

Republic of the Philippines  
**SUPREME COURT**  
Manila

CONFIRMED TRUE COPY  
*[Signature]*  
V. VELASCO, JR., J. CAPITAN  
DIVISION  
of Court  
NOV 11 2016

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff-Appellee,

**G.R. No. 223561**

- versus -

**JIMMY PITALLA, JR. y**  
**DIOSA a.k.a. "BEBE,"**  
Accused-Appellant.

Present:

VELASCO, JR., J., Chairperson,  
PERALTA,  
PEREZ,  
REYES, and  
JARDELEZA, JJ.

Promulgated:

October 19, 2016

X-----*[Signature]*-----X

**DECISION**

**VELASCO, JR., J.:**

**Nature of the Case**

For review is the Decision<sup>1</sup> dated October 16, 2015 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01852 affirming the Decision<sup>2</sup> dated March 13, 2014 of the Regional Trial Court (RTC) of Bacolod City, Branch 43 in Criminal Case No. 07-30303, finding accused-appellant Jimmy Pitalla, Jr. y Diosa a.k.a. "Bebe" guilty of the crime of rape under Article 266-A in relation to Article 266-B of the Revised Penal Code (RPC), as amended by Republic Act No. 8353.<sup>3</sup>

In line with our ruling in *People v. Cabalquinto*,<sup>4</sup> the real name of the victim, as well as any information which tends to establish or compromise her identity, shall be withheld. The initials AAA shall be used instead to represent her.

<sup>1</sup> *Rollo*, pp. 4-27. Penned by Associate Justice Josep Y. Lopez and concurred in by Associate Justices Pamela Ann Abella Maxino and Germano Francisco D. Legaspi.

<sup>2</sup> *CA rollo*, pp. 55-64.

<sup>3</sup> Otherwise known as the "Anti-Rape Law of 1997."

<sup>4</sup> G.R. No. 167693, September 19, 2006, 502 SCRA 419.

### Factual Antecedents

On May 17, 2007, the Office of the City Prosecutor of Bacolod City charged accused-appellant in an Information,<sup>5</sup> the accusatory portion of which reads:

That on or about the 9<sup>th</sup> day of May 2007 in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, did, then and there wilfully, unlawfully and feloniously commit the act of sexual assault by inserting his penis into the genitalia of the herein offended party, AAA, an 8-year old minor, against her will and consent.

An act contrary to law.

The facts, as narrated by the CA, are as follows:

### Version of the Prosecution

At around 5:00 p.m. on May 9, 2007, eight-year old AAA, together with her two brothers, were washing themselves beside a deep well just five meters from the back of their house. As her brothers were done, she told them to go home ahead of her. She then saw Pitalla gathering some scrap materials nearby. Pitalla then approached her and offered to get water for her from the well. Just about two meters away from the deep well is a dilapidated nipa hut, which was used as a stockroom for scrap materials. Pitalla told AAA to go to the nearby nipa hut and instructed her to take off her clothes and panty. At first, she did not follow him, but Pitalla covered her mouth and carried her towards the nipa hut. Inside the nipa hut, Pitalla again told her to take off her clothes and panty, under threats that he will shoot her and her entire family if she would not follow his instructions. AAA reluctantly undressed for fear of losing her family. Pitalla also took off his clothes while AAA stood in front of him. Pitalla then inserted his penis into her vagina, and told her to spread her legs wider; otherwise, he would shoot her in the head. Pitalla penetrated her three (3) times and made push and pull motions. AAA then told Pitalla to stop for a while for she wanted to urinate. She took this opportunity to escape and run towards her father, who was with a friend, her uncle, and her grandmother in their house. When she told them that she was raped, they ran towards the nipa hut but Pitalla was no longer there. AAA merely described the clothes of the person who raped her, but she could not state his name as she did not know the person. They then went to the police station at about 6:00 p.m. of the same day to report the incident.<sup>6</sup>

At the police station, SPO1 Mimir Guanco (Guanco), who was on duty at that time, together with PO1 Villacastin, went to the area where the incident took place to conduct an investigation. A person by the name of Joel Sevillano (Sevillano) told them that at the time of the incident, he was

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<sup>5</sup> *Rollo*, pp. 1-2.

<sup>6</sup> *Id.* at 6-7.

with AAA's father in their house. He informed the police officers that at that time, he saw a person sitting near AAA while she was washing herself near the deep well. The said person was a man known to him as "Bebe Pitalla," a resident of Villa Felicidad, Barangay Estefina, Bacolod City. SPO1 Guanco then asked Sevillano to accompany them, together with the victim and victim's parents to the house of Bebe Pitalla to enable the victim to identify if he was the one who raped her. When they reached the house of Bebe Pitalla, PO1 Villacastin informed Bebe Pitalla's mother of what happened. Upon seeing Bebe Pitalla, AAA became upset and cried. SPO1 Guanco comforted her and asked her if the person named Bebe Pitalla was the one who molested her. AAA replied in the affirmative. Bebe Pitalla remained silent and at that point, SPO1 Guanco arrested him and told him of his rights. Bebe Pitalla's mother told the police officers that his real name was Jimmy Pitalla. The police officers then brought him to the Women and Children's Desk at the Bacolod City Police Station.<sup>7</sup>

### Version of the Defense

For his part, Pitalla testified that on May 9, 2007, he was at home the whole time resting, when, at 7:00 p.m., two policemen arrived in their house and informed him that somebody accused him of committing a crime that he did not do. These policemen thereafter forced him to ride in their vehicle and brought him to the police station where he, for the first time, saw AAA. According to Pitalla, prior to May 9, 2007, he did not know AAA or her family and that he had no prior conflict or disagreement with the said child or any member of her family.<sup>8</sup>

### Ruling of the RTC

After hearing, the RTC rendered a Decision dated March 13, 2014 finding Pitalla guilty as charged. The dispositive portion of the Decision reads:

**WHEREFORE**, in view of all the foregoing, this Court finds the accused **JIMMY PITALLA, JR. y DIOSA "Guilty"** beyond reasonable doubt for the commission of the crime of Rape punished under Article 266-A(1)(d) in relation to Article 266-B of the Revised Penal Code of the Philippines, as amended, and there being no mitigating nor aggravating circumstance, he is accordingly sentenced to suffer the penalty of **Reclusion Perpetua** and all its accessory penalties provided for by the law.

Accused is likewise ordered to indemnify the private offended party, [AAA], the following amounts:

- 1) Fifty Thousand Pesos (P50,000.00) representing the civil indemnity;
- 2) Thirty Thousand Pesos (P30,000.00) representing the moral damages; and

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<sup>7</sup> Id. at 7-8.

<sup>8</sup> Id. at 8.

- 3) Twenty Thousand Pesos (P20,000.00) representing the exemplary damages.

SO ORDERED.

In convicting Pitalla of the crime charged, the RTC gave more weight and credence on the prosecution's evidence. The trial court observed that AAA was able to positively identify Pitalla as the perpetrator of the crime. AAA cried and became upset when SPO1 Guanco presented Pitalla to her for identification. She also identified the accused in open court as the one who sexually abused her.<sup>9</sup> The commission of the rape was supported by the medical findings of Dr. Eli Cong (Dr. Cong), the medico-legal officer who examined AAA after the rape was committed. According to Dr. Cong, several lacerations and wounds were found in the vagina of AAA, which could have been caused by a blunt instrument, including a finger or a penis.<sup>10</sup> Moreover, the RTC found AAA's testimony credible, for being consistent, equivocal, and straightforward, in the narration of the incident.<sup>11</sup>

In contrast, the RTC found Pitalla's defenses of alibi and denial weak, as he failed to prove that he was elsewhere during the commission of the crime, and that it was physically impossible for him to be physically present at the place of the crime.<sup>12</sup> Thus, the trial court concluded that Pitalla's bare denial cannot outweigh AAA's affirmative testimony.

On appeal to the CA, Pitalla argued that inconsistencies in the testimony of AAA tarnished her credibility as a witness, and that the prosecution failed to prove his identity as the person who raped AAA. Thus, the prosecution failed to establish his guilt beyond reasonable doubt.

### **Ruling of the Court of Appeals**

On October 16, 2015, the CA affirmed the RTC's Decision, with modifications as to the amount of damages awarded. The appellate court increased the civil indemnity awarded from Fifty Thousand Pesos (P50,000) to Seventy-Five Thousand Pesos (P75,000), moral damages from Thirty Thousand Pesos (P30,000) to Seventy-Five Thousand Pesos (P75,000), and exemplary damages from Twenty Thousand Pesos (P20,000) to Thirty Thousand Pesos (P30,000), plus legal interest at the rate of six percent (6%) per annum on all damages awarded from the finality of judgment until fully paid. The *fallo* of the CA's Decision reads:

WHEREFORE, premises considered, the present Appeal is **DISMISSED**. The Decision dated 13 March 2014 of the Regional Trial Court Branch 43, Bacolod City finding the Accused-Appellant Jimmy Pitalla, Jr. guilty beyond reasonable doubt for the commission of the crime of Rape punished under Article 266-A-1(d) in relation to Article 266-B of

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<sup>9</sup> CA rollo, p. 56.

<sup>10</sup> Id. at 63.

<sup>11</sup> Id. at 62; rollo, p. 9.

<sup>12</sup> CA rollo, p. 62.

the Revised Penal Code and sentencing him to suffer the penalty of **Reclusion Perpetua** and all its accessory penalties provided for by law is hereby **AFFIRMED** but with the following modifications.

This Court orders him to pay:

- (i) Seventy Five Thousand Pesos (P75,000.00) as civil indemnity;
- (ii) Seventy Five Thousand Pesos (P75,000.00) as Moral Damages; and
- (iii) Thirty Thousand Pesos (P30,000.00) as Exemplary Damages.
- (iv) In addition, interest is imposed on all damages awarded at the rate of 6% per annum from date of finality of judgment until fully paid.

**SO ORDERED.**

Aggrieved, Pitalla filed the instant appeal.

The sole issue for resolution of this Court is whether the prosecution has proved the guilt of Pitalla for the rape of AAA beyond reasonable doubt.

### **Our Ruling**

We affirm the conviction of Pitalla for rape under Article 266-A in relation to Article 266-B of the RPC, which respectively provide:

Art. 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 is otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority;
- 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 (emphasis supplied)

x x x x

ART. 266-B. Penalties. – Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua. x x x

When the offended party is under 12 years of age, the crime committed is termed “statutory rape” as it departs from the usual modes of committing rape. What the law punishes is carnal knowledge of a woman

below 12 years of age. Thus, the only subject of inquiry is the age of the woman and whether carnal knowledge took place. The law presumes that the victim does not and cannot have a will of her own on account of her tender years.<sup>13</sup> To convict an accused of the crime of statutory rape, the prosecution carries the burden of proving: (a) the age of the complainant; (b) the identity of the accused; and (c) the sexual intercourse between the accused and the complainant.<sup>14</sup>

In this case, the prosecution satisfactorily established all the elements of statutory rape.

AAA testified that on May 9, 2007, Pitalla forcibly carried her to a nipa hut where he proceeded to have carnal knowledge of her. The finding of Dr. Cong that several lacerations and wounds were found in the vagina of AAA, which could have been caused by a blunt instrument, including a finger or a penis,<sup>15</sup> supports this allegation. At the time of the rape, AAA was only eight years old, as evidenced by her Certificate of Baptism and School Report Card.<sup>16</sup>

Moreover, both the trial and appellate courts found that AAA positively and unequivocally identified Pitalla as her molester on two occasions. *First*, SPO1 Guanco testified that AAA identified Pitalla as the one who molested her in the afternoon of May 9, 2007,<sup>17</sup> thus:

Pros. Tiu:

Q: What happened after you reached Villa Felicidad?

A: We were able to locate the house of Bebe Pitalla and my companion, PO1 Villacastin, approached the mother of Bebe Pitalla and informed him of that incident and afterwards when Bebe Pitalla was there the child, AAA, identified Bebe Pitalla as the one responsible in molesting her.<sup>18</sup>

*Second*, AAA positively identified Pitalla as her rapist in court.<sup>19</sup>

The testimony of a single witness may be sufficient to produce a conviction, if the same appears to be trustworthy and reliable. If credible and convincing, that alone would be sufficient to convict the accused.<sup>20</sup>

It bears stressing that when a woman says she has been raped, she says in effect all that is necessary to show that she has been raped and her testimony alone is sufficient if it satisfies the exacting standard of credibility

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<sup>13</sup> *People v. Crisostomo*, G.R. No. 196435, January 29, 2014, 715 SCRA 99.

<sup>14</sup> *People v. Garcia*, G.R. No. 200529, September 19, 2012, 681 SCRA 465.

<sup>15</sup> *Rollo*, p. 9; *CA rollo*, p. 63.

<sup>16</sup> *Id.* at 24.

<sup>17</sup> *Id.* at 15; *CA rollo*, p. 58.

<sup>18</sup> *Id.* Direct examination conducted by Prosecutor Gwendolyn Tiu.

<sup>19</sup> *Id.* at 17.

<sup>20</sup> *People v. Manalili*, G.R. No. 191253, August 28, 2013, 704 SCRA 305; citing *People v. Perez*, G.R. No. 182924, 24 December 2008, 575 SCRA 653.

needed to convict the accused.<sup>21</sup> By the distinctive nature of rape cases, conviction usually rests solely on the basis of the testimony of the victim, provided that such testimony is credible, natural, convincing, and consistent with human nature and the normal course of things.<sup>22</sup> Thus, the victim's credibility becomes the primordial consideration in the resolution of rape cases.<sup>23</sup>

In this regard, *People v. Abat*<sup>24</sup> teaches that the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court given its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct, and attitude under grilling examination. In the case at bar, the trial court found the victim and her testimony to be credible, which findings are affirmed by the CA. It is well-settled that factual findings of the trial court, its calibration of the testimonies of the witnesses, and its conclusions anchored on its findings are accorded by the appellate court high respect, if not conclusive effect, more so when affirmed by the CA.<sup>25</sup>

Applied in the present case, the ruling of the trial court on this matter, as affirmed by the court *a quo*, must be given weight by this Court. The Court does not see any reason to disturb the RTC and the CA's appreciation of AAA's testimony.

Suffice to state that Pitalla's allegation of incredulity of AAA's testimony rests on thin ground and is so trivial in nature which does not affect the merits of the case. AAA's inconsistency in her narration on whether she took her dress and her panty off, or only her panty, prior to the rape, does not in any way weaken her credibility. Such inconsistency is so inconsequential and does not diminish the fact that Pitalla's guilt had been established beyond reasonable doubt, as shown by the totality of the prosecution's evidence.

Anent Pitalla's defenses of denial and alibi, the same fail to impress. Alibi is an inherently weak defense because it is easy to fabricate and highly unreliable.<sup>26</sup> For the defense of alibi to prosper, the accused must prove that he was somewhere else when the offense was committed and that he was so far away that it was not possible for him to have been physically present at the place of the crime or at its immediate vicinity at the time of its commission.<sup>27</sup> While Pitalla alleged that he was at home when the rape took place, he failed to show that it was physically impossible for him to be at the scene of the crime at that time.

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<sup>21</sup> *People v. Gahi*, G.R. No. 202976, February 19, 2014, 717 SCRA 209.

<sup>22</sup> *People v. Ayade*, G.R. No. 188561, January 15, 2010, 610 SCRA 246.

<sup>23</sup> *People v. Ocdol*, G.R. No. 200645, August 20, 2014, 733 SCRA 561.

<sup>24</sup> G.R. No. 202704, April 2, 2014, 720 SCRA 557.

<sup>25</sup> *Casitas v. People*, G.R. No. 152358, February 5, 2004, 422 SCRA 242, 248.

<sup>26</sup> *People v. Gani*, G.R. No. 195523, June 5, 2013, 697 SCRA 530.

<sup>27</sup> *People v. Piosang*, G.R. No. 200329, June 5, 2013, 697 SCRA 587.

All told, Pitalla's conviction for the rape of AAA under Article 266-A stands. In accordance with Article 266-B, the penalty for the offense of rape of a minor below twelve (12) years of age is *reclusion perpetua*. However, to conform to Our pronouncement in *People v. Jugueta*,<sup>28</sup> the exemplary damages awarded must be increased from Thirty Thousand Pesos (P30,000) to Seventy-Five Thousand Pesos (P75,000).

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated October 16, 2015 of the Court of Appeals in CA-G.R. CR-H.C. No. 01852 is hereby **AFFIRMED** with **MODIFICATION**. As modified, the judgment shall read, as follows:

WHEREFORE, premises considered, the present Appeal is **DISMISSED**. The Decision dated 13 March 2014 of the Regional Trial Court Branch 43, Bacolod City finding the Accused-Appellant Jimmy Pitalla, Jr. guilty beyond reasonable doubt for the commission of the crime of Rape punished under Article 266-A-1(d) in relation to Article 266-B of the Revised Penal Code and sentencing him to suffer the penalty of **Reclusion Perpetua** and all its accessory penalties provided for by law is hereby **AFFIRMED** but with the following modifications.

This Court orders him to pay:

- (v) Seventy Five Thousand Pesos (P75,000.00) as civil indemnity;
- (vi) Seventy Five Thousand Pesos (P75,000.00) as Moral Damages; and
- (vii) Seventy-Five Thousand Pesos (P75,000.00) as Exemplary Damages.
- (viii) In addition, interest is imposed on all damages awarded at the rate of 6% per annum from date of finality of judgment until fully paid.

**SO ORDERED.**

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice

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<sup>28</sup> G.R. No. 202124, April 5, 2016.

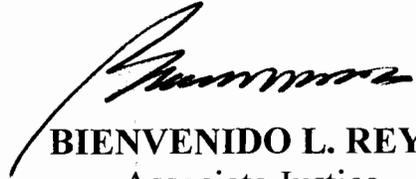
WE CONCUR:



**DIOSDADO M. PERALTA**  
Associate Justice



**JOSE PORTUGAL PEREZ**  
Associate Justice



**BIENVENIDO L. REYES**  
Associate Justice



**FRANCIS H. JARDELEZA**  
Associate Justice

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



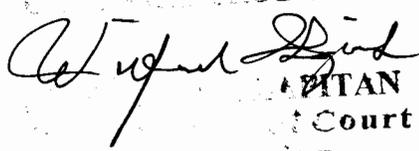
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



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

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