

THIRD DIVISION

[G.R. No. 255387. March 29, 2023]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. XYZ, * ACCUSED-APPELLANT.

D E C I S I O N

INTING, J.:

Before the Court is an appeal^[1] assailing the Decision^[2] dated August 24, 2020 of the Court of Appeals (CA) in CA-G.R. CR HC No. 13339. The CA affirmed with modification the Joint Decision^[3] dated December 14, 2018 of Branch [REDACTED], Regional Trial Court (RTC), [REDACTED], Zambales, in Criminal Case Nos. RTC-11169-I and RTC-11170-I^[4] that found XYZ (accused-appellant) guilty beyond reasonable doubt of two (2) counts of Rape, defined and penalized under paragraph 1(a), Article 266-A, in relation to paragraph 6(1), Article 266-B, of the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 8353.^[5]

The Antecedents

Accused-appellant was charged with two (2) counts of Rape in two separate Informations as follows:^[6]

Criminal Case No. RTC-11169-I

“That on or about the month of May 2016, at about 12:00 noon, in [REDACTED] Province of Zambales, Philippines and within the jurisdiction of the Honorable Court, the said accused, who is the live-in partner of her aunt and with whom AAA is staying and living within the same house, with lewd design and through force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of AAA, who was then a 16-year old minor, against her will and consent, to the damage and prejudice of the latter.

Contrary to law.^[7]

Criminal Case No. RTC-11170-I

“That on or about the 27th of August 2017, at about 8:00 in the morning, in [REDACTED] Province of Zambales, Philippines and within the jurisdiction of the Honorable Court, the said accused, who is the live-in partner of her aunt and with whom AAA is staying and living within the same house, with lewd design and through force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of 17-year old AAA, against her will and consent, to the damage and prejudice of the latter.

Contrary to law.^[8]

Upon arraignment, accused-appellant pleaded “not guilty” to the charges. Joint trial on the merits ensued.^[9]

Version of the Prosecution

As early as when AAA was only 10 years old, she has been under the custody and care of her aunt, BBB, after AAA’s father abandoned her and her mother became seriously ill. AAA and BBB lived with accused appellant, who is the common-law spouse of BBB.^[10]

Sometime in May of 2016, AAA was left alone with accused-appellant at their house. Taking advantage of the situation, accused-appellant dragged AAA into a room and proceeded to undress her. He then started kissing her neck, caressing her genitals, and fondling her breasts. He pulled out his penis and masturbated in front of her. When his penis became hard enough, accused-appellant proceeded to have carnal knowledge of AAA. After the incident, accused-appellant started exhibiting his penis to AAA.^[11]

According to AAA, the first rape occurred in May 2016, and other rape incidents happened in a grassy area under the Arosep tree.^[12]

The last incident of rape happened on August 27, 2017. Accused-appellant again dragged AAA into a room of the house and ordered her to masturbate him. Then, accused-appellant told her to lie on the floor and proceeded to have carnal knowledge of her. After satisfying

himself, accused-appellant threatened AAA that he would send her away or kill her if she told anyone about what happened.^[13]

On August 28, 2017, while AAA helped BBB with the laundry at the irrigation canal, she revealed to her the sexual abuse she experienced from accused-appellant.^[14]

Thus, the prosecution filed two (2) Informations for Rape against accused-appellant. The first Information was for the May 2016 raped incident; while the second Information was for the August 27, 2017, rape incident.

Version of the Defense

Accused-appellant denied the accusations against him. He averred that the sole purpose of the rape charges against him was for BBB to get rid of him and to sell his farm animals.^[15]

The Ruling of the RTC

In a Joint Decision^[16] dated December 14, 2018, the RTC found accused-appellant guilty beyond reasonable doubt of Rape in Criminal Case Nos. RTC-11169-I and RTC-11170-I. It gave full credence to the testimony of AAA and held that the prosecution was able to establish all the elements of Rape. It further held that accused-appellant's denial deserves no weight and cannot prevail over AAA's positive identification of accused-appellant as the rapist.^[17]

The dispositive portion of the Joint Decision states:

WHEREFORE, premises considered judgment is hereby rendered finding accused [XYZ]:

1. GUILTY beyond reasonable doubt of the crime of Rape as charged in Crim. Case No. RTC-11169-I and hereby sentenced to suffer the penalty of *Reclusion Perpetua*.

The accused is ordered to pay AAA in said case Php75,000.00 as civil indemnity, Php50,000.00 as moral damages and Php30,000.00 as exemplary damages with interest of 6% *per*

annum on such awards reckoned from the finality of this decision until full payment.

2. GUILTY beyond reasonable doubt of the crime of Rape as charged in Crim. Case No. RTC-11170-I and is hereby sentenced to suffer the penalty of *Reclusion Perpetua*.

The accused is ordered to pay AAA in said case Php75,000.00 as civil indemnity, Php50,000.00 as moral damages and Php30,000.00 as exemplary damages with interest of 6% *per annum* on such awards reckoned from the finality of this decision until full payment.

SO ORDERED.^[18] (Emphases omitted.)

Aggrieved, accused-appellant appealed to the CA.^[19]

The Ruling of the CA

In its Decision^[20] dated August 24, 2020, the CA denied accused appellant's appeal and affirmed with modification the RTC Decision as to the penalty imposed and award of damages, *viz.*:

WHEREFORE, premises considered, the appeal is hereby DISMISSED. The Joint Decision of the Regional Trial Court, Branch [REDACTED] Zambales, in Criminal Case Nos. RTC-11169-I and RTC11170-I, dated 14 December 2018 is UPHELD and AFFIRMED with the following MODIFICATIONS:

1. Judgment is hereby rendered finding accused, [XYZ], GUILTY beyond reasonable doubt of the crime of qualified rape as charged in Crim. Case No. RTC-11169-[I] and is hereby sentenced to suffer the penalty of *reclusion perpetua*, without the eligibility of parole.

The accused is ordered to pay AAA in said case Php 100,000.00

as civil indemnity, Php 100,000.00 as moral damages and Php 100,000.00 as exemplary damages with interest of 6% per annum on such awards reckoned from the finality of this decision until full payment.

2. Judgment is hereby rendered finding accused, [XYZ], GUILTY beyond reasonable doubt of the crime of qualified rape as charged in Crim. Case No. RTC-11170-[I] and is hereby sentenced to suffer the penalty of *reclusion perpetua*, without the eligibility of parole.

The accused is ordered to pay AAA in said case Php 100,000.00 as civil indemnity, Php 100,000.00 as moral damages and Php 100,000.00 as exemplary damages with interest of 6% *per annum* on such awards reckoned from the finality of this decision until full payment.

SO ORDERED.^[21] (Emphases omitted.)

The CA found that the prosecution, through the testimonies of AAA and the Medico-Legal Officer, established that accused-appellant had carnal knowledge of AAA. However, the CA qualified the crime committed by emphasizing on the peculiar relationship between AAA and accused-appellant, and AAA's age of minority at the time of the incidents.^[22] The CA noted that the crime of Qualified Rape would have been punishable by death penalty^[23] were it not for the enactment of RA 9346.^[24]

Hence, the present appeal.

On May 3, 2021, the Court issued a Resolution,^[25] notifying the parties that they may file their respective supplemental briefs, if they so desired. The Office of the Solicitor General (OSG), in its Manifestation and Motion,^[26] stated that it will no longer file a supplemental brief as it had already addressed the issues and arguments through its Appellee's brief filed before the CA. Similarly, accused-appellant in his Manifestation (In Lieu of Supplemental Brief)^[27] manifested that he will no longer file a supplemental brief and will adopt the brief for the Appellant filed before the CA.

In his Brief for the Accused-Appellant,^[28] accused-appellant denied the charges. He alleged that the RTC erred in giving credence to the testimonies of the prosecution witnesses, as they were incredible and inconsistent on material points. He pointed out AAA's delay in reporting the incident to her aunt, relatives or proper authorities; and the discrepancies in her testimony regarding the place where she confided to her aunt the alleged rape incidents. Lastly, accused-appellant asserted that it is contrary to logic, common sense, and human experience that BBB stayed with him even after she learned of the heinous crime committed against her niece, AAA. Accused-appellant maintained that the criminal cases were filed to compel him to sell his goats, pigs, and chickens.^[29]

On the other hand, the OSG in its Brief for the Plaintiff-Appellee^[30] submitted that it proved the crime of Rape beyond reasonable doubt against accused-appellant. In response to accused-appellant's contentions, the OSG argued that the delay in AAA's reporting of the incident might be attributable to her age and accused-appellant's threats against her life and her sister's.^[31] Furthermore, the inconsistency in AAA's testimony did not affect her assertions, and the categorical and affirmative declaration of the acts constituting the crime made the ill motives alleged by accused-appellant insignificant. It also pointed out that the witnesses' testimonies were corroborated by physical evidence, the Medico-Legal Report, which showed hymenal lacerations in AAA's private part. It maintained that the RTC's findings on the credibility of AAA's testimony must be given respect for the trial court had the opportunity to observe her demeanor and behavior during trial. The OSG likewise emphasized that mere denial cannot prevail over positive and categorical testimony of the witness.^[32]

The Issue

The core issue to be resolved is whether accused-appellant is guilty beyond reasonable doubt of the crime of Rape.

The Court's Ruling

The appeal is bereft of merit.

The CA convicted accused-appellant of two (2) counts of Qualified Rape under paragraph 1, Article 266-A of the RPC, in relation to Article 266-B, of the RPC, as amended by RA 8353.

Article 266-A states:

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.

The elements of Rape were established by the prosecution.

The standpoint of trial courts in observing personally the witnesses presented before them, assessing their credibility, and their deportment is given utmost respect.^[33]

The following elements must be established to support a conviction for rape: “(1) the offender had carnal knowledge of a woman; and (2) the offender accomplished such act through force or intimidation, or when the victim was deprived of reason or otherwise unconscious, or when she was under twelve (12) years of age or was demented.”^[34] Here, all the elements of Rape were sufficiently proven by the prosecution.

As discussed in *People v. Bay-od*,^[35] “carnal knowledge has been defined as the act of man having sexual body connections with a woman; sexual intercourse.”^[36] It was further elaborated in *People v. Agao*,^[37] which states that:

[R]ape of a female victim by a male person through penile penetration reaches

the consummated stage as soon as the penis penetrates the cleft of the *labia majora*, also known as the *vulval* or *pudendal* cleft, or the fleshy outer lip of the *vulva*, in even the slightest degree.^[38]

In Criminal Case No. RTC-11169-I, the prosecution established that accused-appellant dragged AAA into a room in their house, kissed her, and caressed and fondled her breasts. He then pulled out his penis to masturbate; and when it became hard, he inserted it inside AAA's vagina. Further, in Criminal Case No. RTC-11170-I, accused-appellant also dragged AAA into a room and ordered her to masturbate his penis. After which, he ordered her to lie on the floor, put himself on top of her, and inserted his penis into her vagina. In both incidents, after completing his dastardly acts, accused-appellant threatened to kill AAA and her sister, or to send her away if she would report the sexual abuse to her aunt or anybody.^[39]

Jurisprudence dictates that full credence is given to an innocent child who testified as to his or her own narrative of abuse.^[40]

Moreover, the Medico-Legal Certificate issued by Dr. Jaywell Esmende shows that there were healed lacerations on the private parts of AAA. The medical finding corroborated AAA's testimony that accused-appellant raped her.^[41] The Court reiterates that hymenal lacerations, whether healed or fresh, are the best evidence of carnal knowledge.^[42] Hence, the conjunction of AAA's testimony and the medico-legal report is sufficient to sustain accused-appellant's conviction.^[43]

The Court finds no error in giving credence to the testimonies of the witnesses by the trial court.

Accused-appellant asserts that the testimonies of the prosecution witnesses are incredible and contrary to human instinct and experience.^[44]

The Court is not persuaded.

First, AAA's failure to report immediately the rape incidents does not take away the fact that the crimes of Rape were perpetrated against her.^[45] In the case, AAA was threatened by accused-appellant to be either killed or sent away if she divulged the rape incidents. As

such, her silence borne out of fear for her life could not be considered to be contrary to human instinct and experience. As declared in *People v. Gacusan*,^[46] people have different reactions in a particular type of situation; there exists no standard form of human behavioral response when one is faced in an unsettling or scary situation.^[47]

Second, collateral matters, such as the specific place where AAA disclosed the incident of her abuse to her aunt, and her continued living with accused-appellant in one house after the rape incidents, are not considered material to the case. It is the unequivocal testimony of the victim, narrating the principal elements of the crime of Rape, which is carnal knowledge of a woman through force, threat or intimidation, and her positive identification of the accused as the perpetrator that is important.^[48]

Simple Rape and not Qualified Rape is the proper designation of crime in the case.

The CA affirmed with modification accused-appellant's conviction. It qualified the crime of rape when it took into consideration the relationship of accused-appellant and AAA and the latter's minority. The CA in its decision explained:

However, We cannot help but notice the need to further qualify the crimes committed from simple rape to qualified rape. This case perfectly falls well within Article 266-B, as cited above.

As alleged in both of the Informations, AAA and accused-appellant do have a peculiar relationship producing a circumstance where moral ascendancy is present - at ten (10) years old, due to an abandoning father and a severely ill mother, AAA was taken into custody by her Aunt BBB. Through the years, AAA lived with and under the care and guardianship of her Aunt BBB, along with the latter's common law spouse, herein accused-appellant. Also alleged in both of the Informations is the minority of AAA when the crime of rape was committed against her - she was then sixteen (16) and seventeen (17) years of age, respectively.^[49]

Article 266-B of the RPC provides that rape is qualified if the victim is under 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.

Here, there is no dispute on AAA's age of minority when the rape incidents happened.^[50] However, the Court disagrees with the finding of the CA that the relationship between accused-appellant and AAA is similar to a guardian-ward or uncle-niece relationship. Jurisprudence holds that the application of the word "guardian" in the crime of rape must be restrictive because it imposes the highest penalty which is death^[51]. For that reason, *People v. Flores*^[52] (*Flores*) states the following:

Circumstances that qualify a crime and increase its penalty to death cannot be subject of stipulation. The accused cannot be condemned to suffer the extreme penalty of death on the basis of stipulations or admissions. This strict rule is warranted by the gravity and irreversibility of capital punishment. To justify the death penalty, the prosecution must specifically allege in the information and prove during the trial the qualifying circumstances of minority of the victim and her relationship to the offender.^[53]

It was further held in *Flores* that:

Garcia was more direct in addressing the issue of when the accused will be considered a "guardian" as a qualifying circumstance in the crime of rape. In said case, appellant therein raped a 12-year-old girl. The victim was left to the care of appellant, who is the live-in partner of the victim's aunt. The issue of whether appellant is considered a guardian in the contemplation of the amendment to the law on rape such that, the victim being a minor, he should be punished with the higher penalty of death for the nine (9) crimes of rape was answered in the negative by the Court. The underlying reason behind its ruling was explained in this discourse:

In the law on rape, the role of a guardian is provided for in Article 344 of the Revised Penal Code, specifically as one who, aside from the offended party, her parents or grandparents, is authorized to file the sworn written complaint to commence the prosecution for that crime. In *People vs. De la Cruz*, it was held that the guardian referred to in

the law is either a legal or judicial guardian as understood in the rules on civil procedure.

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It would not be logical to say that the word “guardian” in the third paragraph of Article 344 which is mentioned together with parents and grandparents of the offended party would have a concept different from the “guardian” in the recent amendments of Article 335 where he is also mentioned in the company of parents and ascendants of the victim. In Article 344, the inclusion of the guardian is only to invest him with the power to sign a sworn written complaint to initiate the prosecution of four crimes against chastity, while his inclusion in the enumeration of the offenders in Article 335 is to authorize the imposition of the death penalty on him. With much more reason, therefore, should the restrictive concept announced in *De la Cruz*, that is, that he be a legal or judicial guardian, be required in the latter article.^[54]

Thus, even though AAA had lived under the same roof with accused-appellant, who is the common-law husband of her aunt (BBB), accused-appellant cannot be regarded as AAA’s guardian for the purpose of qualifying the crime of rape. Pronouncement of a crime that would have resulted in the death penalty^[55] must undergo rigorous measures with absolute regard to the circumstances presented and proved by the parties ma case.

At any rate, the qualifying circumstance of being a guardian was not even mentioned in the Informations. What was clearly stated was that accused-appellant was the “live-in partner of [AAA’s] aunt and with whom [AAA] is staying and living within the same house.”

Thus, the Court finds accused-appellant guilty of Simple Rape, and accordingly modifies the penalty imposed by the CA. The Court sentences him to suffer the penalty of *reclusion perpetua* pursuant to Article 266-B of the RPC.

The Court also modifies the CA’s award of damages. Following the case of *People v. Jugueta*,^[56] accused-appellant shall be liable for civil indemnity, moral damages, and

exemplary damages in the amounts of P75,000.00 each for every count of Rape committed against AAA. All damages awarded shall earn legal interest at the rate of 6% *per annum* from the finality of this Decision until fully paid.^[57]

WHEREFORE, the appeal is **DENIED**. The Decision dated August 24, 2020 of the Court of Appeals in CA-G.R. CR HC No. 13339 is **AFFIRMED with MODIFICATION**.

Accordingly, judgment is hereby rendered finding accused-appellant XYZ:

1. **GUILTY** beyond reasonable doubt of the crime of Simple Rape in Criminal Case No. RTC-11169-I and is hereby sentenced to suffer the penalty of *reclusion perpetua*. He is also ordered to pay the victim, AAA, P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages.
2. **GUILTY** beyond reasonable doubt of the crime of Simple Rape in Criminal Case No. RTC-11170-I and is hereby sentenced to suffer the penalty of *reclusion perpetua*. He is also ordered to pay the victim, AAA, P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages.

All damages awarded shall earn legal interest at the rate of 6% *per annum* from the finality of this Decision until fully paid.

SO ORDERED.

Caguioa, (Chairperson), Gaerlan, Dimaampao, and Singh, JJ., concur.

* The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, "An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation and For Other Purposes;" RA 9262, "An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and For Other Purposes;" Section 40 of Administrative Matter No. 04-10-11-SC, known as the "Rule on Violence against Women and Their Children," effective November 15, 2004; **People v. Cabalquinto**, 533 Phil. 703 (2006); and Amended Administrative Circular

No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

^[1] See Notice of Appeal filed on September 29, 2020, *rollo*, p. 19.

^[2] *Id.* at 4-18. Penned by Associate Justice Marlene Gonzales-Sison and concurred in by Associate Justices Pablito A. Perez and Walter S. Ong.

^[3] *CA rollo*, pp. 36-43. Penned by Judge Marifi P. Chua.

^[4] Delineated as Criminal Case Nos. RTC-11169-I and RTC-11170-I in some parts of the *rollo*.

^[5] The Anti-Rape Law of 1997, approved on September 30, 1997.

^[6] *Rollo*, p. 5, CA Decision.

^[7] As culled from the CA Decision; *id.*

^[8] As culled from the CA Decision; *id.*

^[9] *Id.*

^[10] *Id.* at 6.

^[11] *Id.*

^[12] *Id.*

^[13] *Id.* at 6-7.

^[14] *Id.* at 6.

^[15] *Id.* at 7.

^[16] *CA rollo*, pp. 36-43.

^[17] *Id.* at 41-42, RTC Decision.

^[18] *Id.* at 42-43.

^[19] See Notice of Appeal with Motion to Litigate as Pauper filed on January 22, 2019; *id.* at

13-14.

[20] *Rollo*, pp. 4-18.

[21] *Id.* at 17.

[22] *Id.* at 12-13.

[23] *Id.* at 16 and 19.

[24] Entitled, “An Act Prohibiting the Imposition of Death Penalty in the Philippines,” approved on June 24, 2006.

[25] *Rollo*, pp. 27-28.

[26] *Id.* at 37.

[27] *Id.* at 29.

[28] *CA rollo*, pp. 21-33.

[29] *Id.* at 27-31.

[30] *Id.* at 55-65.

[31] *Id.* at 62-63.

[32] *Id.* at 63-64.

[33] See **People v. Lumikid**, **G.R. No. 242695**, June 23, 2020.

[34] **People v. XXX**, **G.R. No. 232308**, October 7, 2020.

[35] **G.R. No. 238176**, January 14, 2019.

[36] *Id.*, citing **People v. Borneo**, 292-A Phil. 691, 704 (1993).

[37] **G.R. No. 248049**, October 4, 2022.

[38] *Id.* Citation omitted.

[39] *Rollo*, pp. 6-7, CA Decision.

^[40] **People v. Baraga**, 735 Phil. 466,472 (2014).

^[41] See *rollo*, p. 12.

^[42] **People v. Bachiller**, G.R. No. 240700 (Notice), November 4, 2020.

^[43] See **People v. Gratela**, G.R. No. 225961, January 6, 2020.

^[44] CA *rollo*, pp. 27-29, Brief for the Accused-Appellant.

^[45] See **People v. Publico**, 664 Phil. 168, 183 (2011).

^[46] 809 Phil. 773 (2017).

^[47] *Id.* at 784.

^[48] See **People v. Gerola**, 813 Phil. 1055, 1066 (2017).

^[49] *Rollo*, p. 13.

^[50] CA *rollo*, pp. 25-26, Brief for the Accused-Appellant.

^[51] **People v. Flores**, 643 Phil. 683 (2010).

^[52] *Id.*

^[53] *Id.* at 699, citing **People v. Dalipe**, 633 Phil. 428, 443 (2010).

^[54] *Id.* at 700-701.

^[55] See *rollo*, p. 16. See also Sec. 2, Republic Act No. 9346 which states:

SEC. 2. In lieu of the death penalty, the following shall be imposed.

(a) the penalty of *reclusion perpetua*, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code; or

(b) the penalty of life imprisonment, when the law violated does not make use of the nomenclature of the penalties of the Revised Penal Code.

^[56] 783 Phil. 806, 849 (2016)

^[57] *Id.* at 854.

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