



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff -Appellee,

G.R. No. 192253

Present:

- versus -

CARPIO,* Acting CJ.,
LEONARDO-DE CASTRO,**
Acting Chairperson,
MENDOZA,***
REYES, and
PERLAS-BERNABE,**** JJ.

CARLITO ESPENILLA,
Accused-Appellant

Promulgated:

SEP 18 2013

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DECISION

LEONARDO-DE CASTRO, J.:

The present case is an appeal from the Decision¹ dated February 25, 2010 of the Court of Appeals in CA-G.R. CR.-H.C. No. 01830, entitled *People of the Philippines v. Carlito Espenilla*, which affirmed the Decision² dated March 3, 2005 of the Regional Trial Court (RTC) of Masbate City, Branch 44 in Criminal Case No. 9115. The trial court found appellant Carlito Espenilla guilty beyond reasonable doubt of the crime of simple rape as defined and penalized under Article 335 of the Revised Penal Code.

As stated in the Information³ dated March 30, 1999, the aforementioned crime was committed in the following manner:

That on or about October 20, 1995, at x x x, Province of Masbate, Philippines, within the jurisdiction of this Honorable Court, the above-named accused with lewd design and by means of violence and

* Per Special Order No. 1550 dated September 16, 2013.

** Per Special Order No. 1549 dated September 16, 2013.

*** Per Special Order No. 1545 dated September 16, 2013.

**** Per Special Order No. 1537 (Revised) dated September 6, 2013.

¹ *Rollo*, pp. 2-17; penned by Court of Appeals (CA) Associate Justice Jose C. Reyes, Jr. with Associate Justices Ricardo R. Rosario and Amy C. Lazaro-Javier, concurring.

² *CA rollo*, pp. 47-54.

³ *Id.* at 6.

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intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one AAA,⁴ a girl of 13 years old, against her will.

It should be noted that appellant was charged under Article 335 of the Revised Penal Code prior to its amendment by Republic Act No. 8353 or the “Anti-Rape Law of 1997” that reclassified and expanded the definition of rape, the provisions of which are now found in Articles 266-A to 266-D under Crimes Against Persons in the Revised Penal Code. This was in light of the fact that the alleged offense was committed prior to the effectivity of said amendment on October 22, 1997.

The case sprang from one of two complaints instituted by AAA with the aid of her father BBB who represented her since she was then a minor. The other complaint for rape was filed against AAA’s grandfather, CCC. The two criminal cases were tried jointly. However, the case against CCC was later dismissed by the trial court owing to the death of the accused.⁵

Upon his arraignment on November 18, 1999, appellant entered a plea of “not guilty.”⁶ Pre-trial of the case was held which was then followed by a trial on the merits. Only AAA testified for the prosecution while the defense offered BBB and the appellant as witnesses.

The facts of this case, as culled in the assailed February 25, 2010 Decision of the Court of Appeals, are as follows:

[A]t around 7:00 o’clock in the morning of October 20, 1995, while AAA, a Grade 2 pupil in Brgy. Balatucan Elementary School was left in their house in x x x, Masbate with her two younger siblings (as her father and stepmother were in the farm), accused-appellant Carlito Espenilla, who is the brother of her stepmother, arrived and asked her for a tobacco leaf and a newspaper. When AAA went inside the room to get what was asked of her, accused-appellant followed and closed the door behind him. While inside the room, accused-appellant who was then with a bolo, immediately undressed her by taking off her shorts and panty and at the same time warning her not to tell anyone about what is happening, otherwise, she will be killed. After she was undressed, accused-appellant unzipped his pants, put out his private organ, held her, and ordered her to lie down on the floor. With the unsheathed bolo beside them, accused-appellant inserted his penis into AAA’s vagina. AAA cried because of the pain but did not offer any resistance because accused-appellant was very strong and had a bolo that was placed beside her. Neither did she shout because there was no other person in the house (except her younger siblings). And besides, she knows that nobody would come to her rescue. With accused-appellant’s penis inside AAA’s private organ, he then made thrusting motions which lasted for about five (5) minutes and AAA felt something

⁴ In court decisions involving rape, the real name of the victim-survivor is withheld and fictitious initials are instead used to represent her. Personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate families or household members, shall likewise not be disclosed. (*See People v. Cabalquinto*, 533 Phil. 703 [2006].)

⁵ Records, p. 1.

⁶ Id. at 19.

come out from accused-appellant’s penis. When accused-appellant was done, he again warned AAA not to reveal the incident to anybody, otherwise, he would kill her and her family.

In the late afternoon or early evening of the same date, while AAA’s parents were not yet around, accused-appellant came back and raped her again for the second time. Again, she was threatened not to reveal to anyone said incident. Because of fear, she kept the incident to herself. She could not, however, keep it forever as she could no longer suffer in silence. Thus, she ran away from home and took refuge at the house of Brgy. Captain Floro Medina of the nearby barangay of Marintoc. It was there that she was able to unburden herself of her secret. Brgy. Captain Medina then summoned the victim’s father, BBB, and explained to him his daughter’s predicament. Thereafter, BBB accompanied his daughter to the Police Authorities of Mobo where she was investigated. She was also subjected to medical examination by Dr. Enrique O. Legaspi III who issued a Medico-Legal Certificate (Records, p. 81) dated January 7, 1999, with the following findings:

Name	:	AAA
Address	:	x x x, Mobo
Age	:	13
Sex	:	Female
Date and Time of Infliction	:	1995 (?) – 1996 (?)
Date and Time of Examination	:	January 7, 1999, 2:30 p.m.
Findings	:	Old healed hymenal laceration at 3, 6, 9, o’clock position. Admits two fingers with resistance.

A complaint was then lodged before the MCTC of Mobo-Milagros in connection with the aforesaid rape incident. Meanwhile, after AAA’s plight was brought to the attention of the Department of Social Welfare and Development (DSWD), AAA was taken from the house of Brgy. Captain Medina and was brought to the Bahay Ampunan of DSWD in Sorsogon where she stayed after the case was filed in Court.

On its turn to present evidence, the defense offered the testimony of the victim’s father BBB and the accused-appellant himself. BBB testified that he was the complainant in the cases filed against herein accused-appellant and CCC, the victim’s grandfather or BBB’s father. He narrated that he was made to believe by her daughter AAA that she was raped by the said two accused on different occasions. However, he allegedly came to realize that the story of rape was not true, that is why he wanted that if it is possible, the cases against the two accused be dismissed by the Court. He then proceeded to affirm and confirm the contents of the Affidavit of Recantation which he claimed he had previously executed. When cross-examined, BBB maintained that he filed the cases against the accused-appellant and CCC (AAA’s grandfather or BBB’s father) because his daughter AAA informed him that she was allegedly raped and not because of the misunderstanding regarding the administration of his father’s property. But when asked by the Court during a clarificatory hearing, BBB easily changed his answer and claimed that what he stated in his Affidavit of Recantation was the truth. That he merely forced his daughter AAA to say that she was raped by CCC and accused-appellant, so that the two will be put to jail. He went further and said that he came to

know that the person who actually raped his daughter was someone who was killed by the NPA.

When called to the witness stand, accused-appellant Carlito Espenilla, merely denied the accusation against him and claimed that the charge of rape was fabricated only because of a misunderstanding between him and BBB regarding his non-payment of the Php1,000.00 indebtedness he owed to BBB (the victim's father). Accused-appellant did not offer an alibi.⁷

Upon evaluation of the evidence, the trial court found credence in AAA's version of events and, thus, convicted appellant of the felony of simple rape. The dispositive portion of the assailed March 3, 2005 ruling read:

WHEREFORE, foregoing premises considered, the Court finds the accused CARLITO ESPENILLA, guilty beyond reasonable doubt of the crime of Rape, defined and penalized under Article 335 of the Revised Penal Code and is hereby sentenced to suffer the penalty of Reclusion Perpetua to pay the amount of ₱50,000.00 as civil indemnity, ₱50,000.00 for moral damages, or a total amount of ₱100,000.00, and to pay the costs.

The accused being a detention prisoner, his detention shall be credited in full in the service of his sentence.⁸

Appellant then elevated his case to the Court of Appeals in the hope that his conviction would be reversed. However, the Court of Appeals merely affirmed the trial court's ruling in the assailed February 25, 2010 Decision, the dispositive portion of which provided:

WHEREFORE, in view of the foregoing, the appealed Decision dated March 3, 2005 of the Regional Trial Court (RTC) of Masbate City, Branch 44 in Criminal Case No. 9115 finding herein accused-appellant Carlito Espenilla guilty beyond reasonable doubt of the crime of rape, sentencing him to Reclusion Perpetua and ordering him to pay the amount of Php50,000.00 as civil indemnity; Php50,000.00 as moral damages and costs is hereby **AFFIRMED**.⁹

Hence, appellant questions before us the foregoing affirmance of his guilt by propounding the following assignments of error:

I

THE COURT A QUO GRAVELY ERRED IN GIVING FULL CREDENCE TO THE TESTIMONY OF THE PRIVATE COMPLAINANT.

⁷ Rollo, pp. 3-6.

⁸ CA rollo, p. 54.

⁹ Rollo, p. 16.

II

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME OF RAPE DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.¹⁰

After an assiduous review, we find the present appeal to be without merit.

To reiterate, the incident of rape involved in this case occurred before the enactment of Republic Act No. 8353 and the applicable provision of law is Article 335 of the Revised Penal Code:

Art. 335. *When and how rape is committed.* – Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age or is demented.

Based on the foregoing provision, the elements of rape under Article 335 of the Revised Penal Code are: (1) the offender had carnal knowledge of the victim; and (2) such act was accomplished through force or intimidation; or when the victim is deprived of reason or otherwise unconscious; or when the victim is under 12 years of age.¹¹

The records of this case reveal that the prosecution has sufficiently demonstrated that there is ample evidence to prove that appellant had carnal knowledge of the then minor victim through the use of force and intimidation. The testimony of AAA pertaining to the rape incident at issue articulates in blunt detail her horrific experience at the hands of appellant. The pertinent portion of her testimony is quoted here:

[PROSECUTOR] ALFORTE

Q While you and the accused were inside the house, what happened?
A He undressed me.

Q In what part of the house the accused undressed you? Do you have a room?
A There was a room.

Q Were you undressed inside the room of that house?
A Yes, sir.

¹⁰ CA rollo, p. 34.

¹¹ *People v. Manjares*, G.R. No. 185844, November 23, 2011, 661 SCRA 227, 242.

Q How about your younger brother, where was he at that time?
A My younger brother cried.

Q Where was he, inside or outside the bedroom?
A Outside the bedroom.

Q Was the accused armed at that time he undressed you?
A Yes, sir.

Q What kind of instrument?
A A bolo.

COURT

Q What did he do with that bolo?
A When I was already nude, he placed the bolo beside me.

Q You told the court that you were told by the accused to undress yourself. Were you able to undress yourself?
A He was the one [who] undressed me.

Q Did he succeed in undressing you?
A Yes, sir.

Q Completely?
A My shorts and my panty.

Q After you were undressed by him, what did the accused do?
A He unzipped his pants and put out his male organ.

Q Did he tell you anything when he undressed you?
A Yes, your Honor.

Q What did he tell you?
A He told me not to reveal this matter, because if I will reveal this to anybody, he is going to kill me.

[PROSECUTOR] ALFORTE

Q When the accused was already undressed and allow his penis to go out, what did he do next?
A He held my breast and inserted his penis.

COURT

Q Can you tell us what was your position whether sitting, standing or what?
A I was made to lie down.

[PROSECUTOR] ALFORTE

Q You want to impress the court... the Honorable Court when the accused inserted his male organ or penis, you were lying down?
A Yes, sir.

COURT

Q On bed or on the floor?

A On the floor.

Q Did you cry when the accused inserted his penis in your vagina?

A Yes, sir.

Q Did you tell anything to the accused before he inserted his penis in your vagina?

A Yes, sir.

Q What did you tell him?

A I told him it is painful.

COURT

Q You did not resist?

A I did not resist because he is very strong.

Q Where was the bolo at the time?

A Beside me.

x x x x

[PROSECUTOR] ALFORTE

Q Was it unsheathed from the scabbard?

A [It] was unsheathed from the scabbard.¹²

It is a settled doctrine in our jurisprudence that in a prosecution for rape, the accused may be convicted solely on the basis of the testimony of the victim that is credible, convincing, and consistent with human nature and the normal course of things.¹³ It is likewise elementary that the issue of credibility of witnesses is resolved primarily by the trial court since it is in a better position to decide the same after having heard the witnesses and observed their conduct, deportment and manner of testifying; accordingly, the findings of the trial court are entitled to the highest degree of respect and will not be disturbed on appeal in the absence of any showing that it overlooked, misunderstood, or misapplied some facts or circumstances of weight or substance which would otherwise affect the result of the case.¹⁴ In other words, as we have repeatedly declared in the past, the trial judge's evaluation, which the Court of Appeals affirmed, binds the Court, leaving to the accused the burden to bring to the Court's attention facts or circumstances of weight that were overlooked, misapprehended, or misinterpreted by the lower courts but would materially affect the disposition of the case differently if duly considered.¹⁵ Unfortunately, appellant failed to discharge this burden.

¹² TSN, October 12, 2001, pp. 5-7.

¹³ *People v. Viojela*, G.R. No. 177140, October 17, 2012, 684 SCRA 241, 251.

¹⁴ *People v. Batula*, G.R. No. 181699, November 28, 2012, 686 SCRA 575, 583.

¹⁵ *People v. Abrencillo*, G.R. No. 183100, November 28, 2012, 686 SCRA 592, 597-598.

We find that the testimony of AAA was indeed delivered in a clear and straightforward manner; thus, the same is worthy of the belief that was bestowed upon it by the trial court and later by the Court of Appeals. As borne out of the records of this case, AAA never wavered in her allegations of rape against appellant. Furthermore, conventional wisdom cemented in jurisprudence dictates that no young Filipina would publicly admit that she had been criminally abused and ravished unless it is the truth, for it is her natural instinct to protect her honor; and that no young girl would concoct a tale of defloration, allow the examination of her private parts and undergo the expense, trouble and inconvenience, not to mention the trauma and scandal of a public trial, unless she was, in fact, raped.¹⁶

With regard to appellant's assertion that the considerable amount of time which elapsed between the rape and AAA's act of reporting said incident gives rise to doubt as to the veracity of the charge, this argument deserves scant consideration since it is already doctrinally settled that delay in reporting rape incidents, in the face of threats of physical violence, cannot be taken against the victim.¹⁷

Lastly, we declare that the Affidavit of Recantation¹⁸ executed by BBB, AAA's father, fails to convince considering that the said document, which seeks to exculpate appellant from the charge of rape, was unsubstantiated by clear and convincing evidence. In both his affidavit and testimony, BBB intimated that the rape incident at issue was merely a fabrication concocted by him and AAA so that he could get back at CCC and appellant with both of whom he had a misunderstanding over the management of certain real properties.

Courts have long been skeptical of recantations of testimonies for as we explained in *People v. Nardo*¹⁹:

A recantation of a testimony is exceedingly unreliable, for there is always the probability that such recantation may later on be itself repudiated. Courts look with disfavor upon retractions, because they can easily be obtained from witnesses through intimidation or for monetary consideration. A retraction does not necessarily negate an earlier declaration. x x x. (Citation omitted.)

Indeed, jurisprudence is replete with instances where the recantation of testimony by the rape victim herself was not accepted by the Court when her previous testimony appeared more trustworthy and believable.²⁰

¹⁶ *People v. Estoya*, G.R. No. 200531, December 5, 2012, 687 SCRA 376, 386-387.

¹⁷ *People v. De los Reyes*, G.R. No. 177357, October 17, 2012, 684 SCRA 260, 279.

¹⁸ Records, p. 94.

¹⁹ 405 Phil. 826, 842 (2001).

²⁰ *People v. Teodoro*, G.R. No. 175876, February 20, 2013; *People v. Bulagao*, G.R. No. 184757, October 5, 2011, 658 SCRA 746; *People v. Sumingwa*, G.R. No. 183619, October 13, 2009, 603 SCRA 638; *People v. Deauna*, 435 Phil. 141 (2002).

In *People v. Bulagao*,²¹ we reiterated the rationale for upholding a rape victim's original testimony over that of her subsequent recantation in this wise:

In rape cases particularly, the conviction or acquittal of the accused most often depends almost entirely on the credibility of the complainant's testimony. By the very nature of this crime, it is generally unwitnessed and usually the victim is left to testify for herself. When a rape victim's testimony is straightforward and marked with consistency despite grueling examination, it deserves full faith and confidence and cannot be discarded. If such testimony is clear, consistent and credible to establish the crime beyond reasonable doubt, a conviction may be based on it, notwithstanding its subsequent retraction. Mere retraction by a prosecution witness does not necessarily vitiate her original testimony.

A retraction is looked upon with considerable disfavor by the courts. It is exceedingly unreliable for there is always the probability that such recantation may later on be repudiated. It can easily be obtained from witnesses through intimidation or monetary consideration. Like any other testimony, it is subject to the test of credibility based on the relevant circumstances and, especially, on the demeanor of the witness on the stand. (Citation omitted.)

Thus, with more reason, we cannot ascribe any weight to the recantation of the charges by the victim's father when the victim's own categorical testimony remains on record. Alternatively put, unless supported by clear and convincing evidence, BBB's recantation cannot prevail over the positive declaration of rape made by AAA.

In view of the foregoing, we therefore affirm the conviction of appellant with the modification that exemplary damages in the amount of ₱30,000.00, in addition to the amount of civil indemnity and moral damages previously granted, should also be awarded to AAA in line with prevailing jurisprudence.²²

WHEREFORE, premises considered, the Decision dated February 25, 2010 of the Court of Appeals in CA-G.R. CR.-H.C. No. 01830, finding appellant Carlito Espenilla guilty in Criminal Case No. 9115, is hereby **AFFIRMED** with **MODIFICATIONS**, to wit:

(1) Appellant Carlito Espenilla is ordered to pay Thirty Thousand Pesos (₱30,000.00) as exemplary damages; and

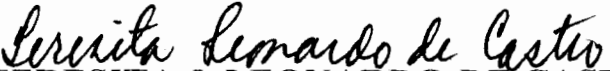
(2) Appellant Carlito Espenilla is further ordered to pay the private offended party interest on all damages awarded at the legal rate of six percent (6%) *per annum* from the date of finality of this judgment.

No pronouncement as to costs.

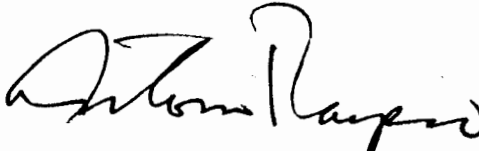
²¹ Id. at 755-756 citing *People v. Sumingwa*, id. at 649-650.

²² *People v. Viojela*, supra note 13 at 258.

SO ORDERED.

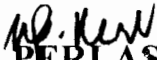

TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

WE CONCUR:


ANTONIO T. CARPIO
Acting Chief Justice



JOSE CATRAL MENDOZA
Associate Justice


BIENVENIDO L. REYES
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.

A handwritten signature in black ink, appearing to read 'Antonio T. Carpio', written in a cursive style.

ANTONIO T. CARPIO
Acting Chief Justice