

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SAMUEL “TIW-TIW” SANICO, ACCUSED-APPELLANT.

G.R. No. 208469. August 13, 2014

Ponente: REYES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-208469/>

REYES, J.:

For review[1] is the Decision[2] rendered by the Court of Appeals (CA) on November 19, 2012 in CA-G.R. CR-HC No. 00769-MIN affirming, but with modifications as to the penalties, damages and interests imposed, the conviction by the Regional Trial Court (RTC) of Butuan City, Branch 1,[3] of Samuel “Tiw-Tiw” Sanico (accused-appellant) for one count of rape under paragraph 1(a) of Article 266-A[4] of the Revised Penal Code (RPC), as amended by Republic Act (R.A.) No. 8353,[5] and lascivious conduct under Article 336[6] of the same code, in relation to R.A. No. 7610,[7] otherwise known as “The Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act.”

Antecedents

Two separate Informations were filed against the accused-appellant before the RTC, viz:

In Criminal Case No. 12021 for Acts of Lasciviousness

That at more or less 1:00 P.M. of April 19, 2006 at XXX City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there willfully, unlawfully and feloniously commit acts of lasciviousness upon the person of AAA,[8] a twelve (12) year [old] minor, by touching her breast against her will, to the damage and prejudice of the latter in such amount as may be proven in Court.

CONTRARY TO LAW: (Article 336 of the Revised Penal Code, as amended in relation to R.A. [No.] 7610)[9] (Citation omitted)

In Criminal Case No. 12022 for Rape

That sometime in the year 2005 at XXX City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat or intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with one AAA, a twelve (12) year old minor, against her will.

CONTRARY TO LAW: (Article 266-A, par. (1)(a), in relation to Article 266-B, par. 6(10) of R.A. [No.] 8353 in relation to R[.]A[.] [No.] 7610)[10] (Citation omitted)

The accused-appellant went into hiding but was subsequently arrested in his hometown in Leyte on May 13, 2008. He was arraigned on August 26, 2008, during which he entered a not guilty plea.[11]

During the pre-trial, the prosecution and the defense stipulated on the following: (a) the identity of the accused-appellant and the fact of his arrest in Leyte; (b) AAA was more than 12 but less than 13 years of age at the time the acts complained of were allegedly committed by the accused-appellant; and (c) the incident on April

19, 2006 occurred in AAA's residence.[12]

In the joint trial that ensued, the prosecution offered the testimonies of AAA, her mother BBB, and Dr. Roslyn D. Orais (Dr. Orais), medico-legal officer of the National Bureau of Investigation, Caraga Region. On the other hand, the accused-appellant was the defense's lone witness.[13]

Version of the Prosecution

As indicated in her birth certificate, AAA was born on June 14, 1993. Her mother BBB works as a cook, while her father is a "trisikad" driver. AAA was 12 years old when the acts complained of were allegedly committed by the accused-appellant, but was already 15 years of age at the time she testified in court.[14]

The accused-appellant was a pig butcher and ice cream vendor. He and his children rented a room for about ten (10) to eleven (11) years in the house where AAA lives with her family. Thereafter, the accused-appellant's family moved to their own house built near AAA's residence.[15]

AAA claimed that the accused-appellant raped her in 2005, but she could not recall the exact month and date. She remembered though that she was raped at around 2:00 p.m. while she was washing dishes in the kitchen. There was nobody else in the house except her and the accused-appellant. He approached and held her hands tightly. She boxed the accused-appellant, but he pushed her. Thereafter, he threatened to kill her if she would shout. Knowing that the accused-appellant was a pig butcher, AAA was overcome by fear. He then succeeded in removing her clothes and undergarments and pushing her against the wall. He took off his short pants and briefs and inserted his penis into her vagina for two to three minutes. She felt pain. The accused-appellant then pulled up his short pants and laid down in the sofa.[16]

AAA alleged that she was again raped for six or seven times, but she endured the harrowing experiences in silence due to the accused-appellant's threat to kill her. She also dreaded the possibilities of quarrels and deaths, which would ensue if her parents find out.[17]

On April 19, 2006, at around 1:00 p.m., AAA was napping in a room with her niece. AAA woke up when she felt that the accused-appellant was touching her. AAA rose and repeatedly boxed the accused-appellant, but the latter held her tightly, pulled up her clothes and mashed her breast. Her father, CCC, was just in another room at that time, but out of fear, AAA kept quiet. When the accused-appellant took off his short pants and inserted his penis into AAA's vagina, the latter resisted. Being merely built out of wood, the house shook, which caused CCC to wake up. CCC lost consciousness for a short period of time when he caught the accused-appellant performing lascivious acts on AAA. The accused-appellant then seized the opportunity to flee.[18]

At around 4:00 p.m. on the same day, Dr. Orais performed a medico- genital examination on AAA and found the latter to have suffered from sexual abuse. AAA's hymen was "coaptated" or slightly open and bore "old healed laceration at 3 and 9 o'clock positions". The hymenal laceration was possibly caused by "an injury secondary to intravaginal penetration by a blunt object". No human spermatozoa was found in AAA's vagina. Dr. Orais, however, explained that even in the presence of seminal fluid, there are cases when no sperm can be found. Dr. Orais likewise noted no physical or extra-genital injuries on AAA, but found ample evidence of sexual intercourse having occurred more than one but less than four month/s ago. Dr. Orais also testified that AAA was at times uncooperative, timid, and emotionally restrained.[19]

BBB testified that it was CCC who saw the accused-appellant touching AAA's breast. BBB sought payment of moral damages.[20]

Version of the Defense

The accused-appellant was the lone witness for the defense. At the time he testified in court, he was 53 years old. He stated that for years, he had lived in the house of AAA's family, but was no longer a resident therein when the acts complained of were allegedly committed.[21]

On April 19, 2006, the accused-appellant had a drinking spree with CCC in the latter's house lasting from 8:00 a.m. to 12:00 p.m. As the two were both drunk, the accused-appellant slept in the sala while CCC did so in his room. The accused-appellant woke up from slumber when AAA touched the former's pocket to search for money. She got some coins and bills. The accused-appellant, in turn, touched AAA's chest and asked the latter to remove her short pants. AAA complied. As the accused-appellant was touching AAA's breast, CCC woke up. Upon seeing what was taking place, CCC got a bolo to hack the accused-appellant, but the latter escaped.[22]

The accused-appellant testified that he had never inserted his penis in AAA's vagina. He admitted touching AAA on April 19, 2006 but he did so only because the latter initiated it. He also claimed that he was very close to AAA and he treated her as if she were his own child.[23]

The Ruling of the RTC

On October 13, 2009, the RTC rendered an Omnibus Judgment[24] convicting the accused-appellant of one count of rape and of acts of lasciviousness. The RTC found AAA's testimony of what had transpired as sincere and truthful, noting though that a specific allegation as to the exact date and month of the commission of rape in 2005 was absent. The trial court thus pointed out the settled doctrine that in a prosecution for rape, the material fact or circumstance to be considered is the occurrence of rape, not the time of its commission,[25] the latter not being an element of the crime.[26] Further, the accused-appellant cannot ascribe any ill-motive against AAA which could have induced the latter to fabricate such grave charges. The accused-appellant's flight after he learned that charges were filed against him likewise worked to disfavor him. If he were indeed innocent, he would have stayed to vindicate himself from the accusations.[27]

The dispositive portion of the RTC decision reads:

WHEREFORE, the prosecution having established the guilt of the accused beyond reasonable doubt in the offenses as charge[d], in criminal case no. 12022 for rape[,] he is sentenced to reclusion perpetua, to pay [AAA][,] through her father[,], the sum of Fifty Thousand Pesos ([P]50,000.00) as civil indemnity and another Fifty Thousand Pesos ([P]50,000.00) as moral damages. In criminal case no 12021 for acts of lasciviousness, he is sentenced to suffer imprisonment of 4 years, 2 months and 1 day to 6 years. He is further ordered to pay [AAA] the sum of Twenty Five Thousand Pesos ([P]25,000.00) as moral damages and another Twenty Five Thousand Pesos ([P]25,000.00) as exemplary damages.

He shall serve his sentence at Davao Prison and Penal Farms, Panabo City, Davao del Norte. In the service of his sentence[,] he shall be credited with the full time benefit of his preventive imprisonment provided he agrees in writing to abide by the same disciplinary rules imposed upon convicted prisoners[,], otherwise[,], if he does not[,], he shall be entitled with only four-fifths (4/5) of his preventive imprisonment pursuant to Article 29 as amended of the [RPC].

SO ORDERED.[28]

The Parties' Arguments Before the CA

The accused-appellant challenged the above disquisition before the CA.[29] He argued that while the time of the commission of the crime is not an essential element of rape, a complainant's inability to give the exact dates, during which she was allegedly raped, puts her credibility in question.[30]

AAA alleged that she was raped on April 19, 2006, at around 1:00 p.m. However, Dr. Orais, who conducted a

medical examination on AAA three hours after the incident, testified that human spermatozoa was absent in AAA's vagina and the hymenal lacerations found were possibly inflicted more than a month ago.[31]

The accused-appellant admitted though that he could be held liable for acts of lasciviousness for touching AAA's breast and asking her to remove her short pants.[32]

The Office of the Solicitor General (OSG), on its part, sought the dismissal of the appeal.[33] It contended that the accused-appellant's denial of the charges against him cannot prevail over AAA's positive testimony. Further, the date of the commission of rape becomes relevant only when the accuracy and truthfulness of the complainant's narration practically hinge thereon.[34] Such circumstance does not obtain in the case under review.[35]

The accused-appellant was also nonchalant in admitting that he touched AAA's breast and asked her to remove her short pants. The accused-appellant's behavior exhibited no less than his lewd designs on AAA.[36]

The Ruling of the CA

On November 19, 2012, the CA rendered the herein assailed decision,[37] the decretal portion of which states:

WHEREFORE, premises considered, the appeal is hereby DISMISSED. The October 13, 2009 Omnibus Judgment of the [RTC] of Butuan City, Branch 1, is hereby AFFIRMED with MODIFICATION as follows:

1)

In Criminal Case No. 12021, [the accused-appellant] is sentenced to 8 years and 1 day of prision mayor as minimum to 17 years, 4 months and 1 day of reclusion temporal as maximum. The moral and exemplary damages of [P]25,000.00 each awarded by the court a quo are reduce[d] to [P]15,000.00 each. He is further ordered to pay civil indemnity of [P]20,000.00 and a fine of [P]15,000.00.

2)

In Criminal Case No. 12022, being in accordance with the law and the evidence, [the accused-appellant] is sentenced to reclusion perpetua. In addition to the awards of civil indemnity of [P]50,000.00 and moral damages of [P]50,000.00, [the accused-appellant] is further ordered to pay AAA exemplary damages in the amount of [P]30,000.00.

3)

[The accused-appellant] is further ordered to pay interest at the rate of twelve percent (12%) per annum on all the damages awarded in this case from date of finality of this judgment until fully paid.

SO ORDERED.[38]

In additionally directing the payment of fine and civil indemnity, and modifying both the penalty imposed upon the accused-appellant and the award of damages to AAA as regards Criminal Case No. 12021 for lascivious conduct, the CA explained that:

[A]n assiduous review of the arguments [the accused-appellant] proffered reveals that what was questioned by him was his conviction for the crime of rape only. In fact, in his appellant's brief, he emphasized that he is liable only for the charge of acts of lasciviousness after having admitted that he merely touched the breast of AAA and asked the latter to remove her short pants for him to see her private part. Apparently, [the] accused-appellant no longer assailed his conviction [for] the crime of acts of lasciviousness.

This notwithstanding, we are constrained to review the entire records of the case pursuant to the settled rule that when an accused appeals from the sentence of the trial court, he waives his constitutional safeguard against double jeopardy and throws the whole case open to the review of the appellate court, which is then

called upon to render such judgment as the law and justice dictate, whether favorable or unfavorable to them, and whether they are assigned as errors or not. x x x

x x x x

While we sustain [the] accused-appellant's conviction of acts of lasciviousness, yet, we nonetheless modify the penalty imposed and the damages awarded by the court a quo. x x x [W]e find that the court a quo erroneously imposed the penalty [for] the crime of acts of lasciviousness under Article 336 of the RPC in relation to RA 7610. It is important to note that [the] accused-appellant was charged [with] acts of lasciviousness under Article 336 of the RPC in relation to RA 7610 which defines sexual abuse of children and prescribes the penalty therefore under Article III, Section 5 thereof. Certainly, [the] accused-appellant was sufficiently informed of the accusation against him and he can thus be convicted of the crime of acts of lasciviousness under RA 7610 based on the evidence presented against him. Article III, Section 5, of RA 7610 reads:

Section 5. Child Prostitution and Other Sexual Abuse -

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

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

(a) x x x

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

x x x x

Paragraph (b) punishes sexual intercourse or lascivious conduct not only with a child exploited in prostitution, but also with a child subjected to other sexual abuses. It covers not only a situation where a child is abused for profit, but also where one – through coercion, intimidation or influence – engages in sexual intercourse or lascivious conduct with a child.

The elements of sexual abuse under Section 5, Article III of RA 7610 are the following:

- The accused commits the act of sexual intercourse or lascivious conduct;
- The said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and
- The child, whether male or female, is below 18 years of age.

[T]here is no doubt that [the] accused-appellant is guilty of acts of lasciviousness under Section 5(b), Article XIII of RA 7610 after having admitted the lascivious conduct he made with AAA. It is undisputed that AAA was still 12 years old when the crime happened and as admitted by [the] accused-appellant himself, he was touching AAA because AAA was looking for money inside his pocket and he told AAA to remove her short pants for him to see her private part. x x x.

It is important to note however that a child is deemed subjected to other sexual abuse when the child indulges in

lascivious conduct under the coercion or influence of any adult. x x x

x x x x

Undoubtedly, [the] accused-appellant's acts were covered by the definitions of sexual abuse and lascivious conduct under Section 2(g) and (h) of the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases promulgated to implement the provisions of RA 7610, particularly on child abuse:

(g) "Sexual abuse" includes the employment, use, persuasion, inducement, enticement or coercion of a child to engage in, or assist another person to engage in, sexual intercourse or lascivious conduct or the molestation, prostitution, or incest with children;

(h) "Lascivious conduct" means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks, or the introduction of any object into the genitalia, anus or mouth, of any person, whether of the same or opposite sex, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, bestiality, masturbation, lascivious exhibition of the genitals or [pubic] area of a person. x x x

Indubitably, AAA was deemed to be [a] "child subjected to other sexual abuse" as defined above. Accordingly, the imposable penalty should be the penalty prescribed under RA 7610 and not the penalty under Article 336 of the RPC as imposed by the court a quo. In *People v. Leonardo*, the Supreme Court ruled that the penalty to be imposed for violation of Section 5, Article III of RA 7610 is as follows:

For acts of lasciviousness performed on a child under Section 5(b), Article III of Republic Act No. 7610, the penalty prescribed is reclusion temporal in its medium period to reclusion perpetua. Notwithstanding that Republic Act No. 7610 is a special law, the [accused-] appellant may enjoy the benefits of the Indeterminate Sentence Law.

Applying the Indeterminate Sentence Law, the [accused-]appellant shall be entitled to a minimum term to be taken within the range of the penalty next lower to that prescribed by Republic Act No. 7610. The penalty next lower in degree is prision mayor medium to reclusion temporal minimum, the range of which is from 8 years and 1 day to 14 years and 8 months. On the other hand, the maximum term of the penalty should be taken from the penalty prescribed under Section 5(b), Article III of Republic Act No. 7610, which is reclusion temporal in its medium period to reclusion perpetua, the range of which is from 14 years, 8 months and 1 day to reclusion perpetua. The minimum, medium and maximum term of the same is as follows: minimum – 14 years, 8 months and 1 day to 17 years and 4 months; medium – 17 years, 4 months and 1 day to 20 years; and maximum – reclusion perpetua.

Thus, in this case, we imposed on [the] accused-appellant the indeterminate sentence of 8 years and 1 day of prision mayor as minimum to 17 years, 4 months and 1 day of reclusion temporal as maximum.

Corollarily, in view of recent jurisprudence, we deem it proper to reduce the amount of moral and exemplary damages awarded by the court a quo from [P]25,000.00 each to [P]15,000.00 each. [The] accused-appellant is however ordered to pay civil indemnity of [P]20,000.00 and a fine of [P]15,000.00.[39] (Citations omitted)

On the other hand, in Criminal Case No. 12022, the CA affirmed the accused-appellant's conviction for rape and the award by the RTC of civil indemnity and moral damages in favor of AAA. Additionally, the CA ordered the payment of P30,000.00 as exemplary damages. In both Criminal Case Nos. 12021 and 12022, the CA likewise directed the accused-appellant to pay AAA the legal interest of twelve percent (12%) per annum on all damages awarded to be computed from the date of finality of the decision until full payment.[40] The CA cited the following as reasons:

Indubitably, it is unimaginable for a young girl like AAA to concoct a tale of defloration, drag herself and the

rest of her family to a lifetime of shame, and make them the object of gossip among their neighbors and friends if the accusation was indeed untrue. x x x.

x x x x

The contention of [the] accused-appellant that the rape allegedly committed on April 19, 2006 was highly implausible because of the absence of fresh lacerations and spermatozoa in AAA's vagina is untenable. It should be emphasized that [the] accused-appellant was charged [with] rape that occurred sometime in 2005 and not on April 19, 2006. The fact that only old healed lacerations were found does not negate rape. x x x:

x x x In *People v. Espinoza*, it was held that healed lacerations do not negate rape. In fact, lacerations, whether healed or fresh, are the best physical evidence of forcible defloration. x x x.

Moreover, in the present case, Dr. Orais clarified to the court that even if the alleged sexual assault took place in the year 2005 or a year after AAA was examined, the old healed lacerations could still be found.

x x x x

[T]he absence of spermatozoa does not disprove rape. In fact, in *People v. Perez*, it was held that:

x x x The absence of spermatozoa is not a negation of rape. The presence or absence of spermatozoa is immaterial since it is penetration, not ejaculation, which constitutes the crime of rape. x x x.

x x x x

As to the award of damages, x x x the victim shall likewise be entitled to exemplary damages in the amount of Thirty Thousand Pesos ([P]30,000.00) as justified under Article 2229 of the Civil Code to set a public example and serve as a deterrent against the elders who abuse and corrupt the youth.[41] (Citations omitted)

Issue

The accused-appellant now comes before the court for relief insisting anew on the alleged failure of the prosecution to prove beyond reasonable doubt that he had, in fact, raped AAA.

Both the accused-appellant and the OSG did not file supplemental briefs, adopting instead their respective arguments raised before the CA.[42]

The Ruling of the Court

We affirm the CA's verdict convicting the accused-appellant of the charges against him, but modify the same by (a) reinstating the penalty and damages for lascivious conduct imposed by the RTC in Criminal Case No. 12021; and (b) reducing to six percent the interests imposed upon the damages awarded to AAA in both Criminal Case Nos. 12021 and 12022.

Criminal Case No. 12021

As aptly stated by the CA, it would be a superfluity to exhaustively re-evaluate the accused-appellant's conviction in Criminal Case No. 12021 for lasciviousness conduct committed on April 19, 2006. First. The RTC and the CA uniformly found the accused-appellant guilty as charged. Second. The accused-appellant himself admitted touching AAA's breast and directing the latter to take off her short pants. Third. In the appeal filed before the CA and this court, no error was ascribed on the part of the RTC in convicting the accused-appellant for lascivious conduct.

The RTC and the CA, were however, not in agreement as to the proper imposable penalty for the accused-appellant's lascivious conduct. The RTC applied the provisions of Article 336 of the RPC and sentenced

the accused-appellant to 4 years, 2 months and 1 day to 6 years of imprisonment. The CA, on the other hand, invoking Section 5(b) of R.A. No. 7610, which punishes sexual abuses committed against minors, imposed upon the accused-appellant the indeterminate penalty of 8 years and 1 day of prison mayor as minimum to 17 years, 4 months and 1 day of reclusion temporal as maximum.

In the instant appeal, the Information relative to Criminal Case No. 12021 bears the caption “for acts of lasciviousness.” It is, however, indicated that the acts are being prosecuted pursuant to the provisions of “Article 336 of the RPC, in relation to R.A. No. 7610.”[43]

In the herein assailed decision, the CA explained that during the trial, the prosecution was able to prove the existence of the requisites of sexual abuse under Section 5(b), R.A. No. 7610. The CA thus modified the penalty and imposed instead the one provided for in R.A. No. 7610.

In *Flordeliz v. People*,[44] we allowed the imposition of a penalty provided for in R.A. No. 7610 despite the absence in the Information filed of any explicit reference to the said statute. We declared that:

We are aware that the Information specifically charged petitioner with Acts of Lasciviousness under the RPC, without stating therein that it was in relation to R.A. No. 7610. However, the failure to designate the offense by statute or to mention the specific provision penalizing the act, or an erroneous specification of the law violated, does not vitiate the information if the facts alleged therein clearly recite the facts constituting the crime charged. The character of the crime is not determined by the caption or preamble of the information nor by the specification of the provision of law alleged to have been violated, but by the recital of the ultimate facts and circumstances in the complaint or information.

In the instant case, the body of the Information contains an averment of the acts alleged to have been committed by petitioner and unmistakably describes acts punishable under Section 5(b), Article III of R.A. No. 7610.[45] (Citation omitted)

In the accused-appellant’s case before the Court, the Information even specifically mentions R.A. No. 7610. The accused-appellant, therefore, was fairly apprised that he was being charged with violation of R.A. No. 7610 as well. Further, it was shown that the requisites of Section 5(b) of the statute are present. The CA thus inferred that it could not be precluded from imposing the proper penalty provided for in R.A. No. 7610.

The CA aptly declared that when an appeal is filed in a criminal action, it opens the entire matter for review and that the requisites of sexual abuse under Section 5(b) of R.A. No. 7610 are present in the accused-appellant’s case. However, grounds exist compelling us to reinstate the penalty and damages imposed by the RTC in Criminal Case No. 12021.

It bears stressing that the case before the Court involves two separate Informations filed – one for rape and another for lascivious conduct.

People v. Francisco[46] involved the issue of under which appellate jurisdiction the crimes of rape and lascivious conduct fall. The court, however, had the occasion to explain that:

Nor can we widen the scope of our appellate jurisdiction on the basis of the fact that the trial court heard two (2) distinct and separate cases simultaneously. Such procedure [referring to the conduct of a joint trial] adopted by the trial court cannot and did not result in the merger of the two (2) offenses. In fact, a cursory reading of the assailed decision of the court a quo reveals with pristine clarity that each case was separately determined by the trial judge, as each should be separately reviewed on appeal. x x x.[47]

In the case at bench, the commission of lascivious conduct was admitted by the accused-appellant in his testimony. No issue regarding his conviction for lascivious conduct had been raised in his appeal before the CA as

well. Despite the fact that the appeal filed was captioned as one with reference to Criminal Case Nos. 12021 and 12022, the body stated in no uncertain terms that what was being assailed was merely the conviction for rape. Effectively then, it was as if no appeal was filed relative to Criminal Case No. 12021. Hence, the penalty imposed by the RTC for lascivious conduct should not be disturbed anymore. Necessarily then, the CA cannot impose upon the accused-appellant a graver penalty and increase the amount of damages awarded to AAA at least relative to Criminal Case No. 12021. This is the path more in accord with the general rule that penal laws are to be construed liberally in favor of the accused.[48]

Criminal Case No. 12022

The court finds no reversible error committed by the RTC and the CA anent the accused-appellant's conviction for rape in Criminal Case No. 12022.

In *People of the Philippines v. Hermenigildo Delen y Esco Billa*,[49] the court emphatically stated that:

It is a fundamental rule that the trial court's factual findings, especially its assessment of the credibility of witnesses, are accorded great weight and respect and binding upon this Court, particularly when affirmed by the Court of Appeals. This Court has repeatedly recognized that the trial court is in the best position to assess the credibility of witnesses and their testimonies because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts. Only the trial judge can observe the furtive glance, blush of conscious shame, hesitation, flippancy or sneering tone, calmness, sigh, or the scant or full realization of an oath. These are significant factors in evaluating the sincerity of witnesses, in the process of unearthing the truth. The appellate courts will generally not disturb such findings unless it plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.

Moreover, "[w]e have repeatedly held that when the offended parties are young and immature girls, as in this case, courts are inclined to lend credence to their version of what transpired, considering not only their relative vulnerability, but also the shame and embarrassment to which they would be exposed if the matter about which they testified were not true." [50]

The foregoing doctrines apply with greater force in the instant case where the accused-appellant cannot ascribe any ill-motive against AAA in accusing him of the offenses charged, and where the factual findings of the RTC coincide with those of the CA.

"For conviction to be had in the crime of rape, the following elements must be proven beyond reasonable doubt: (1) that the accused had carnal knowledge of the victim; and (2) that said act was accomplished (a) through the use of force or intimidation, or (b) when the victim is deprived of reason or otherwise unconscious, or (c) when the victim is twelve years of age, or is demented." [51]

In the instant appeal, the RTC and the CA both found AAA's testimony that she was raped in 2005 as credible. AAA did not specifically refer to an exact month and date when the sordid act was committed. Nonetheless, her testimony that the accused-appellant threatened to kill her, pushed her to the wall and inserted his penis in her vagina at around 2:00 p.m., while she was alone washing dishes at home, was positive, clear and categorical.[52]

To exculpate him from liability, the accused-appellant invokes Dr. Orais' medical findings that human spermatozoa was absent in AAA's vagina, and that her hymen bore old healed and not fresh lacerations possibly sustained more than one but less than four month/s ago.[53] These, however, are not compelling reasons to warrant the reversal of the assailed decision.

The Information in Criminal Case No. 12022 charged the accused-appellant for raping AAA in 2005. On the other

hand, in Criminal Case No. 12021, the accused-appellant was indicted for committing lascivious conduct on April 19, 2006. The results of the medical examination conducted on April 19, 2006 by Dr. Orais, finding that there was no human spermatozoa found in AAA's vagina and that the latter's hymen bore old healed and not fresh lacerations, are not inconsistent with the conclusion that the latter was raped in 2005. Repetitive as it may be, the rape was committed in 2005 and not shortly before the medical examination conducted upon AAA on April 19, 2006.

Interests on all the damages imposed upon the accused-appellant reduced from 12% to 6%

Prescinding from the above, the Court finds no grounds to reverse the herein assailed decision convicting the accused-appellant of one count of rape and of lascivious conduct. The Court likewise finds no error in the penalty, civil indemnity, and damages ordered by the CA relative to Criminal Case No. 12022. However, in Criminal Case No. 12021, the lesser penalty and damages imposed by the RTC are reinstated. Lastly, to conform to prevailing jurisprudence, an interest at the rate of six percent (6%) per annum shall be imposed on all the damages awarded to AAA in both Criminal Case Nos. 12021 and 12022, to be computed from the date of the finality of this judgment until fully paid.[54]

IN VIEW OF THE FOREGOING, the Decision dated November 19, 2012 of the Court of Appeals in CA-G.R. CR-HC No. 00769-MIN, is AFFIRMED with the following MODIFICATIONS:

(a) In Criminal Case No. 12021, the indeterminate penalty of 4 years, 2 months and 1 day of imprisonment as minimum to 6 years as maximum imposed by the RTC upon the accused-appellant, and the award in favor of AAA of Twenty Five Thousand Pesos (P25,000.00) as moral damages and Twenty Five Thousand Pesos (P25,000.00) as exemplary damages, are reinstated; and

(b) An interest at the rate of six percent (6%) per annum on all the damages awarded to AAA in Criminal Case Nos. 12021 to 12022 is likewise imposed upon the accused-appellant to be computed from the date of the finality of this judgment until fully paid.

SO ORDERED.

Sereno, C.J., (Chairperson), Bersamin,[*] Villarama, Jr., and Mendoza,**] JJ., concur.

[*] Acting Working Chairperson per Special Order No. 1741 dated July 31, 2014 vice Justice Teresita J. Leonardo-De Castro.

**] Acting Member per Special Order No. 1738 dated July 31, 2014 vice Justice Teresita J. Leonardo-De Castro.

[1] See Notice of Appeal, rollo, pp. 32-34.

[2] Penned by Associate Justice Jhosep Y. Lopez, with Associate Justices Edgardo T. Lloren and Henri Jean Paul B. Inting, concurring; CA rollo, pp. 66-94.

[3] Issued by Judge Eduardo S. Casals; id. at 30-41.

[4] 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.

x x x x

[5] AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE AND FOR OTHER PURPOSES.

[6] Article 336. Acts of lasciviousness. — Any person who shall commit any act of lasciviousness upon other persons of either sex, under any of the circumstances mentioned in the preceding article, shall be punished by prision correccional.

[7] AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES.

[8] The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family or household members, shall not be disclosed to protect her privacy and fictitious initials shall, instead, be used, in accordance with *People v. Cabalquinto* (533 Phil. 703 [2006]), and A.M. No. 04-11-09-SC dated September 19, 2006.

[9] CA rollo, p. 67.

[10] Id. at 67-68.

[11] Id. at 68, 71.

[12] Id. at 31.

[13] Id. at 68, 74.

[14] Id. at 68.

[15] Id.

[16] Id. at 68-70.

[17] Id. at 70.

[18] Id. at 70-71.

[19] Id. at 72-74.

[20] Id. at 74.

[21] Id.

[22] Id. at 74-75.

[23] Id. at 76-77.

[24] Id. at 30-41.

[25] *People v. Losano*, 369 Phil. 966, 978 (1999).

- [26] *People v. Pagpaguitan*, 373 Phil. 856, 870 (1999).
- [27] CA rollo, pp. 38-40.
- [28] *Id.* at 40-41.
- [29] See Appellant's Brief, *id.* at 17-29.
- [30] *People v. Buendia*, 432 Phil. 471, 487 (2002).
- [31] CA rollo, p. 25.
- [32] *Id.* at 26.
- [33] See Brief for the Plaintiff-Appellee, *id.* at 46-63.
- [34] *People v. Cantomayor*, 441 Phil. 840, 847 (2002).
- [35] CA rollo, pp. 58-60.
- [36] *Id.* at 60.
- [37] *Id.* at 66-94.
- [38] *Id.* at 90-93.
- [39] *Id.* at 79-84.
- [40] *Villareal v. People*, G.R. No. 151258, February 1, 2012, 664 SCRA 519, 598.
- [41] CA rollo, pp. 88-92.
- [42] See the OSG's Manifestation, rollo, pp. 38-41, and the Appellant's Manifestation, rollo, pp. 51-53.
- [43] CA rollo, p. 67.
- [44] G.R. No. 186441, March 3, 2010, 614 SCRA 225.
- [45] *Id.* at 242.
- [46] 406 Phil. 947 (2001).
- [47] *Id.* at 956.
- [48] See *People v. Jose*, G.R. No. 200053, October 23, 2013, 708 SCRA 608.
- [49] G.R. No. 194446, April 21, 2014.
- [50] *Supra* note 44, at 234, citing *People v. Candaza*, 524 Phil. 589, 605-606 (2006).
- [51] *People v. Valdez*, 466 Phil. 116, 129 (2004).
- [52] CA rollo, pp. 68-70.
- [53] *Id.* at 25.
- [54] *People v. Cruz*, G.R. No. 201728, July 17, 2013, 701 SCRA 548, 559-560.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.