



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 218913

Present:

- versus -

SERENO, *C.J., Chairperson,*
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 TIJAM, *and*
 GESMUNDO, * *JJ.*

ROMULO BANDOQUILLO y
OPALDA,
Accused-Appellant.

Promulgated:
FEB 07 2018

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RESOLUTION

DEL CASTILLO, J.:

Assailed in this appeal is the July 21, 2014 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05891 which affirmed with modification the August 31, 2012 Decision² of the Regional Trial Court (RTC), Branch 55, Irosin, Sorsogon, finding appellant Romulo Bandoquillo y Opalda guilty beyond reasonable doubt of the crime of rape.

The Antecedent Facts

Appellant was charged for the crime of rape in an Information³ dated March 10, 2004 which reads:

That on or about early in the morning of December 27, 2003, x x x Province of Sorsogon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife and by the use of force, threat and intimidation whilst inside their residence, with lewd designs, did then and there willfully, unlawfully and feloniously, have carnal knowledge with his

* Designated as additional member per October 18, 2017 raffle vice J. Jardeleza who recused due to prior action as Solicitor General.

¹ *Rollo*, pp. 2-14; penned by Associate Justice Rebecca De Guia-Salvador and concurred in by Associate Justices Ricardo R. Rosario and Leoncia R. Dimagiba.

² *CA rollo*, pp. 49-55; penned by Judge Fred G. Jimena.

³ *Id.* at 10-11.

own daughter, "AAA,"⁴ 14 years of age, a minor below 18 years of age and a child who cannot protect herself from abuse, against her will and consent, where acts and deeds by the accused degrades, demeans and debases her dignity as a child and as a human being, to her damage and prejudice.

The commission of the offense is further aggravated by the fact that the offender is her own father and armed with a knife.

During his arraignment on July 7, 2004, appellant entered a plea of not guilty.⁵ Trial thereafter ensued.

Version of the Prosecution

The prosecution's version of the incident as summarized by the Office of the Solicitor General is as follows:

In the early morning of December 27, 2003, "AAA," then only 14 years of age, was sleeping inside her room in their house when she was suddenly awakened by her father, herein appellant, who forcibly undressed her, touched her breasts and kissed her neck. "AAA" begged appellant not to continue with what he was doing, saying: "*Papa, do not do this to me, [take] pity [on] my siblings and my honor.*" Appellant, however, disregarded his daughter's pleas and succeeded in having carnal knowledge of "AAA," against her will.⁶

Immediately thereafter, "AAA" contacted her mother, "ZZZ," who was then residing in Manila, and disclosed what had happened to her. "ZZZ" quickly travelled back to Sorsogon, and on December 29, 2003, "AAA" and "ZZZ" reported the incident to the Department of Social Welfare and Development and to the local authorities.⁷

"AAA" was then physically examined by Dr. Runnel John L. Rebutillo at the Irosin District Hospital.⁸ Based on her Medical Certificate⁹ dated February 16, 2004, "AAA" had healed lacerations at 1, 3, 5 & 6 o'clock positions, as well as hematoma on the outer part of her vaginal canal.

⁴ "The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence And Special Protection Against Child Abuse, Exploitation And Discrimination, And for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women And Their Children, Providing For Protective Measures For Victims, Prescribing Penalties Therefor, And for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and Their Children, effective November 15, 2004." *People v. Dumadag*, G.R. No.176740, June 22, 2011, 652 SCRA 535, 538-539.

⁵ Records, pp. 19-20.

⁶ CA *rollo*, p. 75.

⁷ Id. at 75-76.

⁸ Id. at 76.

⁹ Id., between pages 14 and 15.

Version of the Defense

The defense presented appellant as its lone witness who testified that:

On December 26, 2003, appellant instructed “AAA,” who was then at their house tending to their store, that if he was not yet home by 8:30 p.m. that evening, she should close the store with the lights turned on, close the gate and go to her aunt’s house across the street. But when he arrived home at 9:30 p.m., he noticed that the lights were turned off and the gate was closed. As he opened the gate, a man ran out. He asked “AAA” who the man was but the latter answered that he was just a friend. After asking for the man’s identity for the fourth time, he slapped her on the left cheek which made her cry.¹⁰

Ruling of the Regional Trial Court

In its Decision dated August 31, 2012, the RTC found appellant guilty beyond reasonable doubt of the crime of rape under Article 266-A of the Revised Penal Code. It held that:

A reading and a thorough review of the pertinent transcript of stenographic notes disclosed that [AAA] was in fact firm and consistent on the fact of rape committed on her by her father Romulo Bandoquillo. Her answers to the questions on direct examination, as well [as] on the grueling cross-examination of [the] defense counsel was clear, simple and natural words typical of children her age, that the accused performed on her sexual intercourse, identifying him properly and positively as the perpetrator of the act complained of.¹¹

Accordingly, the RTC sentenced appellant to suffer the penalty of *reclusion perpetua* and likewise ordered appellant to pay “AAA” ₱75,000.00 as civil indemnity and ₱75,000.00 as moral damages.¹²

Appellant thereafter appealed the RTC Decision before the CA.

Ruling of the Court of Appeals

In its Decision dated July 21, 2014, the CA affirmed the assailed RTC Decision with the following modifications: a) it convicted appellant of the crime of *qualified rape*;¹³ b) it declared appellant ineligible for parole; c) it awarded

¹⁰ Id. at 39.

¹¹ Id. at 53.

¹² Id. at 55.

¹³ *Rollo*, pp. 12-13.

₱30,000.00 as exemplary damages in favor of “AAA;” and d) it imposed interest at six percent (6%) per annum on all awarded damages, reckoned from the date of finality of the Decision until fully paid.¹⁴

The CA agreed with the RTC’s findings that AAA had testified in a firm, consistent, credible and believable manner in recounting how appellant had carnal knowledge of her in the early morning of December 27, 2003.¹⁵ It explained that:

Significantly, AAA never wavered in her direct testimonies on 07 December 2005 and 07 March 2007 that appellant succeeded in having carnal knowledge of her on the date of the incident. In her 07 December 2005 testimony, AAA confirmed the entry of appellant’s penis into ‘the labia of [her sexual] organ...’ For rape to be consummated, full penetration is not necessary, as proof of the entrance of the male organ into the labia of the pudendum of the female organ suffices to consummate the crime of rape. During her direct testimony on 07 March 2007, and her testimony on cross-examination on 13 June 2007, AAA also remained consistent in her assertion that appellant ‘inserted [his] penis into [her] vagina...’ Contrary to the assertion of appellant, AAA consistently declared that the rape perpetrated by appellant in the early morning of 27 December [2003] was consummated.¹⁶

On this point, the CA noted that appellant had failed to adduce evidence “to convincingly show any dubious reason or ill-motive on the part of “AAA” to falsely accuse him of such serious offense as rape.”¹⁷ It thus concluded that “[i]n the absence of ill motive on the part of “AAA,” appellant’s denial cannot prevail over her categorical and positive testimony.”¹⁸

The CA also rejected appellant’s claim that his alleged act of spanking “AAA” on the eve of the rape incident had prompted her to make such false accusations. It ruled that “[m]ere disciplinary chastisement is not strong enough to make daughters in a Filipino family invent a charge that would only bring shame and humiliation upon them and their own family and make them the object of gossip.”¹⁹

Finally, the CA held that the crime committed by appellant against “AAA” is *qualified* rape under Article 266-B of the Revised Penal Code, given that “AAA” is under 18 years of age and the offender is a parent.²⁰

Aggrieved, appellant filed the present appeal.



¹⁴ Id. at 14.

¹⁵ Id. at 8.

¹⁶ Id. at 10.

¹⁷ Id. at 10-11.

¹⁸ Id. at 11.

¹⁹ Id.

²⁰ Id. at 12-13.

The Issues

Appellant raises the following issues for the Court's resolution:

First, whether "AAA's" testimony is credible, given the inconsistency in her testimony as regards the consummation of the crime;²¹

And *second*, whether "AAA's" failure to significantly resist appellant's sexual advances casts doubt on the veracity of her assertions.²²

The Court's Ruling

It is settled that **"when the decision hinges on the credibility of witnesses and their respective testimonies, the trial court's observations and conclusions deserve great respect and are often accorded finality"**²³ unless it is shown that the lower court had *overlooked, misunderstood or misappreciated* some fact or circumstance of weight which, if properly considered, would have altered the result of the case.²⁴ **"[This] rule finds an even more stringent application where said findings are sustained by the Court of Appeals."**²⁵

In this case, we find no compelling reason to overturn the factual findings of the trial court, given that: a) it has *not* been shown that the RTC had overlooked, misunderstood or misappreciated facts or circumstances which would have resulted in appellant's acquittal; and b) said findings were upheld by the CA.

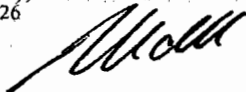
The records reveal that when "AAA" testified in court as regards her ordeal, she described how she was sexually abused by appellant in her own room on that fateful day of December 27, 2003, *viz.*:

Direct Testimony on December 7, 2005

[PROS. TITO DIAZ:]

Q: Madam witness, if this is the penis of your father, (*Prosecutor showing his finger*), was he able to enter the labia of your [sexual] organ?

A: Yes, sir.²⁶



²¹ CA rollo, p. 45.

²² Id. at 45-46.

²³ *People v. Espino, Jr.*, 577 Phil. 546, 562 (2008). Emphasis in the original.

²⁴ Id.

²⁵ Id. at 563.

²⁶ TSN, December 7, 2005, p. 8.

Direct Testimony on March 7, 2007

[PROS. TITO DIAZ:]

Q: And what happened after your father removed his short and brief?

A: He inserted his penis into my vagina.

Q: Did you not resist your father[’s] advances when he already removed your panty and inserted his private organ to your private organ?

A: I resisted and told him not to do that to me because I am his daughter.²⁷

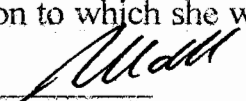
The alleged inconsistency in “AAA’s” testimony, *i.e.*, that “AAA” had earlier testified that appellant’s penis was only able to enter the labia of her sexual organ but later stated that appellant was able to insert his penis into her vagina, is more apparent than real.

A thorough review of “AAA’s” direct testimony as well as her cross-examination shows that there is **no real inconsistency** in “AAA’s” narration of the rape incident: *first*, appellant’s penis touched the labia of “AAA’s” sexual organ;²⁸ *second*, appellant tried to push his penis into “AAA’s” sexual organ, and “AAA” felt pain and tried to resist;²⁹ and *third*, appellant was not able to *fully penetrate* “AAA’s” vagina because her little brother, who was sleeping outside her room, woke up and called out to their father.³⁰

We thus agree with the CA’s conclusion that “AAA” *never* wavered in her direct testimonies on December 7, 2005 and March 7, 2007 that appellant had indeed succeeded in having carnal knowledge of her. As we held in *People v. Ortoa*,³¹ **full penetration is not necessary for rape to be consummated, viz.:**

x x x In any case, for rape to be consummated, full penetration is not necessary. Penile invasion necessarily entails contact with the *labia*. **It suffices that there is proof of the entrance of the male organ into the labia of the pudendum of the female organ.** Penetration of the penis by entry into the lips of the vagina, even without rupture or laceration of the hymen, is enough to justify a conviction for rape.³²

Note that “[w]hen the offended party is a *young* and *immature* girl between the age of 12 to 16, *as in this case*, courts are inclined to give credence to her version of the incident, considering not only her relative vulnerability but also the public humiliation to which she would be exposed by court trial if her accusation were untrue.”³³


²⁷ TSN, March 7, 2007, 3.

²⁸ TSN, December 7, 2005, p. 8.

²⁹ TSN, March 7, 2007, pp. 3-4.

³⁰ TSN, June 13, 2007, p. 6.

³¹ 599 Phil. 232 (2009).

³² *Id.* at 247. Emphasis supplied.

³³ *People v. Pacheco*, 468 Phil. 289, 300 (2004).

In the absence of any ill-motive on the part of “AAA” that would make her testify falsely against appellant, her candid narration of the rape incident deserves full faith and credence.³⁴ “For no woman in her right mind will admit to having been raped, allow an examination of her most private parts and subject herself as well as her family to the humiliation and shame concomitant with a rape prosecution, unless the charges are true.”³⁵

We also find no merit in appellant’s claim that his act of slapping “AAA” on her left cheek had prompted her to make such a false accusation against him. It is quite unbelievable for a 14-year-old girl to publicly and falsely accuse her father of rape in retaliation for such a minor disciplinary measure. After all, “[t]he burden of going through a rape prosecution is grossly out of proportion to whatever revenge the young girl would be able to exact.”³⁶

Finally, we reject appellant’s defense that “AAA’s” “failure to significantly resist the alleged attack, viewed together with her conduct thereafter, indubitably casts doubt on her credibility and the veracity of her assertions.”³⁷ Resistance is not an element of rape, and the absence thereof will *never* be tantamount to consent on the part of the victim.³⁸ Besides, in rape committed by a relative, such as a father, *as in this case*, moral influence or ascendancy takes the place of violence.³⁹

Given these circumstances, we uphold the CA’s ruling convicting appellant of the crime of **qualified rape** under Article 266-B of the Revised Penal Code, where the rape victim is under 18 years of age and the offender is a parent.⁴⁰

However, there is a need to modify the damages awarded to conform to prevailing jurisprudence. Thus, pursuant to *People v. Jugueta*,⁴¹ appellant must pay “AAA” civil indemnity, moral damages and exemplary damages at ₱100,000.00 each.

WHEREFORE, the appeal is **DISMISSED**. The assailed Decision dated July 21, 2014 of the Court of Appeals in CA-G.R. CR-H.C. No. 05891 convicting Romulo Bandoquillo y Opalda for the crime of qualified rape is hereby **AFFIRMED with MODIFICATION** that appellant is ordered to pay the victim civil indemnity, moral damages, and exemplary damages at ₱100,000.00 each.

³⁴ *People v. Espino, Jr.*, supra note 23 at 563-564.

³⁵ *Id.* at 563.

³⁶ *People v. Pacheco*, 632 Phil. 624, 634 (2010).

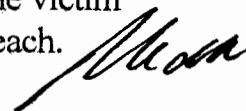
³⁷ *CA rollo*, p. 46.

³⁸ *People v. Pepito*, 459 Phil. 1023, 1035 (2003).

³⁹ *People v. Pareja*, 724 Phil. 759, 778 (2014).

⁴⁰ “AAA’s” minority and the father-daughter relationship of appellant and “AAA” were both admitted during the Pre-Trial. See *CA rollo*, p. 49.


⁴¹ G.R. No. 202124, April 5, 2016, 788 SCRA 331, 382-383.



SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

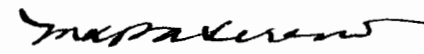

TERESITA J. LEONARDO-DE CASTRO
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify 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