honorable Court, the above named accused, taking advantage of her minority, willfully, unlawfully and feloniously entice (sic) to have sexual intercourse with AAA,<sup>3</sup> a minor 17 years old (DOB-March 25, 1990) which degrade, debase and demean (sic) the intrinsic worth and dignity of the said minor, to the damage and prejudice of the said complainant.

Contrary to Sec. 5 (b) of RA 7610.<sup>4</sup>

The two (2) Informations for Rape,<sup>5</sup> meanwhile, charged Cruz, as follows:

**Criminal Case No. L-8398**

That on or about 9:00 o'clock in the evening of November 6, 2007 in Brgy. Dulig, Labrador, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, thru force and intimidation, did, then and there willfully, unlawfully and feloniously entice to have sexual intercourse with one AAA, a minor 17 years old (DOB-March 25, 1990) against her will and consent, to her damage and prejudice.

Contrary to RA 7659 as amended by RA 8353.

**Criminal Case No. L-8399**

That on or about 1:30 o'clock in the afternoon of November 6, 2007 in Brgy. Dulig, Labrador, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, thru force and intimidation, did, then and there willfully, unlawfully and feloniously entice to have sexual intercourse with one AAA, a minor 17 years old (DOB-March 25, 1990) against her will and consent, to her damage and prejudice.

Contrary to RA 7659 as amended by RA 8353.

On April 17, 2008, Cruz was arraigned and pleaded "not guilty" to the charges against him. Preliminary conference was conducted on May 8, 2008 and after pre-trial, trial on the merits ensued.

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<sup>3</sup> Under R.A. No. 9262, also known as the "Anti-Violence Against Women and their Children Act of 2004", and its Implementing Rules, the real name of the victim and those of her immediate family members are withheld and fictitious initials are to be used to protect the victim's identity.

<sup>4</sup> CA *rollo*, p. 16.

<sup>5</sup> Id.

The prosecution presented the testimonies of AAA and Dr. Rosalina Caoile, the psychiatric consultant at the Region I Medical Center, Dagupan City who examined AAA. The defense, on the other hand, presented the testimonies of Cruz and his relatives, namely: (1) his cousin Raffy dela Cruz (Raffy); (2) his sister Ma. Kristine Cruz (Kristine); and (3) his aunt Lolita Corrales.

Based on the foregoing, it was established during the trial that AAA is a 17-year old college student in St. Columban's College in Lingayen, Pangasinan. She met Cruz sometime in March 2007 *via* text messaging through her schoolmate and his cousin Raffy, who gave her mobile number to him. By June 2007, they became sweethearts despite the fact that they still have not personally met. According to AAA, she agreed to become his girlfriend after he sent her a text message that his days are already numbered because he has leukemia. They finally met on October 22, 2007 when Cruz and Raffy visited AAA's place.<sup>6</sup>

It was the version of the incidents that occurred after the two had a relationship that the prosecution and the defense differed. According to the prosecution, Cruz forced himself upon AAA on the three (3) separate incidents complained of, while the defense set up the "sweetheart defense".

The first incident happened on October 23, 2007 when AAA, accompanied by Raffy, visited Cruz in his house in *Barangay* Dulig, Labrador, Pangasinan. After AAA ate the snacks that Cruz prepared for her, AAA suddenly felt dizzy and sleepy. Since Raffy and Cruz's family were no longer around, the latter took advantage of her state and forcibly took her to his parent's room where he forced her to lie down and got her naked. He then mounted her and had sexual intercourse with her despite her resistance. Thereafter, Cruz went out of the room. She followed suit and saw a male cousin of Cruz in the living room. Raffy then arrived and she asked him to take her home. On the bus, AAA narrated her experience to Raffy.<sup>7</sup>

On November 1, 2007, AAA broke up with Cruz through a text message.<sup>8</sup>

The second and third incidents both occurred on November 6, 2007. AAA received a text message from Cruz demanding that she visit him again in his house, claiming that he was sick. AAA was constrained to agree after he told her that his cousin took a video of their previous sexual encounter and threatened her that he will show the sex video to her family and schoolmates. Cruz also forced Raffy, who accompanied AAA, to leave. He

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<sup>6</sup> Id. at 17; *rollo*, p. 4.

<sup>7</sup> *Rollo*, p. 4.

<sup>8</sup> Id.

then closed the door and windows and dragged AAA into a room where he undressed her and forced her to have sex with him. He also warned her, “*huwag kang pumalag, kasi kaya kong pumatay ng tao.*”<sup>9</sup>

After Cruz forcibly had sex with AAA, his friends arrived, causing him to stand up and get dressed. AAA tried to put her clothes back on but he warned her to stay or he will ask his friends to rape her. Scared, AAA remained inside the room while he had a drinking session with his friends. Every now and then, he would go back into the room and have sex with her. Cruz, at one point, lit a cigarette, covered her eyes and threatened her that he will singe her breast if she continues to resist him.<sup>10</sup>

It was only the following day that AAA managed to get out of the house after she asked Kristine for her clothes. Upon reaching home, she told her aunt of her ordeal.<sup>11</sup>

Cruz denied AAA’s accusations. He professed his love for AAA and claimed that she consented to the sexual acts.<sup>12</sup>

### **Decision of the RTC**

On January 20, 2010, the RTC rendered its Joint Decision acquitting Cruz of the crime of Violation of Section 5(b) of R.A. No. 7610 committed on October 23, 2007. He, however, was convicted of the two (2) separate counts of Rape committed on November 6, 2007. The dispositive portion of the Joint Decision reads:

**WHEREFORE**, in view of the foregoing, judgment is hereby rendered:

**In Criminal Case No. L-8397,**

This Court finds accused *MARVIN CRUZ* **ACQUITTED** of the crime of Violation of Section 5(b) of RA 7610 for failure of the prosecution to prove his guilt beyond reasonable doubt;

**In Criminal Case No. L- 8398,**

This Court finds accused *MARVIN CRUZ* **GUILTY** beyond reasonable doubt of the crime of Rape, defined and penalized under Article 266-A of the Revised Penal Code as amended by Republic Act No. 8353 or the Anti[-]Rape

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<sup>9</sup> Id. at 4-5.

<sup>10</sup> Id. at 5-6.

<sup>11</sup> Id. at 6.

<sup>12</sup> Id. at 7.

Law of 1997. Thus, he is sentenced to suffer the penalty of **RECLUSION PERPETUA**. In addition thereto, he is ordered to pay AAA the sum of **FIFTY THOUSAND PESOS** ([P]50,000.00) as civil indemnity and to pay **FIFTY THOUSAND PESOS** ([P]50,000.00) by way of moral damages.

**In Criminal Case No. L- 8399,**

This Court finds accused *MARVIN CRUZ* **GUILTY** beyond reasonable doubt of the crime of Rape, defined and penalized under Article 266-A of the Revised Penal Code as amended by Republic Act No. 8353 or the Anti[-]Rape Law of 1997. Thus, he is sentenced to suffer the penalty of **RECLUSION PERPETUA**. In addition thereto, he is ordered to pay AAA the sum of **FIFTY THOUSAND PESOS** ([P]50,000.00) as civil indemnity and to pay **FIFTY THOUSAND PESOS** ([P]50,000.00) by way of moral damages[.]

No costs.

**SO ORDERED.**<sup>13</sup>

The RTC found that Cruz failed to prove his “sweetheart defense,” that is, that he and AAA were lovers and that AAA consented to the sexual relations. According to the RTC, although they were lovers, Cruz failed to prove AAA’s consent to the carnal knowledge. Despite the lapses in AAA’s testimony, the RTC found that it did not detract from her statement that she did not consent to the sexual acts complained of.<sup>14</sup>

**Decision of the CA**

In the CA Decision<sup>15</sup> dated November 28, 2011, Cruz’s appeal was denied, thus:

**WHEREFORE**, the *Appeal* is hereby **DENIED**. The *Joint Decision* of conviction dated 20 January 2009 of the Regional Trial Court, Second Judicial Region, Lingayen, Pangasinan, Branch 68, in Crim. Case Nos. L-8397, L-8398, and L-8399, is **AFFIRMED**.

**SO ORDERED.**<sup>16</sup>

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<sup>13</sup> CA *rollo*, p. 39.

<sup>14</sup> Id. at 36-38.

<sup>15</sup> *Rollo*, pp. 2-22.

<sup>16</sup> Id. at 21.

The CA found no cogent reason to depart from the findings of the RTC and gave full faith and credence to the candid and straightforward testimony of AAA on how she was sexually molested several times by Cruz on November 6, 2007.<sup>17</sup>

The CA also disregarded Cruz's argument that his acquittal of the charge of sexual abuse is tantamount to an acquittal of the two (2) counts of rape. According to the CA, the fact that no sexual abuse was committed on October 23, 2007 does not mean that no rape transpired on November 6, 2007. The CA emphasized the distinction between the incidents that happened on October 23, 2007 and November 6, 2007. The CA, moreover, expounded that being sweethearts is not a license for Cruz to have sexual intercourse with AAA against her will.<sup>18</sup>

Hence, this appeal.

### **The Court's Ruling**

The Court sustains Cruz's conviction for the two (2) counts of Rape.

It is well-settled that "the trial court's evaluation of the credibility of the witnesses is entitled to the highest respect absent a showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight and substance that would affect the result of the case."<sup>19</sup> In the Court's assessment of the records, there is no cogent reason to reverse the findings of the RTC, as affirmed by the CA.

Article 266-A of the Revised Penal Code, in part, reads:

Art. 266-A. *Rape, When and How Committed.* – Rape is committed

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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;

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<sup>17</sup> Id. at 16-19.

<sup>18</sup> Id. at 19-21.

<sup>19</sup> *People v. Ogarte*, G.R. No. 182690, May 30, 2011, 649 SCRA 395, 411, citing *People v. Ibay*, 371 Phil. 81 (1999).

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. (Emphasis ours)

The Court is convinced that the testimony of AAA positively identifying Cruz as the one who sexually abused her is worthy of belief. The clear, consistent and spontaneous testimony of AAA unrelentingly established how Cruz sexually molested her on November 6, 2007 with the use of force, threat and intimidation. Indeed, "[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."<sup>20</sup>

In this case, the prosecution was able to show how Cruz was able to manipulate AAA into having sex with him against her will on two (2) separate instances on November 6, 2007, to wit:

(1) Cruz threatened AAA that he will circulate a copy of their sex video to her family and schoolmates if she refused to go to his house and meet him in order to assure sexual congress. Alarmed by the consequence of his threat, AAA had no choice but to go to his place as he wanted, in the hope that he would keep his word that he will give her the disk containing their sex video;<sup>21</sup>

(2) When Cruz and his friends were having a drinking spree in his house, he threatened AAA that he will ask them to rape her if she puts her clothes back on. Again, AAA had no choice but to do what he demanded, and thereafter repeatedly sexually molested her;<sup>22</sup> and

(3) Cruz held a lighted cigarette near her chest and warned her that he will burn her skin if she continues to resist his sexual advances. Helpless, AAA had no choice but to succumb to his demand.<sup>23</sup>

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<sup>20</sup> *People of the Philippines v. Felix Morante*, G.R. No. 187732, November 28, 2012, 686 SCRA 602, 613.

<sup>21</sup> *CA rollo*, p. 18.

<sup>22</sup> *Id.* at 19.

<sup>23</sup> *Id.*

Cruz's defense that AAA's testimony that she received his messages on June 2007 instead of October 2007 is flawed,<sup>24</sup> is immaterial and does not in any way detract from the fact that he raped her several times on November 6, 2007. Moreover, Cruz failed to present any scintilla of evidence to prove that AAA's testimony was not credible.

As to the "sweetheart defense", it is said that love is not a license for lust. "A love affair does not justify rape for a man does not have the unbridled license to subject his beloved to his carnal desires against her will."<sup>25</sup> In this case, Cruz's argument that they are lovers may be true; however, the sexual incidents between him and AAA on November 6, 2007 have not been proven to be consensual.

Given the foregoing, the Court believes that the CA correctly affirmed Cruz's conviction for two (2) counts of Rape. The minority of AAA was sufficiently alleged in the Informations and proven by the prosecution during the trial. Such being the case, the penalty of *reclusion perpetua* under Article 266-A of the Revised Penal Code was correctly imposed by the RTC and affirmed by the CA.

As to the award of damages –

The Court sustains the award of ₱50,000.00 as moral damages and ₱50,000.00 as civil indemnity.

Moral damages in rape cases should be awarded without need of showing that the victim suffered trauma or mental, physical, and psychological sufferings constituting the basis thereof.<sup>26</sup> Meanwhile, the award of civil indemnity to the rape victim is mandatory upon the finding that rape took place. The award of civil indemnity is exclusive of the award of moral damages without need of further proof because "(t)he victim's injury is now recognized as inherently concomitant with and necessarily proceeds from the appalling crime of rape which *per se* warrants an award of moral damages."<sup>27</sup> Based on prevailing jurisprudence, the award of ₱50,000.00 as civil indemnity and another ₱50,000.00 as moral damages, for each count of simple rape are, therefore, proper.<sup>28</sup>

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<sup>24</sup> Id. at 17-18.

<sup>25</sup> *People v. Banig*, G.R. No. 177137, August 23, 2012, 679 SCRA 133, 149, citing *People v. Cias*, G.R. No. 194379, June 1, 2011, 650 SCRA 326, 341.

<sup>26</sup> *People v. Cabungan*, G.R. No. 189355, January 23, 2013, 689 SCRA 236, 248.

<sup>27</sup> *People v. Macapanas*, G.R. No. 187049, May 4, 2010, 620 SCRA 54, 76, citing *People v. Suyat*, 547 Phil. 476, 497 (2007).

<sup>28</sup> *People v. Tejero*, G.R. No. 187744, June 20, 2012, 674 SCRA 244, 260, citing *People v. Cañada*, G.R. No. 175317, October 2, 2009, 602 SCRA 378, 398.



Both the RTC and the CA, however, failed to award exemplary damages. Exemplary damages are imposed in a criminal case as part of the civil liability “when the crime was committed with one or more aggravating circumstances.”<sup>29</sup> Given the attendance of an aggravating circumstance in this case, that is, AAA’s minority, exemplary damages in the amount of ₱30,000.00 should then be awarded to AAA.<sup>30</sup>

In addition, interest at the rate of six percent (6%) *per annum* shall be imposed on all the damages awarded, to earn from the date of the finality of this judgment until fully paid, in line with prevailing jurisprudence.<sup>31</sup>

**WHEREFORE**, the Decision dated November 28, 2011 of the Court of Appeals in CA-G.R. CR-HC No. 04363 is **AFFIRMED** with the **MODIFICATION** in that exemplary damages in the amount of ₱30,000.00 is awarded, in addition to the ₱50,000.00 moral damages and ₱50,000.00 civil indemnity already imposed. These awards shall be for each count of Rape committed against AAA.

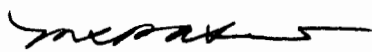
The award of damages shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of the judgment until fully paid.

**SO ORDERED.**



**BIENVENIDO L. REYES**  
Associate Justice

**WE CONCUR:**

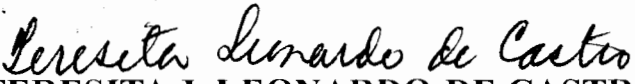


**MARIA LOURDES P. A. SERENO**  
Chief Justice  
Chairperson

<sup>29</sup> *People v. Lupac*, G.R. No. 182230, September 19, 2012, 681 SCRA 390, 402.

<sup>30</sup> *Supra* note 26, at 249.

<sup>31</sup> *Id.*

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

### **CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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