



Republic of the Philippines  
Supreme Court  
Manila

*Welford Gint*  
AUG 09 2016

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 211028

Present:

VELASCO, JR., J.,  
Chairperson,  
PERALTA,  
PEREZ,  
REYES,\* and  
PERLAS-BERNABE,\*\* JJ.

-versus-

JONATHAN ARCILLO,  
Accused-Appellant.

Promulgated:  
July 13, 2016

X-----*Welford Gint*-----X

RESOLUTION

PEREZ, J.:

On appeal is the 25 July 2013 Decision<sup>1</sup> of the Court of Appeals in CA-G.R. CR-HC No. 01011 affirming the conviction of appellant Jonathan Arcillo for the crime of qualified rape.

The Information<sup>2</sup> charging appellant with rape reads:

That on the 1<sup>st</sup> day of November 2004 at 1:00 o'clock in the afternoon, more or less at Sitio Basiao, Barangay Canang, Oslob, Cebu, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with deliberate intent, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal

\* On Wellness Leave.

\*\* Additional Member per Raffle dated 13 June 2016.

<sup>1</sup> Rollo, pp. 3-19; Penned by Associate Justice Carmelita Salandanan-Manahan with Associate Justices Ramon Paul L. Hernando and Ma. Luisa C. Quijano-Padilla concurring.

<sup>2</sup> Records, pp. 1-2.

*Welford Gint*

knowledge with [AAA],<sup>3</sup> a [16] years old minor, against her will and consent.

Appellant entered a not guilty plea. Trial ensued.

The evidence for the prosecution shows that AAA lived with her grandfather CCC. Appellant is AAA's uncle, he being the husband of AAA's aunt. At around 1:00 p.m. on 1 November 2004, CCC ordered AAA to gather food for the pigs. AAA went near the house of appellant where she filled up the sack with leaves of a tree. Thereat, appellant called AAA from his house but AAA ignored him. Appellant then went out of his house. He approached AAA from behind, wrestled her, tied her mouth with a cloth and threatened to kill her with a *pinuti*, a long bladed weapon. Appellant forced her to lie down and then stripped her of her underwear. Appellant then mounted on top of AAA and inserted his penis into her vagina.<sup>4</sup>

According to CCC, AAA went home after gathering the feeds. He noticed that she looked weak. CCC did not bother to ask AAA until his daughter, the wife of appellant, informed him that her husband raped AAA.<sup>5</sup>

Upon learning of the incident, AAA's mother, BBB accompanied AAA directly to the police station, and then they proceeded to the hospital to have AAA examined.<sup>6</sup>

AAA was born on 7 December 1987 and she was sixteen years old on the date of the rape incident.

The Medico-Legal Certificate reveals the following findings:

Multiple healed skin lesions upper and lower extremities,  
The anal genitalia examination showed external genitalia.  
Medical evaluation suggestive of sexual abuse<sup>7</sup>

Appellant denied that he raped AAA. Appellant narrated that on the date it was done, he and his wife were on the farm at 8:00 a.m. They went home to have lunch from 11:00 a.m. to 12:00 p.m. They went back to the farm after lunch until 5:00 p.m.. Appellant denied raping AAA and claimed

<sup>3</sup> The real name of the victim is withheld to protect her privacy. See *People v. Cabalquinto*, 533 Phil. 703 (2006).

<sup>4</sup> TSN, 24 January 2006, pp. 5-13; TSN, 10 January 2006, pp. 6-7.

<sup>5</sup> TSN, 7 February 2006, pp. 4-6.

<sup>6</sup> TSN, 31 January 2006, pp. 3-5.

<sup>7</sup> CA *rollo*, p. 86; Records, p. 33.

that he does not know her. During the cross-examination, appellant testified that he and his wife were at the cemetery visiting relatives at 8:00 a.m. on 1 November 2004. They went home at 3:00 p.m. The trial court judge asked clarificatory questions which led to appellant admitting that he knew AAA but denied knowing CCC.<sup>8</sup>

On 16 February 2009, the RTC convicted appellant of rape. The *fallo* of the Decision<sup>9</sup> reads:

WHEREFORE, in view of the foregoing, this Court finds accused Jonathan Arcillo GUILTY beyond reasonable doubt for the commission of RAPE and hereby sentences him to suffer the following penalty of RECLUSION PERPETUA which carries an accessory penalty of civil interdiction for the duration of the period of the sentence and perpetual disqualification. He is also liable to pay moral damages to the private complainant in the amount of Php75,000.00 and exemplary damages in the amount of Php25,000.00.<sup>10</sup>

The RTC found that the positive assertion of AAA is more credible than the denial of appellant. The trial court also observed that appellant's alibi has two versions: first, that he was on the farm; and second, he was at the cemetery. The trial court noted that appellant failed to present his wife to corroborate his statement.

Appellant filed a Notice of Appeal but on 25 July 2013, the Court of Appeals affirmed the trial court's ruling but modifying it as to damages, to wit:

**WHEREFORE**, premises considered, the appeal is **DENIED**. The *Decision* dated February 16, 2009 of the Regional Trial Court (RTC), Branch 62, Oslob, Cebu in Criminal Case No. OS-05-371 finding accused-appellant Jonathan Arcillo ("*Arcillo*") guilty beyond reasonable doubt for the crime of Rape in relation to Republic Act (RA) No. 7610, is hereby **AFFIRMED** with the **MODIFICATIONS** as to damages.

Accused-appellant Jonathan Arcillo is ordered to pay victim AAA Fifty Thousand Pesos (P50,000.00) as civil indemnity, Fifty Thousand Pesos (P50,000.00) as moral damages and Thirty Thousand Pesos (P30,000.00) as exemplary damages, all with interest at the rate of 6% per annum from the date of finality of this judgment. No costs.<sup>11</sup>

<sup>8</sup> TSN, 24 January 2008, pp. 5-14.

<sup>9</sup> Records, pp. 84-91.

<sup>10</sup> Id. at 91.

<sup>11</sup> *Rollo*, p. 18.

The Court of Appeals found no reason to deviate from the prior assessment of the RTC on the credibility of AAA. According to the Court of Appeals, the testimony of AAA is supported by the physician's finding of penetration. The Court of Appeals convicted appellant of simple rape because the qualifying circumstance of relationship was not present when CCC admitted that appellant's wife is only his niece, thus, appellant cannot be AAA's uncle by affinity within the third civil degree.

In his Brief,<sup>12</sup> appellant maintains that the prosecution failed to prove his guilt beyond reasonable doubt. He insists that the testimony of AAA is improbable and incredulous. According to appellant, AAA's claim that she was raped in an open field is impossible because many people pass by the area to gather feeds and would have seen them. Appellant claims that AAA's failure to shout for help is suspicious and her failure to immediately inform her grandfather of the alleged rape should render her story impossible.

We dismiss the appeal.

The RTC found AAA's testimony to be credible and noted that it was positive, direct and straightforward. The Court of Appeals agreed that AAA's testimony was straightforward and categorical. The determination by the trial court of the credibility of witnesses, when affirmed by the appellate court, as in this case, is accorded full weight and credit as well as great respect, if not conclusive effect.

Indeed, AAA clearly testified that she was raped:

FISCAL ELESTERIO:

Q: Can you still recall, where were you on the afternoon of November 01, 2004, at 1:00 o'clock in the afternoon?

A: Yes, I was getting feeds for the pigs.

Q: Now, where was that place when you got the feeds for the pig;

A: Near the house of Jonathan.

Q: This Jonathan Arcillo the one accused in this case?

A: Yes, sir.

Q: Is he inside the Court room now?

A: Yes, Sir.

---

<sup>12</sup> CA rollo, pp. 20-29.

Fiscal Elesterio (to witness)

Q: Will you please point to us this Jonathan Arcillo?

A: At this juncture, the witness is pointing a person in an orange CPDRC uniform when he (sic) asked his name he answered Jonathan Arcillo.

Q: Now, Madam witness when you were at the place near the house of Jonathan Arcillo, what happened there?

A: He wrestled me.

Q: After the accused wrestled you what happened next?

A: He tied out my mouth.

Q: With what Madam witness?

A: A cloth, Sir.

Q: After that what happened next?

A: He threatened me.

Q: After he threatened you what happened next?

A: He threatened to kill me.

Fiscal Elesterio (to witness)

Q: After he threatened you, what happened?

A: He told me not to tell what had happened.

Court (to witness)

Q: What did the accused do to you?

A: He wrestled me.

Q: After he wrestled you what happened to you?

A: He let me to lie down.

Q: When you were lying down what did the accused do to you?

A: He raped me.

Q: What do you mean that you were raped?

A: Witness did not answer.

Fiscal Elesterio (to witness)

Q: When you said you were raped, are you saying that the accused inserted his penis to your vagina?

A: Yes, sir.

Court (to witness)

Q: Were you wearing panty at that time?

A: Yes, sir.

Q: What did the accused do to your panty?

A: He removed my underwear.

Q: Than after your panty was removed by the accused he inserted his penis into your vagina. Is that correct?

A: Yes, sir.

Court Proceed.

Fiscal Elesterio (to witness)

Q: Did you resist to the accused advances?

A: Yes, Sir.

Q: Please tell us what did you do in fighting back the accused?

A: I cried.

Q: Madam witness after you were raped, according to you, you were raped what did you do if any?

A: Nothing.

Court (to witness)

Q: You tell the Court that the accused inserted his penis into your vagina, [w]as the accused able to insert his penis into your vagina?

A: Yes, sir.<sup>13</sup>

For a charge of rape under Article 266-A of the Revised Penal Code (RPC) to prosper, the prosecution must prove that: (1) the offender had carnal knowledge of a woman; and (2) he accomplished such act through force, threat or intimidation, when she was deprived of reason or otherwise unconscious, or when she was under 12 years of age or was demented.<sup>14</sup>

The prosecution in the present case positively established the elements of rape required under Article 266-A of the RPC. First, the appellant had carnal knowledge of the victim. AAA was positive and categorical in asserting that appellant inserted his penis into her vagina. Her testimony was corroborated by the medical evaluation which is suggestive of sexual abuse. Second, appellant employed threat and force. He used a long blade to threaten AAA to submit to his desire.

In addition, the appellant did not impute any improper motive to AAA or on any other prosecution witnesses on why they would falsely testify

<sup>13</sup> TSN, 10 January 2006, pp. 4-8.

<sup>14</sup> *People v. Dalan*, 736 Phil. 298, 300 (2014).

against him. The failure of AAA to shout for help and her delay in reporting the rape incident do not negate rape. We have consistently ruled that failure of the victim to shout for help does not negate rape and the victim's lack of resistance especially when intimidated by the offender into submission does not signify voluntariness or consent.<sup>15</sup> Moreover, delay in reporting rape incidents, in the face of threats of physical violence, cannot be taken against the victim because delay in reporting an incident of rape is not an indication of a fabricated charge and does not necessarily cast doubt on the credibility of the complainant.<sup>16</sup>

At the time of the rape incident, AAA was only 14 years old. However, the qualifying circumstance of relationship was not proven. Thus, appellant was correctly convicted of the crime of simple rape. Both courts correctly imposed the penalty of *reclusion perpetua*

The awards of civil indemnity, moral damages and exemplary damages must be increased to ₱75,000.00 each in line with prevailing jurisprudence.<sup>17</sup> Interest at the rate of six percent (6%) *per annum* shall be imposed on all monetary awards from date of finality of this Resolution until fully paid.

**WHEREFORE**, the assailed 25 July 2013 Decision of the Court of Appeals in CA-G.R. CR-HC No. 01011 finding appellant Jonathan Arcillo guilty beyond reasonable doubt of the crime of rape is **AFFIRMED with MODIFICATIONS**; the awards of civil indemnity, moral damages and exemplary damages are increased to ₱75,000.00 each; in addition all monetary awards shall earn interest at the rate of six percent (6%) *per annum* from date of finality of this Resolution until fully paid.


**SO ORDERED.**

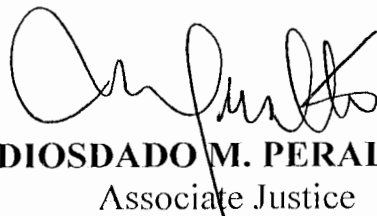
  
**JOSE PORTUGAL PEREZ**  
Associate Justice

---


<sup>15</sup> *People v. Pacheco*, 632 Phil. 624, 633 (2010) citing *People v. Ofemiano*, 625 Phil. 92, 99 (2010).  
<sup>16</sup> *People v. Cabiles*, 616 Phil. 701, 707-708 (2009).  
<sup>17</sup> *People v. Jugueta*, G.R. No. 202124, 5 April 2016.

**WE CONCUR:**

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


  
**DIOSDADO M. PERALTA**  
Associate Justice

(On Wellness Leave)  
**BIENVENIDO L. REYES**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**ATTESTATION**

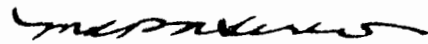
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**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, it is hereby certified that the conclusions in the above Resolution 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

AUG 09 2016