

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. XXX,[] ACCUSED-APPELLANT.

G.R. No. 205888. August 22, 2018

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CAGUIOA, J:

This is an appeal[1] filed under Section 13(c), Rule 124 of the Rules of Court from the Decision[2] dated April 19, 2012 (questioned Decision) of the Court of Appeals - Cebu City, Nineteenth Division (CA), in CA-G.R. CR-HC No. 00332, which affirmed in part the Joint Decision[3] dated February 16, 2005 (RTC Decision) of the Regional Trial Court of Bais City, Branch 45 (RTC) in Criminal Case Nos. F-02-03-A, F-02-01-A, F-2001-171-A, F-02-02-A, and F-2001-170-A, convicting herein accused-appellant XXX for three (3) counts of Rape.

The Facts

Four (4) separate Informations for Rape and one (1) Information for Attempted Rape were filed in the RTC against XXX, as follows:

CRIMINAL CASE NO. F-02-03-A (For: Attempted Rape)

That on or about the 18[th] day of July, 1999 in the Municipality of Ayungon, Negros Oriental, Philippines, and within the jurisdiction of the Honorable Court, the said accused, being the father of the 16-year-old girl, [AAA],[4] and taking advantage of his ascendancy and influence over his daughter did then and there, willfully, unlawfully and feloniously with the use of force, violence and intimidation, commence to commit the crime of rape directly by overt acts to wit: that while [AAA] was sleeping in their house, accused suddenly covered her mouth with his hand, forcibly took off her short and panty, then thereafter, accused mounted his body over his daughter's body, then proceeded to the push and pull movement over her body, accused endeavoring to have sexual intercourse with his daughter but not succeeding thereat because of the struggle of his daughter [AAA] and her persistent resistance. Thus, the said accused has commence (sic) the execution of which would have produce (sic) the said crime for reason of some cause other than his spontaneous desistance.

Contrary to Article 266-A in relation to Article 5 and 51 of the Revised Penal Code.[5]

CRIMINAL CASE NO. F-02-01-A (For: Rape)

That on or about the 8[th] day of April, 2001, in the municipality of Ayungon, Negros Oriental, Philippines, and within the jurisdiction of the Honorable Court, the said accused being the father of the 16-year-old girl, (AAA), and taking advantage of his ascendancy and influence over his daughter, did then and there willfully, unlawfully and feloniously, with the use of force, violence and intimidation, have sexual intercourse with his daughter [AAA] against her will.

Contrary to Article 335 of the Revised Penal Code.[6]

CRIMINAL CASE NO. F-2001-171-A (For: Rape)

That on or about the 15[th] day of April, 2001, at about 7:00 o'clock in the evening, in the municipality of

Ayungon, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the said accused being the father of the 16-year-old girl, [AAA], and taking advantage of his ascendancy and influence over her (sic) daughter, did then and there willfully, unlawfully and feloniously, with the use of force, violence and intimidation, have sexual intercourse with his daughter [AAA] against her will.

Contrary to Article 335 of the Revised Penal Code, as amended.[7]

CRIMINAL CASE NO. F-02-02-A (For: Rape)

That on or about the 15th day of April, 2001, at about 9:00 o'clock in the evening, in the municipality of Ayungon, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the said accused being the father of the 16-year-old girl, [AAA], and taking advantage of his ascendancy and influence over her (sic) daughter, did then and there willfully, unlawfully and feloniously, with the use of force, violence and intimidation, have sexual intercourse with his daughter [AAA] against her will.

Contrary to Article 335 of the Revised Penal Code, as amended.[8]

CRIMINAL CASE NO. F-2001-170-A (For: Rape)

That on or about the 15th day of April, 2001, at about 12:00 o'clock midnight, in the municipality of Ayungon, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the said accused being the father of the 16-year-old girl, [AAA], and taking advantage of his ascendancy and influence over her (sic) daughter, did then and there willfully, unlawfully and feloniously, with the use of force, violence and intimidation, have sexual intercourse with his daughter [AAA] against her will.

Contrary to Article 335 of the Revised Penal Code, as amended.[9]

Upon arraignment, XXX pleaded "not guilty" to all charges.[10] Trial on the merits ensued thereafter. During trial, the victim, AAA, died on January 4, 2003 before she could be subjected to cross-examination.[11]

As summarized in the RTC Decision, the antecedents are as follows:

In her direct testimony, [AAA] testified that the accused is her father, and she is the eldest of the three children. Her younger brother [BBB] is 13 years old, and the youngest, [CCC] is 7 years old. She recalled that in the evening of July 18, 1999, her mother was in Dumaguete City to sell mats, and when they settled for the night, she slept with her two younger brothers and her father, the accused. Later in the evening, she was awakened, and she found out that she had no more short pants and panty, and her father was beside and behind her, and felt that the penis of her father was directed to her anus. She managed to keep her legs together, and thus, accused was not successful in inserting his organ into her vagina. She was fourteen (14) years old at that time. Her father warned her not to tell her mother otherwise he would kill her.

[AAA] further recalled that April 8, 2001 was her birthday. She was prepared to be alone in their house for the night as her father and mother in company with her younger brothers were in the house of her grandmother in Campuan - a neighboring barangay. But suddenly, her father arrived in their house at about 5:00 in the afternoon, and immediately held her, and took off her short pants and panty. In spite of her struggle to resist, her father was able to lay her down on the floor of their house, and was successful in inserting his penis into her sexual organ. She felt pain, as this was her first sexual intercourse. He threatened her with death if she would tell her mother about the incident.

[AAA] further testified that in the afternoon of April 15, 2001, she was in the house of her aunt, [DDD] when her father arrived and told her to go home with him as he told her that her mother was crying because she left home without permission. But, when she and her father arrived at their house, she found out that her mother was not there. Her father held and hugged her, and took off her short pants and panty, laid her down, and inserted his sexual organ into hers. After the sexual abuse by her father, she wanted to get out of their house,

but her father locked the door. At about 9:00 in the evening of that same day, her father took off her shorts and panty again, and her father forcibly inserted his sexual organ again. Again, at about 12:00 midnight, her father took off her short pants and panty, laid on top of her, and forcibly inserted his penis. She was about to free herself, but her father held her tightly. She cried and was not able to sleep the whole night due to the pain she was experiencing from her sex organ.

Without waiting for her mother and brothers to arrive, she left their house in the morning of the following day, April 16, 2001, and went to [DDD].

At the hearing on January 20, 2003, Public Prosecutor Marites Macarubbo informed the court that [AAA] died. On May 15, 2003, Ms. Welgieta Banzuelo, a social worker at the Department of Social Welfare and Development, presented to the court the Death Certificate of [AAA]. Upon motion by the defense, the direct testimony of [AAA] was ordered expunged from the records x x x on grounds that [AAA] was not subjected to cross-examination.

x x x x

However, inspite of the death of [AAA] and her direct testimony having been expunged from the records, the prosecution presented other prosecution witnesses, namely: Gelmie [Calug], [EEE], Lovella Opada and Vicente Tiengo, and in an effort to salvage the cause for the state, the prosecution adduced evidence of res gestae through the testimonies of its witnesses, Gelmie Calug and [EEE].

[EEE], an aunt of [AAA], being the sister of the mother of the latter, testified that at noontime on April 16, 2001, [AAA] arrived at her house. She noticed that [AAA] was sad and crying. Upon her inquiry, [AAA] told her that she was raped by her father on April 8, and three (3) times hours ago on April 15, 2001. During the few days of [AAA]'s stay at her house, she often saw [AAA] crying. A few days after, [AAA] went to the house of Pedro de los Santos to work as a house helper. Her employer, Pedro de los Santos, helped her in instituting these rape cases, and [EEE] and de los Santos accompanied [AAA] to report the incident to the police.

Gelmie Calug testified that on April 18, 2001, [AAA] reported for work for the first time as a househelper in the house of Pedro de los Santos. He noticed that [AAA] was sad and lonely, and often saw her crying. She confided to him her problems, and revealed to him that she was raped by her own father on April 8 and 15 of that year 2001. He noticed that [AAA] had told their employer, Pedro de los Santos, of what had befallen to (sic) her. After eight (8) months, she left the de los Santos household, and he did not know anymore of her whereabouts and only to hear (sic) from the radio broadcast that [AAA] was dead.[12]

Ruling of the RTC

In the RTC Decision, XXX was found guilty only for the three (3) counts of Rape committed on April 15, 2001 and acquitted from the charges in Criminal Case Nos. F-02-01-A and F-02-03-A for Rape and Attempted Rape, respectively:

WHEREFORE, premises considered, this Court finds accused [XXX], GUILTY beyond reasonable doubt of three (3) counts of Rape and is thereby sentenced to suffer in each the penalty of reclusion perpetua, and ordered to pay the heirs of the victim in each case, the amount of FIFTY THOUSAND PESOS (P50,000.00) as civil indemnity and the amount of FIFTY THOUSAND PESOS (P50,000.00) as moral damages, and to pay costs.

For failure on the part of the prosecution to prove the guilt of accused beyond reasonable doubt, he is thereby declared ACQUITTED from the charges in Criminal Case Nos. F-02-01-A and F-02-03-A.

The accused is hereby credited in full for the period he had undergone preventive imprisonment provided he agrees in writing to abide with the rules prescribed for convicted prisoners.

SO ORDERED.[13] (Emphasis in the original)

The RTC, despite the lack of AAA's testimony due to her intervening death, mainly relied on the separate testimonies of Gelmie Calug (Calug) and EEE in finding XXX guilty beyond reasonable doubt. The RTC found that the utterances made by AAA to them, while not made immediately or simultaneous to the rape incidents, could still be considered part of the *res gestae* as they were "so connected with it as to make the act or declaration and the main fact inseparable, or be generated by an excited feeling which extends, without break or let down, from the moment of the event they illustrate." [14] The RTC also found that such statements were made under such circumstances as to preclude a deliberate design or an opportunity to devise anything contrary to the actual events that transpired. [15]

Notably, the RTC did not appreciate the special qualifying circumstance of filiation as the same was not proved during trial through competent evidence. [16] The baptismal records presented by the prosecution were not considered by the RTC as they were not public records and therefore insufficient to establish such filial relationship. [17]

Anent XXX's defense, the RTC did not give any weight thereto for being a simple denial of the accusations. [18] Moreover, XXX's ancillary defense of alibi was likewise rejected for being laden with confusion and uncertainty from XXX himself as lone witness for the defense. [19]

Unsatisfied, XXX elevated the case to the CA via Notice of Appeal [20] dated February 28, 2005. Briefs were then filed by XXX and plaintiff--appellee respectively dated April 24, 2008 [21] and September 17, 2010. [22]

In his appeal, XXX mainly argued that the RTC erred in considering the testimonies as *res gestae* and instead claimed that such statements were purely hearsay as they were offered in court only after two (2) years from the date of the alleged incident. [23]

Ruling of the CA

On April 19, 2012, the CA rendered the questioned Decision, affirming the RTC Decision, to wit:

WHEREFORE, premises considered, the appeal is hereby DENIED and the Decision dated February 16, 2005, of the Regional Trial Court, Branch 45, Bais City in Criminal Case Nos. F-2001-171-A, F-02- 02-A, F-2001-170-A, [is] hereby affirmed in toto.

SO ORDERED. [24]

Hence, the instant appeal. [25]

In lieu of supplemental briefs, plaintiff-appellee filed a Manifestation [26] dated January 3, 2014 while XXX filed a Manifestation in Lieu of Supplemental Brief [27] dated January 7, 2014.

Issue

Whether XXX's guilt for the three (3) counts of Rape was proven beyond reasonable doubt.

The Court's Ruling

The appeal lacks merit.

The evidence is sufficient to prove XXX's guilt beyond reasonable doubt

In his appeal, XXX argues that he cannot be convicted based mainly on the testimonies of Calug and EEE, which he claims are purely hearsay evidence. Without the testimony of AAA identifying him as the perpetrator of all

acts complained of, XXX claims that he can no longer be found guilty under the crimes charged.

At the outset, the Court notes that the RTC correctly proceeded with the trial despite the death of the private complainant, AAA. In criminal cases, the offended party is the State and the role of the private complainant is limited to the determination of the civil liability of the accused.[28] Hence, in this case, considering that the death of AAA did not extinguish the criminal liability of XXX, the trial rightfully ensued with the rest of the evidence for the prosecution.

However, the intervening death of AAA was not without consequence. The Court herein reiterates, as initially observed by the RTC, that an accused is guaranteed by no less than the Constitution the right to cross-examine a witness. Section 14(2), Article III of the Constitution provides that an accused shall have the right to meet the witnesses face to face, which is echoed in Section 1(f), Rule 115 of our Rules on Criminal Procedure. The right of an accused to cross-examine a witness is essential to test the credibility and truthfulness of the testimony offered and likewise provides an opportunity for the accused to demonstrate substantial inconsistencies that could create reasonable doubt as to his guilt.[29] In this regard, the RTC was correct in excluding AAA's direct testimony from the records notwithstanding the incriminating contents thereof.

Prescinding from the foregoing, the only issue that remains is simply whether the testimonies of Calug and EEE pertaining to the statements of AAA can be considered part of the *res gestae* and thus produce a conviction.

The Court rules in the affirmative.

It is well entrenched that a witness may only testify on facts derived from his own perception and not on what he has merely learned or heard from others.[30] Hearsay evidence, or those derived outside of a witness' personal knowledge, are generally inadmissible due to serious concerns on their trustworthiness and reliability; such evidence, by their nature, are not given under oath or solemn affirmation and likewise have not undergone the benefit of cross-examination to test the reliability of the out-of-court declarant on which the relative weight of the out-of-court statement depends.[31]

Hence, as a general rule, hearsay evidence is inadmissible in courts of law. As an exception, however, Section 42 of Rule 130 allows the admission of hearsay evidence as part of the *res gestae*, to wit:

Sec. 42. Part of the *res gestae*. — Statements made by a person while a startling occurrence is taking place or immediately prior or subsequent thereto with respect to the circumstances thereof, may be given in evidence as part of the *res gestae*. So, also, statements accompanying an equivocal act material to the issue, and giving it a legal significance may be received as part of the *res gestae*. (Emphasis supplied)

The following requisites must, thus, be satisfied for the exception to apply: (i) that the principal act, the *res gestae*, be a startling occurrence; (ii) that the statements were made before the declarant had the time to contrive or devise a falsehood; and (iii) that the statements must concern the occurrence in question and its immediate attending circumstances.[32] In *People v. Estibal*,[33] the Court, citing *People v. Sanchez*,[34] explained the ratio behind such exception:

Res gestae means the "things done." It "refers to those exclamations and statements made by either the participants, victims, or spectators to a crime immediately before, during, or immediately after the commission of the crime, when the circumstances are such that the statements were made as a spontaneous reaction or utterance inspired by the excitement of the occasion and there was no opportunity for the declarant to deliberate and to fabricate a false statement." A spontaneous exclamation is defined as "a statement or exclamation made immediately after some exciting occasion by a participant or spectator and asserting the circumstances of that occasion as it is observed by him. The admissibility of such exclamation is based on our experience that, under certain external circumstances of physical or mental shock, a stress of nervous

excitement may be produced in a spectator which stills the reflective faculties and removes their control, so that the utterance which then occurs is a spontaneous and sincere response to the actual sensations and perceptions already produced by the external shock. Since this utterance is made under the immediate and uncontrolled domination of the senses, rather than reason and reflection, and during the brief period when consideration of self-interest could not have been fully brought to bear, the utterance may be taken as expressing the real belief of the speaker as to the facts just observed by him." In a manner of speaking, the spontaneity of the declaration is such that the declaration itself may be regarded as the event speaking through the declarant rather than the declarant speaking for himself.[35] (Emphasis supplied)

In the same case, the Court held that in determining the admissibility of evidence as part of the *res gestae*, the test is whether the act or declaration was made as a spontaneous reaction and is so intimately interwoven or connected with the principal fact or event that it characterizes as to be regarded as a part of the transaction itself and whether it negates any premeditation or purpose to manufacture testimony.[36]

Anent the requirement of spontaneity, the Court in *People v. Manhuyod, Jr.*[37] (*Manhuyod, Jr.*) laid down several factors in determining whether statements offered in evidence as part of the *res gestae* have satisfied the requirement of spontaneity:

It goes without saying that the element of spontaneity is critical. The following factors are then considered in determining whether statements offered in evidence as part of the *res gestae* have been made spontaneously, viz., (1) the time that lapsed between the occurrence of the act or transaction and the making of the statement; (2) the place where the statement was made; (3) the condition of the declarant when he made the statement; (4) the presence or absence of intervening events between the occurrence and the statement relative thereto; and (5) the nature and circumstances of the statement itself. As to the first factor, the following proves instructive:

The rule is that the statements, to be admissible, should have been made before there had been time or opportunity to devise or contrive anything contrary to the real facts that occurred. What the law altogether distrusts is not afterspeech but afterthought.

[T]here are no limits of time within which the *res gestae* can be arbitrarily confined. These limits vary in fact with each particular case. The acts or declarations are not required to be contemporaneous with the primary fact, but they must be so connected with it as to make the act or declaration and the main fact particularly inseparable, or be generated by an excited feeling which extends, without break or let-down, from the moment of the event they illustrate. In other words, if the acts or declarations sprang out of the principal transaction, tend to explain it, were voluntary and spontaneous, and were made at a time so near it as to preclude the idea of deliberate design, they may be regarded as contemporaneous in point of time, and are admissible.

In *People v. Sanchez*, this Court had occasion to state that the cases are not uniform as to the interval of time that should separate the occurrence of the startling event and the making of the declaration. What is important is that the declarations were voluntarily and spontaneously made "so nearly contemporaneous as to be in the presence of the transaction which they illustrate or explain, and were made under such circumstances as necessarily to exclude the ideas of design or deliberation."

As to the second factor, it may be stressed that "a statement made, or an act done, at a place some distance from the place where the principal transaction occurred will not ordinarily possess such spontaneity as would render it admissible."

Anent the third factor, "[a] statement will ordinarily be deemed spontaneous if, at the time when it was made, the conditions of the declarant was such as to raise an inference that the effect of the occurrence on his mind still continued, as where he had just received a serious injury, was suffering severe pain, or was under intense excitement. Conversely, a lack of spontaneity may be inferred from the cool demeanor of declarant, his

consciousness of the absence of all danger, his delay in making a statement until witnesses can be procured, or from the fact that he made a different statement prior to the one which is offered in evidence."

With regard to the fourth factor, what is to be considered is whether there intervened between the event or transaction and the making of the statement relative thereto, any circumstance calculated to divert the mind of the declarant which would thus restore his mental balance and afford opportunity for deliberations.

The last factor needs no further elaboration.[38] (Emphasis supplied)

Guided by the foregoing standards, the Court finds that the CA and RTC correctly considered the statements of AAA as part of the *res gestae*.

As reflected in the records, EEE's testimony places AAA's utterances only several hours from the time the disputed incidents took place on April 15, 2001, i.e., 7 p.m., 9 p.m., and 12 midnight:

Q:

Where were you on April 16, 2001?

A:

I was in my house.

Q:

While you were in your house, what were you doing?

A:

I was washing foods (sic) and cooked food.

Q:

Did you meet the complainant, AAA on that day?

A:

Yes, she was in our house on the 16[th]?

Q:

What time did she arrive in your house?

A:

At noon time.

Q:

When she arrived in your house, what did you notice at (sic) her?

A:

She was crying and sad.

Q:

Did you ask her why she was crying?

A:

Yes.

Q:

What was her answer?

A:

She said she was raped by her father.

Q:

Did she mention the date when she was raped?

A:

Yes.

Q:

What were those dates that she mentioned?

A:

April 8, 2001 and April 15, 2001.

Q:

Did she mention how many times she was raped on April 15, 2001?

A:

Yes.

Q:

What date (sic)?

A:

She told me that she was raped at 7:00 o'clock in the evening, 9:00 o'clock and 12:00 o'clock midnight.

x x x x

Q:

How did she tell you that she was raped by her father?

A:

She was raped by her father but she cannot shout and cannot free herself. She was not able to shout because her mouth was covered.

Q:

What was her reaction when she told you that she raped (sic) by her father and she cannot free herself because her mouth was covered[?]

A:

I told her that somebody will help you for that and that few days after she went to Pedro delos Santos to work as a helper who helped her.

Q:

Did you not advise her to tell her mother?

A:

I told her and they went to the municipal hall then a medical certificate was taken from her and she was accompanied by her mother at that time.[39] (Emphasis supplied)

Based on the foregoing account, it is clear that at the time AAA uttered her statements to EEE — a few hours after the incidents — the effect of the occurrence on her mind still continued. Her demeanor, as narrated by EEE, showed that she was still suffering as a result of the violation of her person and honor by her father, herein accused-appellant XXX. Moreover, following the standard in *Manhuyod, Jr.*, while the utterances were not made contemporaneous to the act described, the Court finds that they remained to be "so connected with it as to make the act or declaration and the main fact particularly inseparable." [40] More importantly, the Court finds nothing on the records that would show an intervening event between the time of the rape incidents and the time of AAA's revelation to EEE that would indicate a restoration of her mental balance as in fact, she was still under distress when she arrived at EEE's home. The Court thus adopts the RTC's disquisition on this score, which was affirmed in toto by the CA:

In the case at bar, [AAA] went to, and arrived at the house of her aunt [EEE] by noon on April 16, 2001 - about twelve (12) hours after she was ravished by her father. She left their house that day after she was raped three (3) times by her own father, and went to her aunt's house located in the same municipality. Upon arrival at her aunt's house, [AAA] was sad and crying, and revealed to her aunt that she was raped by her father. Although her utterances may not have been made immediately or simultaneous with the actual rape, the said utterances were "so connected with it as to make the act or declaration and the main fact inseparable, or be generated by an excited feeling which extends, without break or let down, from the moment of the event they illustrate." On this factual backdrop, it is clearly evident that [AAA] made this revelation to her aunt before she could make a deliberate design or had the opportunity "to devise or contrive" anything contrary to the real facts that occurred.

Applying the rule in *People vs. Sanchez*, the Court finds that [AAA]'s revelation to her aunt about twelve (12) hours after she was raped, was voluntarily and spontaneously made "so nearly contemporaneous as to be in the presence of the transaction which they illustrate or explain. And were made under such circumstances to

exclude the idea of design or deliberation."

When [AAA] arrived at her aunt's house in barangay Candana-an of the same municipality where [AAA] lives in barangay Manogtong, she must have walked the whole morning considering that according to [EEE], her aunt, when one starts walking from the house of [AAA], one will arrive at her house by noontime.

xxxx

Based on the foregoing dissertations of the factual scenario and the applicable jurisprudence, the Court is convinced beyond reasonable doubt that accused should be held liable for the crime of Rape for the three (3) counts, specifically, those committed for three (3) consecutive times on the night of April 15, 2001. However, the alleged incidents on July 18 and April 8, 2001 may not be covered by *res gestae*, and thus, the Court finds that the accused should not be held liable for the said two incidents.[41]

Meanwhile, with respect to Calug's testimony, which consisted of statements given by AAA on April 18, 2001, or three (3) days after the April 15, 2001 incidents, the Court finds that the RTC and CA incorrectly considered the same as part of the *res gestae*.

Q:

When was the first time you met AAA?

A:

April 18

Q:

What year?

A:

2001.

Q:

Where did you meet each other?

A:

In the house of Pedro delos Santos.

Q:

What were you both doing in the house of Pedro delos Santos?

A:

We were both house help (sic) in the house of Pedro.

Q:

While you were or both of you in the house of Mr. Pedro delos Santos, did you notice anything, if any with the actuation of AAA?

A:

Yes.

Q:

What was that?

A:

She was always sad.

Q:

What else if any?

A:

She was always crying at that time.

Q:

When you say always crying, can you tell this Honorable Court what time or what part of the day is she crying?

x x x x

A:

I do not know the time but I usually saw (sic) her crying in the morning, afternoon, and night time.

Q:

Considering that you are living in the same household, did you ask her why she was always crying in the morning, afternoon, and evening?

xxxx

A:

She told me, "Gel, I have a problem with my father. My father raped me."

Q:

Did AAA mention to you when she was raped by her father?

A:

Yes.

Q:

What did she say?

A:

She told me that she was raped by her father on April 8, 15 and 16.[42] (Emphasis supplied)

While the Court notes the similarity between the accounts of EEE and Calug as regards AAA's utterances, the records nevertheless disclose that AAA helped in the household chores for several days in EEE's home and subsequently looked for a job elsewhere.[43] AAA would then end up working as a house help for a certain Pedro delos Santos, where she would eventually meet Calug.[44] Such circumstances, coupled with the fact that AAA's statements to Calug were made three (3) days after the April 15, 2001 incidents, lead to the conclusion that there was already a significant break in the connection between the rape incidents and the time AAA made her statements to Calug on April 18, 2001. In this light, the Court finds that the utterances made to Calug are far too removed from the event described as to form part of the *res gestae*.

Notwithstanding the foregoing, the Court finds that the critical element of carnal knowledge through force was sufficiently established by the evidence on record. The clear and straightforward testimony of EEE, together with the medico-legal findings consistent with the facts described,[45] produces a conviction beyond reasonable doubt that XXX is guilty for the repeated defilement of his own daughter, AAA.

In numerous occasions, the Court has held that in the absence of facts or circumstances of weight and substance that would affect the result of the case, appellate courts will not overturn the factual findings of the trial court.[46] In this case, the Court finds no cogent reason to reverse the RTC's appreciation of the evidence, which was affirmed in toto by the CA.

XXX's defense of alibi and denial failed to overcome the prosecution's evidence

For the defense of alibi to overcome a *prima facie* finding of guilt, the accused must prove not only that he was somewhere else when the crime was committed but that it was also physically impossible for him to have been at the crime scene or its immediate vicinity at the approximate time of its commission.[47] Such defense must be supported by strong evidence of innocence independent of the accused's self-serving statements.

In this case, XXX, simply claimed that he was elsewhere (i.e., Palawan) at the time the alleged rapes occurred.[48] However, the RTC remained unconvinced as his testimony was replete with uncertainties as XXX could not even remember the date when he was allegedly working on a fishing boat in Palawan.[49] Moreover, XXX failed to produce any other witness to corroborate his testimony despite having the opportunity to do so.[50]

In sum, the Court finds that XXX's guilt was proven beyond reasonable doubt by the evidence of the prosecution. In criminal cases, "proof beyond reasonable doubt" does not mean such degree of proof, excluding possibility of error, that produces absolute certainty; only "moral certainty" is required, or that degree of proof which produces conviction in an unprejudiced mind.[51]

Anent the penalty, the Court accordingly modifies the award of damages to conform to prevailing jurisprudence.[52]

WHEREFORE, in view of the foregoing, the appeal is DISMISSED for lack of merit and the Decision dated April 19, 2012 of the Court of Appeals Cebu City in CA-G.R. CR-HC No. 00332 is hereby AFFIRMED with MODIFICATION. Accused-appellant XXX is hereby found GUILTY beyond reasonable doubt of three (3) counts of Rape as defined under Paragraph 1, Article 266-A of the Revised Penal Code, as amended, and is hereby sentenced to suffer the penalty of reclusion perpetua for each count.

The amount of damages awarded is hereby increased, ordering accused-appellant to pay the heirs of AAA the amount of Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity, Seventy-Five Thousand Pesos (P75,000.00) as moral damages, and Seventy-Five Thousand Pesos (P75,000.00) as exemplary damages for each count of Rape in Criminal Case Nos. F-2001-171-A, F-02-02-A, F-2001-170-A. All monetary awards shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.

SO ORDERED.

Carpio (Chairperson),[**] Perlas-Bernabe, A. Reyes, Jr., and J. Reyes, Jr., JJ., concur.

[*] The identity of the victims or any information which could establish or compromise their identities, as well as those of their immediate family or household members, shall be withheld pursuant to RA 7610 titled, "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION, AND FOR OTHER PURPOSES," approved on June 17, 1992; RA 9262 titled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES," approved on March 8 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the "Rule on Violence against Women and Their Children" (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. See also Amended Administrative Circular No. 83-2015 titled "PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES," dated September 5, 2017; and *People v. XXX and YYY*, G.R. No. 235652, July 9, 2018.)

[**] Senior Associate Justice (Per Section 12, Republic Act No. 296, The Judiciary Act of 1948, As Amended)

[1] Rollo, pp. 14-15.

[2] Id. at 4-13. Penned by Associate Justice Edgardo L. Delos Santos, with Associate Justices Nina G. Antonio Valenzuela and Abraham B. Boretta concurring.

[3] CA rollo, pp. 19-30. Penned by Judge Ismael O. Baldado.

[4] Pseudonym in lieu of private complainant's true identity in compliance with Section 29 of Republic Act No. 7610.

[5] Id. at 20.

[6] Id. at 20-21.

[7] Id. at 21

[8] Id.

[9] Id.

[10] Id.

[11] CA rollo, pp. 46, 79.

[12] Id. at 22-25.

[13] Id. at 30.

[14] Id. at 27.

[15] Id.

[16] Id. at 29.

[17] Id.

[18] Id.

[19] Id.

[20] Id. at 31.

[21] Id. at 40-52.

[22] Id. at 74-89.

[23] Id. at 49.

[24] Rollo, p. 12.

[25] Id. at 14.

[26] Id. at 26-27.

[27] Id. at 31-32.

[28] *People v. Lacson*, 459 Phil. 330, 355 (2003).

[29] *People v. Rivera*, 414 Phil. 430, 447 (2001).

[30] *Miro v. Vda. de Erederos*, 721 Phil. 772, 790 (2013).

[31] *Country Bankers Insurance Corp. v. Lianga Bay & Community Multi-Purpose Cooperative, Inc.*, 425 Phil. 511, 520 (2002).

[32] *People v. Estibal*, 748 Phil. 850, 868 (2014).

[33] 748 Phil. 850 (2014).

[34] 287 Phil. 1003 (1992).

[35] *People v. Estibal*, *supra* note 33 at 875.

[36] Id. at 869-870.

[37] 352 Phil. 866 (1988).

[38] Id. at 882-884.

[39] Rollo, pp. 7-8.

[40] People v. Manhuyod, Jr., supra note 37 at 883.

[41] CA rollo, pp. 61-63.

[42] Rollo, p. 9.

[43] Id. at 8.

[44] Id.

[45] CA rollo, p. 62.

[46] People v. Gerola, G.R. No. 217973, July 19, 2017, pp. 5-6.

[47] People v. Alvarez, 461 Phil. 188, 200 (2003).

[48] CA rollo, p. 63.

[49] Id.

[50] Id.

[51] RULES OF COURT, Rule 133, Sec. 2.

[52] People v. Jugueta, 783 Phil. 806 (2016).

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