

Republic of the Philippines
Supreme Court
Manila

CERTIFIED TRUE COPY
Wilfredo V. Lapitan
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
JUL 20 2017

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 225743

Present:

- versus -

VELASCO, JR., *J.*, Chairperson,
BERSAMIN,
REYES,
JARDELEZA, and
TIJAM, *JJ.*

Promulgated:

SANDY DOMINGO y LABIS,
Accused-Appellant.

June 7, 2017

Wilfredo V. Lapitan

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DECISION

BERSAMIN, J.:

There is no complex crime of forcible abduction with rape if the primary objective of the accused is to commit rape.

The Case

The accused appeals the affirmance by the Court of Appeals (CA) of his conviction for forcible abduction with rape under the decision promulgated on September 24, 2015,¹ viz.:

WHEREFORE, in view of the foregoing, the Appeal is **DENIED**. Accordingly, the Decision dated 6 September 2013 of the Regional Trial Court, Fourth Judicial Region, Branch 17, Cavite City in Criminal Case No. 39-04 is hereby **AFFIRMED**. Appellant is hereby ordered to pay the

¹ CA rollo, pp. 120-127; penned by Associate Justice Francisco P. Acosta, with Associate Justice Florito S. Macalino and Associate Justice Eduardo B. Peralta, Jr. concurring.

private offended party interest on all damages awarded at the legal rate of 6% per annum from the date of finality of this judgment until fully paid.

SO ORDERED.²

Antecedents

The factual and procedural antecedents as summarized by the CA follow:

On 26 January 2004, an Information was filed charging appellant with the crime of Forcible Abduction with Rape in this wise:

That on or about the period between January 24 and 25, 2004, in the Municipality of Rosario, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, motivated by lust and with lewd designs, and by means of force, violence and intimidation, did then and there, willfully, unlawfully and feloniously, abduct and take away one AAA, against her will and consent, and thereafter, by means of force, violence and intimidation, with the use of [a] bladed weapon and actuated by lust and lewd designs, have carnal knowledge of said victim, against her will and consent, to the damage and prejudice of said AAA.

CONTRARY TO LAW.

Upon arraignment on 2 March 2004, appellant, assisted by counsel entered a plea of NOT GUILTY.

Thereafter, trial ensued. The Prosecution presented AAA, SPO3 Felipe Gomez, Jr., and Elmer Marquez. The defense on the other hand presented Sandy Domingo and Jocelyn Mariano as witnesses.

x x x x

People's Version

AAA is a saleslady in a public market in Rosario, Cavite. On 24 January 2004, at around 8:00 in the evening, private complainant was waiting for her cousin to fetch her, when appellant, who worked in a fish stall in the market, approached her. Appellant asked if he could accompany private complainant to her aunt's home, where she resided. Since AAA's cousin was not around to fetch her, she agreed for appellant to accompany her home.

The two boarded a tricycle. As they were about to leave, appellant brought out a bladed weapon and poked the same on AAA's right waist. Struck with fear, AAA was unable to ask for help. Along the way, AAA realized that they were no longer proceeding to her aunt's house because

² Id. at 126.

the tricycle made a different turn. They stopped at a place that was not familiar to her. Thereafter, the two of them alighted after appellant paid the tricycle driver. The entire time, however, appellant was holding the knife and poking it against AAA's side.

With appellant still holding the knife and poking it against AAA's waist, the two walked toward a house, appellant knocked on the door, and a man came out. Appellant and AAA were allowed entry inside the house. The man did not say anything and immediately went inside a room.

Appellant ordered AAA to enter another room. Once inside, appellant who was still holding the knife, undressed himself. Appellant ordered AAA to undress next, but AAA did not obey. Appellant, still holding the knife, forcibly undressed AAA until the latter was completely naked.

Appellant ordered AAA to lie down on the wooden bed. While still holding the knife, appellant inserted his penis into private complainant's vagina. AAA felt pain in her private part. Appellant also kissed AAA's neck and lips. Appellant made a pumping motion while his penis was inserted in AAA's vagina. Afterwards, appellant pulled out his penis, kissed AAA, and played with the knife on the latter's face. They did not sleep. After a while, appellant again inserted his penis inside her vagina and kissed her. After removing his penis, he inserted it again for the fourth time. Thereafter, appellant dressed up and ordered her to put on her clothes. While he was helping her put on her clothes, she told him that she wants to go home. He answered that he will let her go home if she will not tell anybody what happened. At around 3:00 in the morning, they went out of the house and headed towards the tricycle terminal. She went home and told her Aunt what happened. Thereafter, they went to the police station to report the incident.

Defense's Version:

AAA was appellant's girlfriend. On 24 January 2004 at around 10:00 o'clock in the evening, he and AAA eloped and went to the house of his brother-in-law in Sapa II, Cavite. They spent the night there and agreed that they will go to her Aunt's house and get her things and will proceed to Bicol. When they reached her aunt's house, AAA went inside while he waited. After a few minutes, a man came out and chased him with a bolo which prompted him to run. At around 7:00 o'clock in the morning, he was at his sister's house when the policemen arrived and informed him that there was a complaint filed against him. He went with them to the police station.³

On September 6, 2013, the RTC rendered judgment finding the accused-appellant guilty as charged, decreeing thusly:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Sandy Domingo y Labis @ Bitoy GUILTY beyond

³ Id. at 121-122.

reasonable doubt of the crime of forcible abduction with rape, defined and penalized under Article 342, in relation to Article 266-A (as amended by R.A. 8353) and Article 48 of the Revised Penal Code, and hereby sentences him to suffer the penalty of *reclusion perpetua*. Further, accused Sandy Domingo is hereby ordered to pay AAA: (1) the amount of ₱50,000.00, as civil indemnity *ex delicto*, and (2) the amount of ₱50,000.00, as moral damages; and to pay the costs.

SO ORDERED.⁴

Judgment of the CA

On September 24, 2015, the CA affirmed the RTC, holding that AAA's testimony categorically describing how the appellant had abducted and ravaged her was credible; that her failure to shout for help or to offer tenacious resistance did not make her submission to him voluntary; that his use of the knife was sufficient to compel her to submit to his demands; that the presentation of the examining physician as a witness was not indispensable in proving the rape; that his "sweetheart theory" could not be given weight as a defense because he did not thereby establish that such relationship had really existed.

Issue

In his appeal, the appellant submits that:

THE COURT *A QUO* GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT⁵

The appellant contends that AAA's testimony was incomplete and incredible, and as such did not substantiate the charges against him; that she had not thereby elaborated how she was forced, coerced or intimidated into submitting to him; that she had voluntarily gone with him, and had consented to the sexual congress;⁶ that her conduct before, during and immediately following the crime belied her allegations against him; that her testimony was uncorroborated because the Prosecution did not present the examining physician; and that on the other hand his own witness, Jocelyn Mariano, corroborated his having a romantic relationship with AAA.⁷

⁴ Id. at 16-23; penned by Judge Manolita Y. Gumarang.

⁵ Id. at 54.

⁶ Id. at 57.

⁷ Id. at 60-65.

In other words, the appellant submits that the CA committed serious reversible errors in finding him guilty of forcible abduction with rape despite (a) the incredible testimony of AAA; (b) the failure of the Prosecution to present the examining physician to explain the findings; and (c) the “sweetheart theory” advanced by him.

Ruling of the Court

We affirm the CA’s decision with modification of the characterization of the crime committed.

We note at the outset that the RTC and the CA both found AAA’s testimony to be credible. Consequently, it became incumbent upon the appellant to present clear and persuasive reasons to persuade the Court to reverse their unanimous determination of her credibility as a witness in order to resolve the appeal his way. Alas, he did not discharge his burden, and, consequently, we declare that the CA aptly held that:

Our review of the records reveals that AAA’s testimony was candid and straightforward. During cross-examination, she remained steadfast, consistent and unwavering in her testimony. She categorically described how appellant took advantage of her. She narrated that appellant offered to accompany her home. However, when they boarded the tricycle, appellant poked a bladed weapon on her right waist. Paralyzed with fear, she was unable to shout or ask for help. x x x x [W]hile it appears that AAA initially agreed for appellant to accompany her home, her willingness ceased when appellant pointed a bladed weapon at her right waist. Overcome by fear, she was not able to react when the tricycle proceeded to an unfamiliar place. Considering the foregoing circumstances, AAA’s failure to shout for help does not give less credit to her testimony. Time and again, it has been held that physical resistance is not an element in the crime of rape and need not be established when intimidation is exercised upon the victim. The victim’s failure to shout or offer tenacious resistance did not make voluntary her submission to the criminal acts of her aggressor. Appellant’s use of a knife was enough for AAA to submit to his demands. Not every victim can be expected to act with reason or in conformity with the usual expectations of everyone. The workings of a human mind placed under emotional stress are unpredictable; people react differently.⁸

We remind the appellant that the trial court’s evaluation and conclusion on the credibility of witnesses in rape cases are generally accorded great weight and respect, and at times even finality, especially after the CA as the intermediate reviewing tribunals has affirmed the findings, unless there is a clear showing that the findings were reached arbitrarily, or that certain facts or circumstances of weight, substance or value were

⁸ CA *rollo*, p. 124.

overlooked, misapprehended or misappreciated that, if properly considered, would alter the result of the case. In this case, the appellant has not made such showing. Indeed, we have no reason to reverse the well-considered findings and observations of the lower courts.

We do not find the non-presentation of the physician who had examined AAA to affect in any significant manner the credibility of the victim's testimony. After all, the medical findings have never been considered indispensable in supporting convictions for rape. In contrast, we reiterate that the rape victim's testimony, standing alone, can be made the basis of the successful prosecution of the culprit provided such testimony meets the test of credibility.⁹

Anent the sweetheart defense of the appellant, the CA and the trial court justly rejected it. Such defense, being uncorroborated and self-serving, deserved scant consideration. Nonetheless, that the appellant and the victim had been sweethearts was no excuse in the eyes of the law for him to employ force and intimidation in gratifying his carnal desires.¹⁰

Was the complex crime of forcible abduction with rape committed?

Under Article 342 of the *Revised Penal Code*, the elements of forcible abduction are: (1) the taking of a woman against her will; and (2) with lewd designs. The crime of forcible abduction with rape is a complex crime that occurs when the abductor has carnal knowledge of the abducted woman under the following circumstances: (1) by using force or intimidation; (2) when the woman is deprived of reason or otherwise unconscious; and (3) when the woman is under 12 years of age or is demented.

Although the elements of forcible abduction obtained, the appellant should be convicted only of rape. His forcible abduction of AAA was absorbed by the rape considering that his real objective in abducting her was to commit the rape. Where the main objective of the culprit for the abduction of the victim of rape was to have carnal knowledge of her, he could be convicted only of rape.¹¹

⁹ *People v. Gapasan*, G.R. No. 110812, March 29, 1995, 243 SCRA 53, 59.

¹⁰ *People v. Tapera*, G.R. No. 142860, January 16, 2003, 395 SCRA 310, 314; *People v. Buendia*, G.R. Nos. 133949-51, September 16, 1999, 314 SCRA 655, 665,

¹¹ *People v. Sabadlab*, G.R. No. 175924, March 14, 2012, 668 SCRA 237, 248-249; citing *Garces v. People*, G.R. No. 173858, July 17, 2007, 527 SCRA 827; *People v. Muros*, G.R. No. 142511, February 16, 2004, 423 SCRA 69; *People v. Egan*, G.R. No. 139338, May 28, 2002, 382 SCRA 326; *People v. Mejorada*, G.R. No. 102705, July 30, 1993, 224 SCRA 837, 852; *People v. Godines*, G.R. No. 93410, May 7, 1991, 196 SCRA 765, 773.

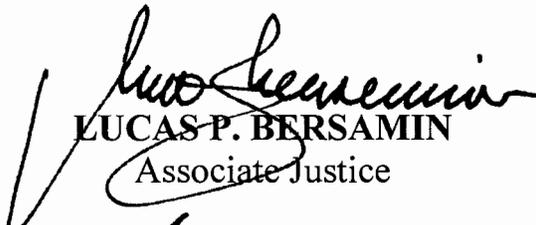
The penalty of *reclusion perpetua* was properly imposed pursuant to Article 266(B)¹² of the *Revised Penal Code*.¹³

To accord with jurisprudence,¹⁴ the awards of damages are increased as follows: (1) ₱75,000.00 as civil indemnity; (2) ₱75,000.00 as moral damages; and (3) ₱75,000.00 as exemplary damages. Moreover, the CA correctly imposed interest of 6% *per annum* on all such items of civil liability reckoned from the finality of judgment until fully paid.¹⁵

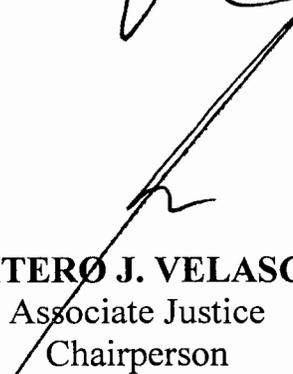
WHEREFORE, we **AFFIRM** the decision promulgated on September 24, 2015, with the **MODIFICATION** that accused **SANDY DOMINGO y LABIS** is: (a) **DECLARED GUILTY BEYOND REASONABLE DOUBT** of **SIMPLE RAPE** as defined under Article 266-A of the *Revised Penal Code* and penalized with *reclusion perpetua*; and (b) **ORDERED TO PAY** to AAA ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, plus interest of 6% *per annum* on all the items of civil liability reckoned from the finality of judgment until fully paid.

The accused shall pay the costs of suit.

SO ORDERED.


LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

¹² Art. 266-B. *Penalties*. – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

When the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.

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¹³ A.M. No. 15-08-02-SC (*Guidelines for the Proper Use of the Phrase “Without Eligibility for Parole” in Indivisible Penalties*) dated August 4, 2015 in relation to Section 3 of R.A. No. 9346.

¹⁴ *People v. Jugueta*, G.R. No. 202124, April 5, 2016.

¹⁵ See *People v. Combate*, G.R. No. 189301, December 15, 2010, 638 SCRA 797, 824.

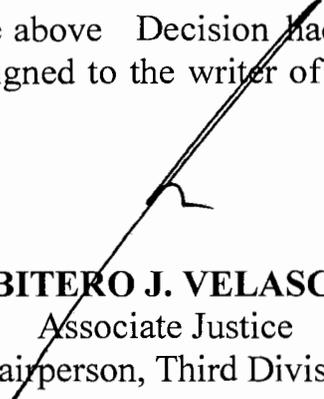

BIENVENIDO L. REYES
 Associate Justice


FRANCIS H. JARDELEZA
 Associate Justice


NOEL G. TIJAM
 Associate Justice

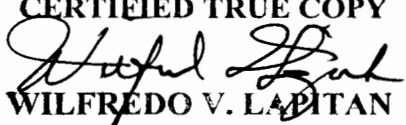
ATTESTATION

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.

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WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division
 JUL 20 2017


MARIA LOURDES P. A. SERENO
 Chief Justice