



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Appellee,

G.R. No. 216938

Present:

CARPIO, J., Chairperson,  
PERALTA,  
MENDOZA,\*  
LEONEN, and  
MARTIRES,\* JJ.

- versus -

Promulgated:

HENRY BENTAYO,

Appellant.

05 JUN 2017

*AM Cabalag*

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DECISION

PERALTA, J.:

For consideration of this Court is the appeal of the Decision dated November 14, 2014 of the Court of Appeals (CA) dismissing appellant Henry Bentayo's appeal and affirming the Judgment dated September 2, 2009 of the Regional Trial Court, Branch 20, Tacurong City in Criminal Case No. 3027, convicting the same appellant of the crime of incestuous rape under Article 266-A, paragraph 1, in relation to Article 266-B of the Revised Penal Code (RPC).

The facts follow.

\* On official leave.

AAA,<sup>1</sup> the victim, was born on November 11, 1991 to spouses BBB and CCC. When AAA was 7 years old, her father died and, thereafter, her mother re-married. Her new husband, appellant was then a carpenter and charcoal maker upon whom she had two children. Sometime in the morning of September 27, 2006, the victim's mother CCC told the former to accompany her stepfather, appellant, to the farm at Lagao, Lambayong, Sultan Kudarat to help the latter in making charcoal. Around 10 o'clock in the morning of the same day, appellant and AAA arrived at the farm and, thereafter, appellant told AAA to cook food while appellant was making charcoal. Afterwards, appellant suddenly held the hands of AAA, then covered her mouth, and dragged her. Appellant warned AAA not to shout otherwise he would hack her. AAA tried to resist but was overpowered by appellant's strength. Appellant then laid her on the ground, undressed her, removed her pants and underwear, showed his penis, and masturbated. Thereafter, appellant mounted on top of AAA, spread her legs, inserted his penis into her vagina, and made several coitus movements, all the while oblivious of AAA's pleas.

On November 6, 2007, around 8 o'clock in the evening, appellant raped AAA again at their *kubo* in the farm. While AAA was sleeping, she felt appellant, who was armed with a bolo, touch her face, her breast and then her vagina. Appellant proceeded to undress her, kissed her private parts, and then threatened to kill her if she shouted. Appellant then mounted on top of AAA and inserted his penis into her vagina. Thereafter, appellant further threatened AAA that he will kill her, her mother and her siblings if she told anyone what happened.

Cordero, a neighbor of AAA, on November 29, 2007, heard the latter crying, thus, she immediately went to AAA's house to peep inside and saw appellant beating AAA. When Cordero went near the door, appellant stopped beating AAA and immediately went out of the house and walked away. It was then that AAA confided to Cordero that appellant was forcing her to go with him to the farm where appellant intends to rape her again. Cordero relayed the matter to AAA's mother. Cordero, thereafter, accompanied AAA to the police station. The medical examination conducted on AAA showed that she has "old, healed lacerations of vagina at 1 o'clock, 3 o'clock; 5 o'clock; 7 o'clock and 11 o'clock."

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<sup>1</sup> This is pursuant to the ruling of this Court in *People of the Philippines v. Cabalquinto* (533 Phil. 703, 709 [2006]), wherein this Court resolved to withhold the real names of the victims-survivors and to use fictitious initials instead to represent them in its decisions. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed. The names of such victims, and of their immediate family members other than the accused, shall appear as "AAA," "BBB," "CCC," and so on. Addresses shall appear as "XXX" as in "No. XXX Street, XXX District, City of XXX."

The Supreme Court took note of the legal mandate on the utmost confidentiality of proceedings involving violence against women and children set forth in Sec. 29 of Republic Act No. 7610, otherwise known as Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act; Sec. 44 of Republic Act No. 9262, otherwise known as Anti-Violence Against Women and Their Children Act of 2004; and Sec. 40 of A.M. No. 04-10-11-SC, known as Rule on Violence Against Women and Their Children effective November 15, 2004.



Hence, an Information was filed against appellant which reads as follows:

That on or about 8:00 o'clock in the evening of November 6, 2007 inside the "kubo" located at Barangay Lagao, Municipality of Lambayong, Province of Sultan Kudarat, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with a bolo, with force, threat and intimidation, did then and there, wilfully, unlawfully and feloniously succeed in having carnal knowledge with his stepdaughter AAA, a fifteen (15) year old girl having been born on November 11, 1991 and daughter of CCC, wife of the accused, against her will and consent, which act of the accused debases, degrades the intrinsic worth and dignity of the child as a human being.

CONTRARY TO LAW, particularly Article 266-A paragraph 1 in relation to Article 266-B of the Revised Penal Code of the Philippines and Republic Act No. 7610.

Appellant pleaded not guilty.

Appellant denied the charge against him and insisted that during the time of the alleged incidents, he was in Barangay Lagao, Lambayong, Sultan Kudarat making charcoal; and that he was alone at that time.

The RTC, Branch 20, Tacurong City found appellant guilty beyond reasonable doubt of the crime of incestuous rape and sentenced him to suffer the penalty of *reclusion perpetua*. The dispositive portion of the Judgment<sup>2</sup> dated September 2, 2009 reads follows:

Wherefore, upon all the foregoing considerations, the court FINDS the guilt of accused HENRY BENTAYO y VISTA to the crime of Incestuous Rape beyond reasonable doubt and hereby sentences him to suffer the penalty of *reclusion perpetua* and to pay the private complainant the following:

- a. The amount of ₱75,000.00 as Civil Indemnity;
- b. The amount of ₱50,000.00 as and by way of Moral Damages;
- c. The amount of ₱25,000.00 as and by way of Exemplary Damages

Including their interests at twelve (12%) percent *per annum* computed from April 8, 2008 when the above-entitled case was filed in court and until their full payment.

For being a detention prisoner, the entire period of his preventive imprisonment shall be credited in the service of sentence imposed on him, provided that he shall abide in writing with the same disciplinary rules imposed upon convicted prisoners, otherwise, with only four-fifths (4/5) thereof.

<sup>2</sup>

Penned by Judge Milanio M. Guerrero; CA rollo, pp. 45-62.

Pursuant to Supreme Court Circular No. 4-92-A, the accused shall immediately be transferred to the National Bilibid Prisons in [Muntinlupa] City.

IT IS SO ORDERED.

The CA affirmed<sup>3</sup> the decision of the RTC with modification that appellant must pay AAA the amount of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages, and interest on all damages at the rate of six percent (6%) *per annum* from the finality of judgment until fully paid, thus:

WHEREFORE, the Judgment dated September 2, 2009 of the Regional Trial Court, Branch 20, Tacurong City in Criminal Case No. 3027 is hereby AFFIRMED with MODIFICATION. Accused-appellant Henry Bentayo is hereby found GUILTY beyond reasonable doubt of the crime of incestuous rape and is sentenced to suffer the penalty of *reclusion perpetua*, without the benefit of parole.

Further, accused-appellant is ORDERED to pay AAA the amount of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages and interest on all damages at the rate of six percent (6%) *per annum* from the finality of judgment until fully paid.

SO ORDERED.

Hence, the present appeal.

According to appellant, the prosecution was not able to prove his guilt beyond reasonable doubt.

The appeal lacks merit.

Under paragraph 1 (a) of Art. 266-A of the RPC, the elements of rape are: (1) that the offender had carnal knowledge of a woman; and (2) that such act was accomplished through force, threat, or intimidation. However, when the offender is the victim's father, as in this case, there need not be actual force, threat or intimidation because when a father commits the odious crime of rape against his own daughter, who was also a minor at the time of the commission of the offenses, his moral ascendancy or influence over the latter substitutes for violence and intimidation.<sup>4</sup> Thus, all the elements are present.

In testifying before the trial court, AAA was able to narrate in detail the crime committed, thus:

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<sup>3</sup> Decision dated November 14, 2014, penned by Associate Justice Henri Jean Paul B. Inting, with the concurrence of Associate Justices Edgardo A. Camello and Pablito A. Perez; *rollo*, pp. 3-16.

<sup>4</sup> *People v. Fragante*, 657 Phil. 577, 592 (2011).



x x x x

Q: I heard from you Miss Witness that you said that Mary Ann would take a statement from you. What was that statement you are referring to?

A: About my father who raped me, sir.

Q: When you say father, you are referring to?

A: My stepfather, sir.

Q: Why, what did your stepfather do to you?

A: He took off my short pants and panty, sir.

Q: Where were you when your stepfather took off your short pants and underwear?

A: At the farm, part of Lagao, your honor.

Q: And when was that if you can recall?

A: I could not remember your honor.

Q: How did it happen that it was in the farm located at Lagao that your stepfather took off your short pants and underwear?

A: Because we were making charcoal there your honor.

x x x x

Q: I heard from you Miss Witness that while you were at Lagao together with your stepfather at the *kubo*, he removed your short pants and panty is that correct?

A: Yes, sir.

Q: And what was your reaction when he made that thing to you?

A: I stood up, sir.

Q: Why Miss Witness when he was removing your [short] pants and panty you were then lying?

A: Yes, sir.

x x x x

Q: You said [that] you stood up. Why did you stand up when he was removing your short pants and panty?

A: He will kill me if I will not concede to what he wants, sir.

Q: And what does your stepfather want?

A: "*Patyon niya ako kung di ko siya patilawon,*" sir.

Q: You said that he would kill you if you will not "*patilawon siya.*" What does your stepfather really wants that you will give to him?

A: (no answer)

COURT: You shoot another question.

x x x x

Q: And while you were resisting that your short pants and panty could be removed, did you tell something to your stepfather?

A: I told him, do not do it Papa, because I do not want.



COURT: Tell the court what did your stepfather really want from you, which you do not want to give?

A: He will rape me, your honor.

x x x x

Q: After he was able to remove your short pants and panty, what did this Henry Bentayo do?

A: He raped me, sir.

COURT: The court cannot understand what does rape mean. Why did your father do when (sic) he removed your short pants and underwear?

A: "*Gin itot*," your honor.

Q: What did your father do that made you say, "*gin itot ka*?"

A: Because he asked your Honor.

COURT: Continue.

Q: How did your father have sexual intercourse with you?

A: He got a piece of wood and he told me that if I will not give he will struck me with that piece of wood, sir.

Q: You said that your father [had] sexual intercourse with you, what was he doing when your short pants and panty was (sic) removed.

A: He took off his short pants and showed his penis, sir.

Q: And after showing his penis, what did he do next?

A: He masturbated, sir.

Q: I heard the word "masturbated," how was it being done?

A: He placed his penis inside my vagina, sir.

COURT: That was after he masturbated?

A: Yes, your honor.

x x x x

Q: And what was your reaction then when he entered his penis into your vagina?

A: Painful, sir.

Q: What did you tell him?

A: I told him, "Pang, I could not take it anymore" and he said, "for a while," sir.

COURT: What was your position when your stepfather showed his penis and masturbated the same?

A: I was lying down, your honor.

Q: And what was your position when you said your father inserted his penis into your vagina?

A: My two (2) legs were spread, your honor.

x x x x



Q: And how long did your father stay on top of you?

A: Maybe three minutes, sir.

Q: How did you know that it was the penis of your stepfather that was inserted into your vagina?

A: Because I saw it when he inserted his penis inside my vagina, your honor.

x x x x

Q: Your stepfather was on top of you while you were lying then. What was his action or movement when your legs were being spread and he was on top of you?

A: (The witness hold her breast [sic] while talking)

Q: What else?

A: He was holding his penis while inserting inside my vagina and pushing it inside, sir.

Q: Was he able to place his penis completely into your vagina?

A: Yes, sir.

Q: While his penis was inside your vagina and on top of you what else was he doing then?

COURT (TO WITNESS): You speak louder so that your stepfather could hear.

A: He was pumping or making a push-and-pull movement, sir.<sup>5</sup>

The clear and straightforward testimony of AAA, as corroborated by the medical findings show beyond reasonable doubt that AAA was raped. When the victim's testimony is corroborated by the physical findings of penetration, there is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge.<sup>6</sup>

As to appellant's contention that the testimony of AAA is full of inconsistencies and, hence, should not be given credence, this Court has ruled that discrepancies referring only to minor details and collateral matters do not affect the veracity or do not detract from the essential credibility of a witness' declarations, as long as these are coherent and intrinsically believable on the whole.<sup>7</sup> Furthermore, it is an accepted doctrine in rape cases that in the absence of evidence of improper motive on the part of the victim to falsely testify against the accused, her testimony deserves credence.<sup>8</sup>

Appellant also insists that the inability of AAA to remember the time and date when the crime was committed is detrimental to the case of the prosecution. This Court finds such argument worthless. The date and time of the commission of the crime of rape becomes important only when it creates

<sup>5</sup> TSN, November 19, 2008, records, pp. 164-170.

<sup>6</sup> *People v. Estoya*, 700 Phil. 490, 499 (2012), citing *People v. Dizon*, 453 Phil. 858, 883 (2003).

<sup>7</sup> *People v. Laog*, 674 Phil. 444, 463 (2011), citing *People v. Suarez*, 496 Phil. 231, 243 (2005).

<sup>8</sup> *People v. Aguilar*, 565 Phil. 233, 249 (2007).

serious doubt as to the commission of the rape itself or the sufficiency of the evidence for purposes of conviction.<sup>9</sup> In other words, the “date of the commission of the rape becomes relevant only when the accuracy and truthfulness of the complainant’s narration practically hinge on the date of the commission of the crime.”<sup>10</sup> Moreover, the date of the commission of the rape is not an essential element of the crime.<sup>11</sup>

Anent appellant's defense of denial and alibi, bare assertions thereof cannot overcome the categorical testimony of the victim. Denial is an intrinsically weak defense which must be buttressed with strong evidence of non-culpability to merit credibility. On the other hand, for alibi to prosper, it must be demonstrated that it was physically impossible for appellant to be present at the place where the crime was committed at the time of commission.<sup>12</sup>

As to the penalty imposed, the RTC was correct in imposing the penalty of *reclusion perpetua* in lieu of death because of its suspension under R.A. No. 9346.<sup>13</sup>

As to the award of damages, a modification must be made per *People v. Jugueta*.<sup>14</sup> Where the penalty imposable is death but because of its suspension under R.A. No. 9346, the penalty imposed is *reclusion perpetua*, the amounts of damages shall be as follows:

- 1) Civil Indemnity – ₱100,000.00
- 2) Moral Damages – ₱100,000.00
- 3) Exemplary Damages – ₱100,000.00

**WHEREFORE**, the appeal of Henry Bentayo is **DISMISSED** for lack of merit and the Decision dated November 14, 2014 of the Court of Appeals affirming the Judgment dated September 2, 2009 of the Regional Trial Court, Branch 20, Tacurong City in Criminal Case No. 3027, convicting appellant of the crime of incestuous rape defined and penalized under Art. 266-A (1) in relation to Article 266-B of the RPC, as amended by R.A. 8353 and Republic Act No. 7610, and imposing the penalty of *Reclusion Perpetua* without eligibility for parole under R.A. No. 9346 is **AFFIRMED** with

<sup>9</sup> *People v. Pareja*, 724 Phil. 759, 774 (2014).

<sup>10</sup> *People v. Cantomayor*, 441 Phil. 840, 847 (2002).

<sup>11</sup> *People v. Escultor*, 473 Phil. 717, 727 (2004).

<sup>12</sup> *People v. Abulon*, 557 Phil. 428, 448 (2007).

<sup>13</sup> Art. 266-B, Revised Penal Code. x x x .

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

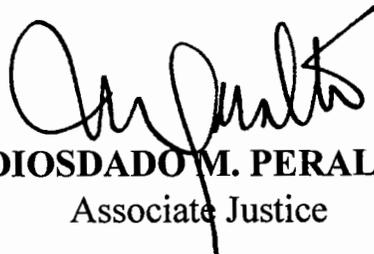
1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;

x x x

<sup>14</sup> G.R. No. 202124, April 5, 2016.

**MODIFICATION** as to the award of damages which shall now be, as follows: civil indemnity in the amount of ₱100,000.00; moral damages in the amount of ₱100,000.00; and exemplary damages in the amount of ₱100,000.00, as ruled by this Court in *People v. Jugueta*,<sup>15</sup> with the appellant paying an interest of six percent (6%) *per annum* on all damages awarded from the date of finality of this judgment until fully paid.

**SO ORDERED.**

  
**DIOSDADO M. PERALTA**  
 Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
 Associate Justice  
 Chairperson

On official leave  
**JOSE CATRAL MENDOZA**  
 Associate Justice

  
**MARVIC M.V.F. LEONEN**  
 Associate Justice

On official leave  
**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.

  
**ANTONIO T. CARPIO**  
 Associate Justice  
 Chairperson, Second Division

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<sup>15</sup> *Id.*

**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