



Republic of the Philippines  
**Supreme Court**  
 Manila

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 Third Division

JUL 26 2016

**THIRD DIVISION**

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

**G.R. No. 212337**

Present:

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

*-versus-*

**BELTRAN FUENTES, JR.**  
 Accused-Appellant.

Promulgated:

July 4, 2016

*[Signature]*

X-----X

**RESOLUTION**

**PEREZ, J.:**

Before us for review is the Court of Appeals' Decision<sup>1</sup> promulgated on 28 September 2012 in CA-G.R. CEB C.R. HC No. 00467. The Decision affirmed the Regional Trial Court (RTC), Branch 31, Dumaguete City's conviction of appellant Beltran Fuentes, Jr. for rape.

Appellant is charged with rape in the following Information:

That on or about 8:00 o'clock in the evening of April 30, 2002, at Barangay Nagbo-lao, Municipality of Basay, Province of Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, employing force, did then and there, willfully, unlawfully and feloniously have carnal knowledge with [AAA],<sup>2</sup>

<sup>1</sup> *Rollo*, pp. 4-13; Penned by Associate Justice Ramon Paul L. Hernando with Associate Justice Gabriel T. Ingles and Zenaida T. Galapate-Laguilles concurring.

<sup>2</sup> The real name of the victim is withheld to protect her privacy. See *People v. Cabalquinto*, 533 Phil. 703 (2006).

*[Handwritten mark]*

a 14-years old minor girl, and niece of the accused without the victim's consent and against the latter's will.

Contrary to Article 266-A of the Revised Penal Code as amended by Republic Act No. 7659 in relation to Republic Act No. 7610.<sup>3</sup>

After filing the case, AAA executed an Affidavit of Desistance<sup>4</sup> on 24 June 2002.

Upon arraignment, appellant pleaded not guilty. During the pre-trial, the parties stipulated that AAA is a 14-year old minor and niece of appellant by affinity.

The prosecution's version of the rape incident is encapsulated as follow:

AAA lives in her parents' house in *Barangay* Nagbo-alao, Basay, Negros Oriental. At around 8:00 p.m. on 20 April 2002, AAA was defecating under a gmelina tree situated at some 35 meters from her house. Appellant suddenly appeared and grabbed her from behind. Appellant initially warned AAA not to tell her mother before he forced her to lie down. Appellant started to kiss her. AAA struggled but she was overpowered by appellant. Appellant managed to strip his and AAA's pants and underwear. He then mounted her and inserted his penis into her vagina. After consummating his bestial act, appellant ordered AAA to keep her mouth shut, else her mother would scold them. When AAA reached the house, she immediately told her parents about her ordeal.<sup>5</sup> They then went to the police station to report the rape incident. Thereafter, AAA underwent a medical examination where she was found to have lacerations in her hymen and her underwear had blood-stained secretions.<sup>6</sup> AAA was born on 6 June 1987<sup>7</sup> and she was fourteen-years old on the date of the rape incident.

Appellant testified on his behalf. He claimed that on the alleged date of the crime, he was doing carpentry work in the house of the parents of AAA. He worked from 8:00 a.m. until 5:00 p.m. then headed home right after. Upon reaching home, appellant rested for a while. While waiting for supper, he heard a certain Gina Becang calling for him and accusing him of molesting AAA. He first went directly to the store of AAA's parents and

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<sup>3</sup> Records, p. 1.

<sup>4</sup> Id. at 211.

<sup>5</sup> TSN, 19 August 2003, pp. 4-14.

<sup>6</sup> TSN, 19 December 2002, pp. 8-10.

<sup>7</sup> Records, p. 12.

told AAA not to make accusations. He then went to the house of his parents-in-law where he was arrested.<sup>8</sup>

AAA filed an Affidavit of Desistance on 24 June 2002.

In a Decision<sup>9</sup> dated 24 January 2006, the trial court found appellant guilty beyond reasonable doubt of rape. The dispositive portion of the decision reads:

WHEREFORE, all the foregoing premises considering, and finding the evidence of the prosecution to have proved the guilt of accused for the crime of rape defined under Article 266-A, No. 1, and penalized under Article 266-B, with the aggravating circumstance of being the relative of the victim by affinity within the third civil degree, accused Beltran Fuentes, Jr., is hereby sentenced to serve the supreme penalty of death, with all the accessory penalties of the law.<sup>10</sup>

Appellant filed a motion for new trial invoking AAA's retraction. The trial court denied the motion.

Appellant appealed.

On 28 September 2012, the Court of Appeals affirmed the decision of the trial court. It ruled that the categorical and positive testimony of AAA prevailed over appellant's defense of denial and alibi. The Court of Appeals also ruled that AAA has no motive to falsely testify against appellant. The Court of Appeals upheld the express renunciation of the affidavit of desistance by AAA based on her explanation that she was lured by appellant's wife into signing the affidavit in exchange for sending her to school. The dispositive portion of the Court of Appeals' decision reads:

WHEREFORE, premises considered, the appeal is hereby **DENIED**. The assailed January 24, 2006 Judgment of the Regional Trial Court (RTC), Branch 31 of Dumaguete City in Criminal Case No.1581 is hereby **AFFIRMED** with the modification that the penalty of death imposed on accused-appellant is reduced to reclusion perpetua without eligibility for parole pursuant to Republic Act 9346.

No costs.<sup>11</sup>

<sup>8</sup> TSN, 6 January 2004, pp. 3-7.

<sup>9</sup> CA *rollo*, pp. 11-15; Penned by Presiding Judge Rogelio L. Carampatan.

<sup>10</sup> Id. at 15

<sup>11</sup> *Rollo*, p. 12.

In his appellant's Brief,<sup>12</sup> appellant argues that AAA's testimony is improbable with respect to how appellant removed her shorts and underwear when she was apparently defecating when appellant grabbed her. Appellant also claims that AAA was not able to positively identify him because she was merely relying on the familiarity of his voice.

Refuting appellant's arguments, appellee maintains that appellant's guilt in committing the crime of rape was proven beyond reasonable doubt. The alleged "confusing" testimony of AAA was in fact clear and categorical. Appellee points out that the medical certificate corroborates AAA's testimony that she was raped. Appellee also avers that appellant failed to present any concrete evidence to prove his alibi in light of the positive identification made by AAA. Finally, appellee urges the Court to dismiss the recantation because it was dubious.

The issue in this case is whether appellant is guilty beyond reasonable doubt of the crime charged. Appellant is essentially assailing the credibility of AAA.

It is a well-settled principle that the findings of the trial court are not to be disturbed unless the consideration of certain facts of substance and value, which have been plainly overlooked, might affect the result of the case.<sup>13</sup> The evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct, and attitude under grilling examination. These are important in determining the truthfulness of witnesses and in unearthing the truth, especially in the face of conflicting testimonies. For, indeed, the emphasis, gesture, and inflection of the voice are potent aids in ascertaining the witness' credibility, and the trial court has the opportunity and can take advantage of these aids. These cannot be incorporated in the record so that all that the appellate court can see are the cold words of the witness contained in transcript of testimonies with the risk that some of what the witness actually said may have been lost in the process of transcribing.<sup>14</sup>

We find no valid reason to depart from the abovementioned doctrine especially when the Court of Appeals held that her testimony was categorical and positive. It correctly ruled on this matter when it held:

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<sup>12</sup> CA rollo, pp. 77-92.

<sup>13</sup> *People v. Balino*, G.R. No. 194833, 2 July 2014, 729 SCRA 52, 60.

<sup>14</sup> *People v. Abat*, G.R. No. 202704, 2 April 2014, 720 SCRA 557, 564-565 citing *People v. Sapigao*, 614 Phil. 589, 599 (2009).



Private complainant categorically and positively identified in court as to how she was raped by the appellant. She was defecating under the gemelina (sic) tree when she was suddenly hugged by the appellant from behind who warned her not to tell her mother about it for they might be scolded. He then forced her to lie down and inserted his penis to the victim's vagina. AAA remained straightforward in her testimony despite the obvious effort of the defense to confuse her during cross-examination. We therefore find no reason not to believe her, just as the trial court had no such reason.<sup>15</sup>

Appellant points out to several supposed inconsistencies in AAA's statements such as how appellant manhandled her before actually raping her. We have ruled time and again that minor inconsistencies in the testimony of the rape victim do not detract from the actual fact of rape.<sup>16</sup> These inconsistencies do not affect the credibility of AAA because they have nothing to do with the essential elements of the crime of rape.

Anent the Affidavit of Desistance, we had previously stated in previous cases that a recantation or an affidavit of desistance is viewed with suspicion and reservation. Jurisprudence has invariably regarded such affidavit as exceedingly unreliable, because it can easily be secured from a poor and ignorant witness, usually through intimidation or for monetary consideration. Moreover, there is always the probability that it would later on be repudiated, and criminal prosecution would thus be interminable.<sup>17</sup>

Indeed, the Affidavit of Desistance executed by AAA is highly suspect. The Court of Appeals noted, thus:

We note of the fact that AAA expressly renounced during trial the affidavit of desistance that she executed on June 24, 2002 when she testified in open court on August 19, 2003 about the sexual assault made by appellant against her on the night of April 30, 2002. Further, she was able to explain why she executed the same. The document was a product of compulsion and influence on the part of appellant's wife to force AAA to sign the document. The victim was lured by appellant's wife into signing the document in exchange for her offer that she will send her to school until she finishes her education. Such testimony of AAA effectively casts doubt on the truthfulness of said affidavit. Thus, it deserves non consideration at all.<sup>18</sup>

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<sup>15</sup> *Rollo*, p. 8.

<sup>16</sup> *People v. Delfin*, G.R. No. 190349, 10 December 2014, 744 SCRA 413, 425.

<sup>17</sup> *People v. Salazar*, 648 Phil. 520, 530 (2010) citing *People v. Ramirez*, G.R. Nos. 150079-80, June 10, 2004, 431 SCRA 666, 676.

<sup>18</sup> *Rollo*, pp. 11-12.

Article 266 of the Revised Penal Code provides:

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 otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority; and
- d. When the woman is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

x x x x

Article 266-B. Penalty. - Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*:

x 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, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;

The prosecution was able to show evidence that all the circumstances necessary to convict appellant under the above provisions were present in the case.

Based on the testimony of AAA, there was carnal knowledge between her and appellant. This was further corroborated by medical findings which showed vaginal lacerations. It was further stipulated during pre-trial that the appellant is AAA's uncle by affinity and that she was fourteen years old at the time of the rape incident. It was ruled in *People v. Ofemiano*<sup>19</sup> that "even absent any actual force or intimidation, rape may be committed if the malefactor has moral ascendancy over the victim. We emphasized that in rape committed by a close kin, such as the victim's father, stepfather, uncle,

<sup>19</sup> 625 Phil. 92, 99 (2010) citing *People v. Corpuz*, 597 Phil. 459, 467 (2009).



or the common-law spouse of her mother, moral influence or ascendancy substitutes for violence or intimidation.”

Against this overwhelming evidence of the prosecution, denial and alibi cannot stand, more so when his alibi is unsubstantiated and even inconsistent.

Under Article 266-B(1), the death penalty shall be imposed if the crime of rape is committed when the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim. In this case, appellant should be meted the death penalty. However, in view of Republic Act No. 9346, the penalty of *reclusion perpetua* should be imposed without eligibility for parole.

Finally, a modification of damages is in order. Pursuant to *People v. Jugueta*,<sup>20</sup> civil indemnity, moral damages and exemplary damages should be increased to ₱100,000.00 each. In addition, 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 28 September 2012 Decision of the Court of Appeals in CA-G.R. CEB C.R. HC No. 00467 finding appellant Beltran Fuentes, Jr. guilty beyond reasonable doubt of the crime of rape is **AFFIRMED with MODIFICATIONS** that appellant is not eligible for parole; the awards of civil indemnity, moral damages, and exemplary damages are increased to ₱100,000.00 each; and finally, 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.**

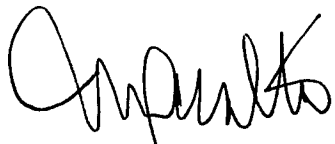
  
JOSE PORTUGAL PEREZ  
Associate Justice

<sup>20</sup> *People v. Jugueta*, G.R. No. 202125, 5 April 2016.

WE CONCUR:




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



**DIOSDADO M. PERALTA**  
Associate Justice




**BIENVENIDO L. REYES**  
Associate Justice



**FRANCIS H. JARDELEZA**  
Associate Justice

**ATTESTATION**

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

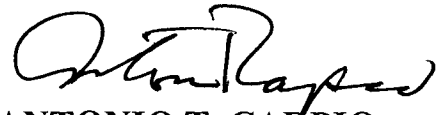


**PRESBITERRO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third Division



**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.



**ANTONIO T. CARPIO**  
Acting Chief Justice

**CERTIFIED TRUE COPY**



**WILFREDO V. LAPITAN**  
Division Clerk of Court  
Third Division

JUL 26 2016'