



Republic of the Philippines
Supreme Court
Manila

CERTIFIED TRUE COPY
Wilfredo V. Lapitan
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

SEP 06 2017

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 212814

Present:

- versus -

VELASCO, JR., J.,
Chairperson,
BERSAMIN,
*PERLAS-BERNABE,
**MARTIRES, and
TIJAM, JJ.

ERNIE CARILLO y PABELLO
alias "Nanny," RONALD ESPIQUE
y LEGASPI alias "Borlok,"
RAFAEL SUSADA y GALURA
alias "Raffy,"

Accused,

ERNIE P. CARILLO and RONALD
L. ESPIQUE,

Accused-Appellants.

Promulgated:

July 12, 2017

Wilfredo V. Lapitan

X-----X

DECISION

TIJAM, J.:

Accused-appellants Ernie P. Carillo (Carillo) and Ronald L. Espique (Espique) challenge before Us the July 8, 2013 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05088, which found them guilty

* Designated additional Member per Raffle dated February 22, 2017 *vice* Associate Justice Francis H. Jardeleza.

**Designated Fifth Member of the Third Division per Special Order No. 2461 dated July 10, 2017 *vice* retired Associate Justice Bienvenido L. Reyes.

¹ Penned by Associate Justice Rosmari D. Carandang, concurred in by Associate Justice Ricardo R. Rosario and Associate Justice Leoncia R. Dimagiba; *rollo*, pp. 2-13.

M

beyond reasonable doubt for the crime of Rape and sentenced them to suffer the penalty of *reclusion perpetua*.

Accused-appellants and Rafael Susada y Galura alias "Raffy" (Rafael), together with Randel Susada y Galura (Randel) and Dante Fabillar y Lumagbas (Dante) were charged with the crime of Rape under Article 266-A paragraph 1 of the Revised Penal Code (RPC), in an Amended Information, which reads:

That on or about [the] 6th day of October 2006, in the City of Las Piñas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating and all of them mutually helping and aiding one another, with lewd design and while the woman is unconscious, did then and there willfully, unlawfully and feloniously have carnal knowledge with AAA,² against her will and consent.

CONTRARY TO LAW.³

Upon arraignment, accused-appellants and Rafael entered separate pleas of not guilty. However, Randel and Dante were not arraigned because they remained at large. Trial on the merits ensued with respect to accused-appellants and Rafael.

Evidence for the Prosecution:

AAA testified that she was a nursing student at Perpetual Help School in Las Piñas City. She said that on October 6, 2006 at around 1:00 p.m., AAA was in Zapote, Las Piñas City, waiting for a jeepney ride going to Bacoor, Cavite to attend a party. Suddenly, someone held her right arm and instructed her to just walk normally as if nothing was happening. She complied but due to extreme fear and coupled with her menstrual period, after several steps, she lost consciousness.⁴

Upon regaining consciousness, AAA noticed that she was lying on a "papag" inside a nipa hut (*kubo*) with only her bra and panty on. AAA saw five male persons standing in front of her. They were laughing, smoking and drinking. Carillo, then went on top of her, pulled AAA's panty and held her breasts. Carillo inserted his penis into AAA's vagina and made a push and pull movement. Thereafter, Espique went on top of her and did what Carillo did to her. AAA also stated that while accused-appellants were

² 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.

³ CA rollo, p. 8.

⁴ Rollo, p. 3.

sexually abusing her, their three companions were shouting “*sige pa, sige pa.*” She felt very weak and lost her consciousness again.⁵

When AAA woke up, she was alone and was already wearing her bra and panty. She immediately put on her clothes and left. AAA proceeded to her classmate's house in Bacoor, Cavite, and narrated what happened. Upon learning of the incident, her classmate's mother accompanied AAA to her uncle's house in BF Homes, Parañaque. They went immediately to Bacoor Police Station to lodge a complaint, but they were referred to Las Piñas Police Station which had jurisdiction over the case. Thereafter, AAA was referred to Camp Crame, Quezon City for her medical examination.⁶

Further, AAA testified that she did not actually see the other three accused, Rafael, Randel and Dante at the time of the incident. It was Espique who provided their names and not AAA.⁷

Evidence for the Defense:

Espique for his defense, asserted that on the date of the incident, he was in his house located at No. 340, Basa Compound, Zapote, Las Piñas City, helping his parents take care of their pigs. On October 7, 2006, he was surprised when three police officers invited him to the police precinct. At the police station, he, together with Carillo, was ordered to stand in front of a woman. The latter pointed at Carillo, hence, Espique was allowed to go home.⁸ Espique learned later that the woman is the AAA in this case.

On October 18, 2006 around midnight, when Espique was on his way home after attending a wake, some police officers grabbed him and brought him to Camp Crame, where he was tortured. Said police officers forced him to admit that he raped AAA.⁹

Carillo for his part, denied any participation in the crime imputed against him. Carillo alleged that he was at a store in Lalig, Zapote waiting for his friends, namely Dante and Randell.¹⁰

Rafael, on the other hand, claimed that he was in his house located at No. 340 Basa Compound, Zapote, Las Piñas City. Later in the morning, he went to his mother's house in Bacoor to ask for money. Rafael arrived there at around 9:30 a.m. and stayed there for about one hour. He went back to Zapote and proceeded directly to his father. They chatted for about 20 minutes and he immediately left. Rafael stated that thereafter, he stayed

⁵ Id. at 3-4.

⁶ CA rollo, p. 12.

⁷ Rollo, p. 12.

⁸ CA rollo, p. 14.

⁹ Rollo, p. 6.

¹⁰ Id. at 5.

14

home with his wife and children, watched television, and they all went to sleep. He woke up around 4:00 p.m. and bought snacks at a bakery. He learned about the case against him only on October 18, 2006, when he received a subpoena. Rafael further claimed that he never met AAA and he does not know of any reason why she would point at him.¹¹

The RTC, in a Decision¹² dated July 8, 2011, found accused-appellants and Rafael guilty beyond reasonable doubt for two (2) counts of rape. Accused-appellants and Rafael were sentenced to suffer the penalty of *reclusion perpetua* for each count of rape without eligibility of parole. The dispositive portion of the RTC decision reads:

WHEREFORE, accused Ernie Carillo y Pabella [sic] alias “Nanny”, Ronald Espigue @ “Borlok”, and Rafael Susada y Galura @ “Raffy” @ “Rafly” are each found guilty beyond reasonable doubt of two (2) counts of consummated rape and accordingly, sentenced the penalty of *reclusion perpetua* for each count without eligibility for parole.

Further, said accused are ordered to pay jointly and severally [AAA] the sum of Php 150,000.00 by way of indemnity for the two counts of consummated rape plus Php 100,000.00 as moral damages and to pay the costs of suit.

SO ORDERED.¹³

On appeal, the CA, in a Decision¹⁴ dated July 8, 2013, affirmed the RTC's decision with modification. It ruled that the RTC erred in convicting accused-appellants for two counts of rape, since they were charged only under a single information for a single crime of rape. As for Rafael, the prosecution failed to prove his guilt beyond reasonable doubt as co-conspirator to the crime of raping AAA, since AAA testified that she did not actually see the other three accused, Rafael, Randel and Dante at the time of the incident. It was Espigue who provided their names and not AAA. Hence, the CA acquitted Rafael and ordered his immediate release. The CA decision's *fallo* provides:

WHEREFORE, in view of the foregoing, the Decision dated July 8, 2011 is hereby **AFFIRMED with MODIFICATION**. Accused-Appellants Ernie Carillo y Pabella [sic] alias “Nanny”, Ronald Espigue alias “Borlok” are found **GUILTY** only of one count of Rape as charged in the Information and sentenced to Reclusion Perpetua. They are also ordered to pay jointly and severally [AAA] the sum of P50,000.00 plus P50,000.00 as moral damages and to pay the costs of suit. Accused-appellant **RAFAEL SUSADA** is hereby **ACQUITTED**. The Court orders

¹¹ Id.

¹² Penned by Judge Ismael T. Duldulao, CA *rollo*, pp. 10-22.

¹³ Id. at 22.

¹⁴ *Rollo*, pp. 2-13.

his immediate release from custody unless he is being held for some other lawful cause.

SO ORDERED.¹⁵

Hence, this appeal.

Accused-appellants question the CA decision and argue that the prosecution failed to prove their guilt beyond reasonable doubt due to AAA's inconsistent statements and her immediate conduct following the incident of rape.

The appeal lacks merit.

There is no cogent reason to deviate from the CA ruling affirming the RTC's factual finding that accused-appellants are guilty of rape. The issues raised are factual in nature. The trial court's evaluation shall be binding on this Court unless it is shown that certain facts of substance and value have been plainly overlooked, misunderstood, or misapplied.¹⁶ None of the exceptions are present in this case.

Even if We consider the factual issues raised, the findings of fact of the RTC and the CA still sufficiently support the conviction of and imposition of the penalty of *reclusion perpetua* on accused-appellants for the crime of rape against AAA.

Article 266-A 1(b) of the RPC, as amended, pertinently reads:

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 is 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.

We find that the evidence on record sufficiently established that the elements of rape are present in this case. In convicting accused-appellants, the appellate court relied upon a finding that AAA was unconscious when

¹⁵ Id. at 12-13.

¹⁶ *People v. Ofemiano*, G.R. No. 187155, February 1, 2010.

accused-appellants had carnal knowledge of her, which We uphold. As testified by AAA, accused-appellants went on top of her and ravished her; thereafter, she felt dizzy, weak and unconscious. This enabled accused-appellants to consummate their bestial design on AAA. Clearly, the requisites of Article 266-A(1)(b) of the RPC were satisfied.

Also, as correctly observed by the CA, the prosecution was able to prove that a crime of rape has been committed against AAA, that accused-appellants were present at the scene of the crime and that they were positively identified by AAA as her sexual assailants.

AAA was able to positively identify accused-appellants as her sexual assailants. But due to their positive identification, they now argue that there are inconsistencies in AAA's testimony vis-a-vis her statements in her complaint-affidavit. They point out that in AAA's testimony, she stated that she lost consciousness right after she was abducted, but regained consciousness just in time to see the perpetrators' faces and that she was awake during her harrowing experience, while in her complaint-affidavit, she stated that she was totally unconscious during the incident. The argument of inconsistencies can hardly affect the credibility of AAA and We still sustain accused-appellants' conviction.

In *People v. Burce*,¹⁷ the Court held that:

As a general rule, on the question whether to believe the version of the prosecution or that of the defense, the trial court's choice is generally viewed as correct and entitled to the highest respect because it is more competent to conclude so, having had the opportunity to observe the witnesses' demeanor and deportment on the witness stand as they gave their testimonies. The trial court is, thus, in the best position to weigh conflicting testimonies and to discern if the witnesses were telling the truth. Without any clear showing that the trial court and the appellate court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance, the rule should not be disturbed.¹⁸

It is settled in this jurisdiction that as long as the testimony of the witness, herein AAA, is coherent and intrinsically believable as a whole, discrepancies of minor details and collateral matters do not affect the veracity or detract from the essential credibility of the witnesses' declarations.¹⁹

Moreover, in prosecuting a crime of rape, the accused may be convicted solely on the basis of the testimony of the victim that is credible,

¹⁷ G.R. No. 201732, March 26, 2014.

¹⁸ *Id.*

¹⁹ *People v. Corpuz*, G.R. No. 191068, July 17, 2013, citing *People v. Laog*, G.R. No. 178321, October 5, 2011.

convincing, and consistent with human nature and the normal course of things.²⁰

Accused-appellants further argue that it is hard to believe that a rape victim like AAA would confide her experience to her classmates and friends rather than to her family. They insist that AAA's act of going to her classmate's house in Bacoor, Cavite, where she narrated her experience was contrary to human experience.

Jurisprudence has recognized the fact that no clear-cut behavior can be expected of a person being raped or has been raped. It is a settled rule that failure of the victim to shout or seek help does not negate rape.²¹ The delay in reporting the incident to her parents or the proper authorities is insignificant and does not affect the veracity of her charges. The failure of AAA to disclose her defilement without loss of time to persons close to her or to report the matter to the authorities does not perforce warrant the conclusion that she was not sexually molested and that her charges against the accused are all baseless, untrue and fabricated. Many victims of rape never complain or file criminal charges against the rapists. They prefer to bear the ignominy and pain, rather than reveal their shame to the world or risk the offenders' making good their threats to kill or hurt their victims.²²

Furthermore, their defense of *alibi* and denial cannot stand against the prosecution's evidence. *Alibi* is an inherently weak defense because it is easy to fabricate and highly unreliable.²³ To merit approbation, they must adduce clear and convincing evidence that they were in a place other than the *situs criminis* at the time when the crime was committed, such that it was physically impossible for them to have been at the scene of the crime when it was committed.²⁴ Accused-appellants failed in this regard.

Thus, We find no cogent reason to disturb the findings of the trial and appellate courts for the conviction of accused-appellants for the crime of rape against AAA as they were sufficiently supported by the evidence on record.

The CA properly imposed the penalty of *reclusion perpetua* in conformity with Article 266-B of the RPC. However, to conform with the prevailing jurisprudence, We deem it proper to modify the amount of damages awarded in this case. The Court modifies the award of damages as follows: Php 75,000.00 as civil indemnity and Php 75,000.00 as moral damages.²⁵

²⁰ *People v. Espenilla*, G.R. No. 192253, September 18, 2013.

²¹ *People v. Pareja*, G.R. No. 202122, January 15, 2014.

²² *People v. Ogarte*, G.R. No. 182690, May 30, 2011.

²³ *People v. Gani*, G.R. No. 195523, June 5, 2013.

²⁴ *People v. Tabio*, G.R. No. 179477, February 6, 2008.

²⁵ *People v. Jugueta*, G.R. No. 202124, April 5, 2016.

We note that no exemplary damages were awarded to AAA. In accordance with the case of *People v. Jugueta*,²⁶ where exemplary damages in rape cases are awarded for the inherent bestiality of the act committed even if no aggravating circumstance attended the commission of the crime, We hereby award Php 75,000.00 as exemplary damages to AAA.

In addition, all damages awarded shall earn legal interest at the rate of six percent (6%) *per annum* from the date of finality of judgment until fully paid.²⁷

WHEREFORE, premises considered, the appeal is **DENIED**. The Court of Appeals Decision dated July 8, 2013 in CA-G.R. CR-HC No. 05088, finding accused-appellants Ernie P. Carillo and Ronald L. Espique guilty beyond reasonable doubt of rape and sentencing them to suffer the penalty of *reclusion perpetua* is **AFFIRMED with MODIFICATION**. The civil indemnity and moral damages awarded are both modified to Php 75,000.00. Exemplary damages of Php 75,000.00 is hereby awarded. Likewise, the award of damages shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.

SO ORDERED.


NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

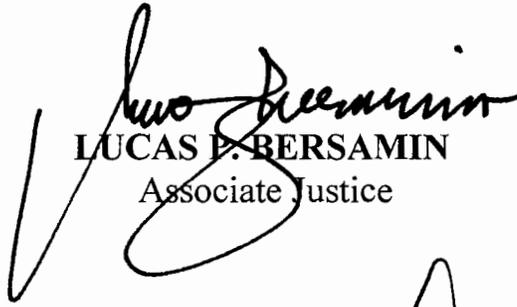
²⁶ G.R. No. 202124, April 5, 2016.
For Simple Rape/Qualified Rape:

x x x x

2.1 Where the penalty imposed is *reclusion perpetua*, other than the above-mentioned:

- a. Civil indemnity – ₱75,000.00
- b. Moral damages – ₱75,000.00
- c. Exemplary damages – ₱75,000.00

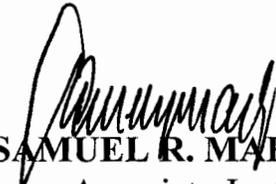
²⁷ *People v. Sabal*, G.R. No. 201861, June 2, 2014.



LUCAS P. BERSAMIN
Associate Justice



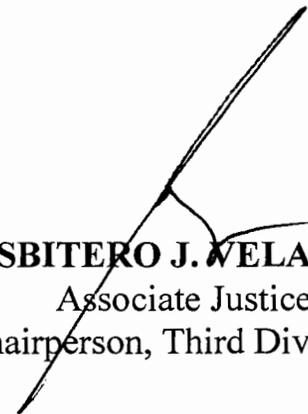
ESTELA M. PERLAS-BERNABE
Associate Justice



SAMUEL R. MARTIRES
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.



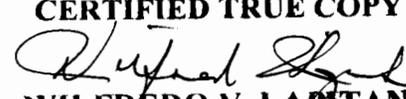
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

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

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division
 SEP 06 2017.