



Republic of the Philippines
Supreme Court
Manila

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Wilfredo V. Laditan
WILFREDO V. LADITAN
Division Clerk of Court
Third Division

JUL 11 2018

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 219088

Present:

VELASCO, J.,
Chairperson,
BERSAMIN,
LEONEN,
MARTIRES, and
GESMUNDO, JJ.

- versus -

RONNIE DELA CRUZ A.K.A. "BAROK"
Accused-Appellant.

Promulgated:

June 13, 2018

X

Wilfredo V. Laditan X

DECISION

MARTIRES, J.:

This is an appeal from the 22 December 2014 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06397, which affirmed with modification the 26 September 2013 Decision² of the Regional Trial Court, XXX City (RTC), in Criminal Case No. MC08-2728-FC, finding accused-appellant Ronnie dela Cruz (*Dela Cruz*) guilty beyond reasonable doubt of the crime of Rape.

Dela Cruz

¹ *Rollo*, pp. 2-16; penned by Associate Justice Celia C. Librea-Leagogo, and concurred in by Associate Justices Franchito N. Diamante and Melchor Q. Sadang.

² *CA rollo*, pp. 37-47; penned by Presiding Judge Monique A. Quisumbing-Ignacio.

THE FACTS

In an Information³ dated 19 May 2008, Dela Cruz was charged with the crime of Rape under Article 266-A(a) of the Revised Penal Code (*RPC*) in relation to Republic Act (*R.A.*) No. 7610 committed against AAA.⁴ The accusatory portion of the information reads:

That on or about the 4th day of April 2008, in the City of [XXX], a place within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously commit an act of sexual assault upon the person of [AAA], a minor, 14 years of age, against the latter's will and consent by having carnal knowledge of the said [AAA], thereby affecting the victim's normal growth and development as a child, to her damage and prejudice.

At his arraignment on 27 August 2008, Dela Cruz, with the assistance of his counsel, pleaded "Not Guilty."⁵

Evidence for the Prosecution

The prosecution presented AAA, her 17-year-old aunt BBB, and Dr. Marianne Ebdane (*Dr. Ebdane*) as witnesses. Their combined testimonies tended to establish the following:

On 3 April 2008, at around 10:00 P.M., AAA and BBB were drinking in the house of a certain "Noknok," BBB's boyfriend at that time. Dela Cruz and his friends then arrived and joined them.⁶ They finished drinking at midnight but stayed in Noknok's house until 2:00 A.M. the following day. BBB noticed that AAA was already sleepy. He asked Dela Cruz if AAA could sleep in his house because AAA did not want to go home as she had a fight with her parents, and Noknok's house was too small to accommodate her.⁷

³ Records (Book I), pp. 1-2.

⁴ The true name of the victim had been replaced with fictitious initials in conformity with Administrative Circular No. 83-2015 (Subject: *Protocols And Procedures In the Promulgation, Publication, And Posting On The Websites Of Decisions, Final Resolutions, And Final Orders Using Fictitious Names*). The confidentiality of the identity of the victim is mandated by R.A. No. 7610 ("*Special Protection of Children Against Abuse, Exploitation and Discrimination Act*"); R.A. No. 8505 ("*Rape Victim Assistance And Protection Act of 1998*"); R.A. No. 9208 ("*Anti-Trafficking In Persons Act Of 2003*"); R.A. No. 9262 ("*Anti-Violence Against Women And Their Children Act Of 2004*"); and R.A. No. 9344 ("*Juvenile Justice And Welfare Act Of 2006*").

⁵ Id. at 28.

⁶ TSN dated 10 September 2009, pp. 6-8; TSN dated 20 May 2010, pp. 3-6.

⁷ TSN dated 10 September 2009, pp. 9-11; TSN dated 20 May 2010, pp. 7-8.

Thereafter, AAA and Dela Cruz went to the latter's house to check the room where she was supposed to stay. BBB stayed behind in Noknok's house because Dela Cruz told them that they would not take long as his house was just around the next corner.⁸

Upon arriving at his house, Dela Cruz pointed to an unlit room and told AAA that was where she would be staying; nobody else was in the house. When AAA went inside the room, Dela Cruz followed her and started to kiss her. She pushed him away and told him to stop but he continued to take off her clothes. Once AAA's clothes were removed, Dela Cruz mounted her and inserted his penis into her vagina. AAA cried and pushed him away but he carried on with the sexual intercourse that lasted for about ten (10) minutes.⁹

After Dela Cruz was done, AAA got dressed and wanted to leave the room but was afraid that he might pull her back and violate her again. On 4 April 2008, at around 6:00 A.M., she finally left Dela Cruz's house and looked for BBB at Noknok's house. Upon seeing BBB, she told her it was time to go home but she did not yet disclose what happened to her for fear that other people would know.¹⁰

Once she got home, AAA told her aunt about the incident, who in turn informed her parents. Consequently, her mother accompanied her to the authorities to report the incident. After giving her statement, she was subjected to a medical examination which revealed that AAA had fresh lacerations at 8 o'clock position in her hymen suggesting that a blunt object was inserted into her genitalia.¹¹

Evidence for the Defense

The defense presented Dela Cruz as its lone witness, whose testimony follows:

On 4 April 2008, Dela Cruz went to the store near Noknok's house to buy cigarettes. On his way, he saw AAA and BBB drinking with Noknok in his house. Dela Cruz joined them to drink after Noknok invited him. At around 5:30 P.M., he brought AAA to his home after BBB requested that AAA spend the night in his house. They were both drunk and as such he could not remember very well what happened once they got home. Nevertheless, Dela Cruz was sure that if something did happen between him

⁸ Id.

⁹ TSN dated 10 September 2009, pp. 12-15.

¹⁰ Id. at 16-18.

¹¹ TSN dated 9 December 2010, pp. 11-12.

and AAA, it was consensual. At around 5:00 P.M., AAA's parents fetched her from his house.¹²


The RTC Ruling

In its decision, the RTC found Dela Cruz guilty of Rape defined and penalized under Article 266-A(a) of the RPC. The trial court ruled that carnal knowledge was sufficiently established, taking into account AAA's testimony as corroborated by the findings of the medical examination conducted on her. It pointed out that Dela Cruz was able to have sexual intercourse with the victim through force because he persisted despite her pleas for him to stop and her efforts to push him away. The RTC noted that the amount of force applied is inconsequential because the same need not be irresistible so long as it was enough to bring about the desired result.

The trial court gave more credence to AAA's testimony because it was categorical and straightforward and made in a spontaneous and candid manner. In addition, it pointed out that no proof of ill motive on her part to falsely testify against accused was offered. As such, the RTC explained that Dela Cruz's defense of denial and alibi fails to convince in the light of AAA's positive identification of him as her abuser. Nevertheless, the trial court expounded that Dela Cruz was guilty only of rape under the RPC, and not of child abuse under R.A. No. 7610, because the information failed to allege the elements thereof. The dispositive portion reads:

WHEREFORE, in view of the foregoing premises, the court finds the accused guilty beyond reasonable doubt of the crime of rape and he is hereby sentenced the penalty of RECLUSION PERPETUA. He is further ordered to pay the offended party the sum of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages and ₱30,000.00 as exemplary damages including interest at the rate of six percent (6%) per annum on all damages awarded from the date of finality of this judgment until fully paid.

SO ORDERED.¹³

Aggrieved, Dela Cruz appealed before the CA. 

¹² TSN dated 2 May 2013, pp. 5-11.

¹³ CA rollo, pp. 46-47.

The CA Ruling

In its assailed decision, the CA affirmed the decision of the RTC. The appellate court agreed that AAA's testimony as corroborated by the findings of the medical examination gave sufficient evidence of carnal knowledge. It explained that in rape cases, the force and violence required is relative in that it need not be overpowering. The CA expounded that force should be viewed from the perception and judgment of the victim. The appellate court noted that AAA pushed Dela Cruz away when he tried to kiss her and told him to stop, yet he continued to do so. It highlighted that AAA's intoxication rendered her too weak to run away or to exert sufficient resistance against Dela Cruz.

The CA disregarded Dela Cruz's argument that AAA's testimony was contrary to human experience elaborating that there is no standard on how rape victims should react. The appellate court sustained the trial court's assessment of AAA's credibility considering that it was in the best position to ascertain and measure the spontaneity and sincerity of the witnesses taking into account their demeanor while testifying on the witness stand. It ruled:

WHEREFORE, premises considered, the appeal is DENIED. The Decision dated 26 September 2013 of the Regional Trial Court, National Capital Judicial Region, [XXX], in Criminal Case No. MC08-2728-FC finding accused-appellant Ronnie dela Cruz alias Barok guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua and to pay the offended party AAA the sums of ₱50,000.00 as civil indemnity, ₱50,000.000 as moral damages and ₱30,000.00 as exemplary damages including interest at the rate of six percent (6%) per annum on all damages awarded from the date of finality of this judgment until fully paid is AFFIRMED with MODIFICATION, in that accused-appellant is not eligible for parole.

SO ORDERED.¹⁴

Hence, this appeal raising:

ISSUE

WHETHER THE ACCUSED IS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.



¹⁴ Rollo, pp. 14-15.

THE COURT'S RULING

The appeal has no merit.

Under Article 266-A(1) of the RPC, rape is committed when a man has 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 is otherwise unconscious; (c) by means of fraudulent machination or grave abuse of authority; or (d) when the offended party is under 12 years old or demented, even if none of the above circumstances are present. In short, the following are the elements of rape: (1) accused had carnal knowledge of the victim; and (2) it was accomplished (a) through force, threat or intimidation; (b) when the victim is deprived of reason; or (c) against a victim below 12 years of age or is demented.¹⁵

In the case at bar, there is no dispute that Dela Cruz had carnal knowledge of AAA. In her testimony, she vividly recalled how he had sex with her while they were alone in his house. In addition, AAA's testimony was corroborated by the findings of Dr. Ebdane, who found fresh lacerations in her hymen indicating that it was penetrated by a blunt object such an erect penis. Further, it is noteworthy that Dela Cruz never categorically denied having intercourse with AAA. He merely testified that he could not exactly remember what happened that night and, if indeed he had carnal knowledge with her, it was consensual.

Nevertheless, the circumstances surrounding the sexual act are contested. AAA assails that Dela Cruz forced her to have sex with him even after she pushed him away and told him to stop. On the other hand, Dela Cruz claims that he has no recollection of what transpired that night but assured that if he had sex with AAA it was done without coercion.

Degree of force in rape is relative.

Rape is essentially sexual intercourse *sans* consent.¹⁶ In her testimony, AAA narrated how Dela Cruz defiled her, notwithstanding her refusal to have sex with him, to wit:



¹⁵ *People v. Perez*, 673 Phil. 373, 379 (2011).

¹⁶ *People v. Nogopo*, 603 Phil. 722, 743 (2009).

Direct Examination

PROSECUTOR RODRIGUEZ:

Q: When you entered the room, what happened then?

A: When I entered the room, Barok followed me immediately and started kissing me.

Q: And what was your reaction since you were there only to sleep?

A: I told him to stop and I pushed him away from me but he did not stop, ma'am.

Q: What happened after that?

A: He took off my clothes, ma'am.

Q: After he took off your clothes, what did he do?

A: He went on top of me, ma'am.

Q: When you said, he went on top of you, what happened?

A: I just felt something painful.

Q: Why? What did he do to you when you say painful?

A: He inserted his private part into mine, ma'am.

Q: When you say private part, are you referring to the penis of the accused?

A: Yes, ma'am.

Q: And what did you feel at that time while he was inserting his penis into your private part?

A: I was crying at that time because I really don't want what he was doing to me, so I pushed him away from me but he did not stop.¹⁷

Cross-Examination

ATTY. REYES:

Q: So, where at the (sic) both of you?

A: Just on the floor, ma'am.

Q: So, you were lying down?

A: He pushed me to lie down.

Q: Did you not resist?

A: I did, ma'am.

Q: Not hard enough?

A: Yes, ma'am.



¹⁷ TSN dated 10 September 2009, pp. 13-14.

AAA clearly and steadfastly recalled how she was forced to have sexual intercourse with Dela Cruz. She told him to stop and twice tried to push him away but it was all for naught as he continued with his desire to ravish her. In addition, the fact that AAA admitted that she did not resist “hard enough” cannot be taken against her. In rape, the victim need not prove resistance because it is not an element of rape and the lack thereof does not render the victim’s act voluntary.¹⁸

Dela Cruz argues that AAA’s testimony was insufficient to establish that he exerted force to have sex with her. He explains that his act of following her into the room and kissing her hardly constitutes force. In *People v. Joson*,¹⁹ the Court expounded that the force required in rape varies depending on the circumstances, to wit:

The Supreme Court has, time and again, ruled that **force or violence that is required in rape cases is relative; when applied, it need not be overpowering or irresistible.** That it enables the offender to consummate his purpose is enough. The parties’ relative age, size and strength should be taken into account in evaluating the existence of the element of force in the crime of rape. **The degree of force which may not suffice when the victim is an adult may be more than enough if employed against a person of tender age.**²⁰ (emphasis supplied)

Sexual congress with a person who expresses resistance through words or deeds constitutes force.²¹ Here, AAA verbally and physically manifested her resistance towards Dela Cruz’s advances — at one point she even cried. Nonetheless, he persisted and ultimately consummated his desire to have carnal knowledge of her. The degree of force he employed becomes immaterial in view of AAA’s minority and the fact that her intoxication impaired her physical strength.

***Trial court’s assessment
of AAA’s credibility
deserves weight***

Dela Cruz seeks to malign AAA’s credibility by highlighting her demeanor while she was testifying. In addition, he claims that her actions during and after the time of the incident were contrary to human experience. He notes that AAA could have easily cried out for help because she was not gagged and that she remained placid during her alleged ordeal.

¹⁸ *People v. Palanay*, G.R. No. 224583, 1 February 2017.

¹⁹ 751 Phil. 450 (2015).

²⁰ Id. at 459.

²¹ *People v. Quintos*, 746 Phil. 809, 828 (2014).

It is axiomatic that, as a rule, findings of the trial court as to the credibility of witnesses are not to be disturbed.²² This is true considering that trial courts are at a more advantageous position to fully scrutinize witnesses. Thus, in *People v. Sapigao, Jr.*,²³ the Court explained:

It is well-settled that 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 witness 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 courts have 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 the transcript of testimonies with the risk that some of what the witness actually said may have been lost in the process of transcribing. As correctly stated by an American court, there is an inherent impossibility of determining with any degree of accuracy what credit is justly due to a witness from merely reading the words spoken by him, even if there were no doubt as to the identity of the words. However artful a corrupt witness may be, there is generally, under the pressure of a skilful cross-examination, something in his manner or bearing on the stand that betrays him, and thereby destroys the force of his testimony. Many of the real tests of truth by which the artful witness is exposed in the very nature of things cannot be transcribed upon the record, and hence they can never be considered by the appellate court.²⁴

AAA's testimony was straightforward and categorical as she never flinched in describing what happened to her and in identifying Dela Cruz as the one who did it. While she was testifying, the trial court was able to observe her demeanor and conduct and assess it in its entirety. As such, the fact that AAA was smiling at one point during her testimony does not necessarily destroy her credibility and the isolated incident cannot discount the trauma she endured at Dela Cruz's hand.

Further, AAA's failure to shout for help or to offer spirited physical resistance cannot be used as basis to damage her credibility. In rape cases, there is no expected uniform reaction from the victim considering that the workings of the human mind placed under emotional stress are unpredictable.²⁵ It must be remembered that AAA had already tried to resist Dela Cruz but failed; thus, coupled with her intoxication, it would be understandable why she no longer offered further resistance or tried to shout for help after her previous futile attempts.



²² *People v. Mangune*, 689 Phil. 759, 769 (2012).

²³ G.R. No. 178485, 614 Phil. 589 (2009).

²⁴ *Id.* at 599.

²⁵ *People v. Lucena*, 728 Phil. 147, 162-163 (2014).

Moreover, contrary to Dela Cruz's belief, AAA's actions after the incident were in line with human experience. She remained inside the room because he was still there and she feared that Dela Cruz might abuse her again. Also, she was in an unfamiliar place and the streets were unlit; there were no people around, so she waited for sunlight before she left to be more secure. She had to ask for directions to reach Noknok's house.

Her urgency in reporting the incident to the authorities strengthens her credibility. AAA immediately told her aunt about the rape once she got home, who in turn notified AAA's parents. Thus, together with her parents, she was able to promptly report the same to the authorities. AAA did not hesitate to seek and obtain justice for the wrong done against her by Dela Cruz.

While the Court agrees with the conviction handed out by the courts *a quo*, the appealed decision must be modified to conform to recent jurisprudence.

In its decision, the RTC ordered Dela Cruz to pay AAA ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱30,000.00 as exemplary damages. The CA modified the trial court's decision to clarify that he was not eligible for parole but affirmed the amount of damages awarded.

*People v. Jugueta (Jugueta)*²⁶ set the standard for damages to be awarded in certain heinous crimes, and settled that victims in simple rape are entitled to the following damages: (a) ₱75,000.00 as civil indemnity; (b) ₱75,000.00 as moral damages; and (c) ₱75,000.00 as exemplary damages.²⁷ In conformity with *Jugueta*, all damages awarded to AAA should be increased accordingly.

WHEREFORE, the 22 December 2014 Decision of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06397 is **AFFIRMED with MODIFICATION**. Accused-appellant Ronnie dela Cruz a.k.a. "Barok" is ordered to pay AAA ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages with interest at six percent (6%) per annum computed from the finality of this judgment until fully paid.


SO ORDERED.


SAMUEL R. MARTIRES
Associate Justice

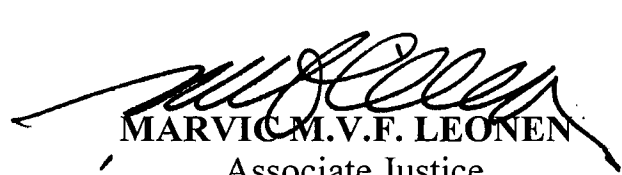
²⁶ 783 Phil. 806 (2016).

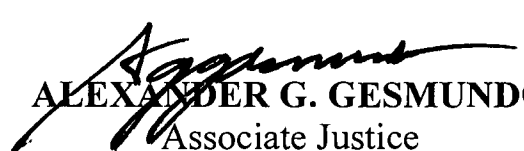
²⁷ Id. at 806-856.

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


ALEXANDER G. GESMUNDO
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

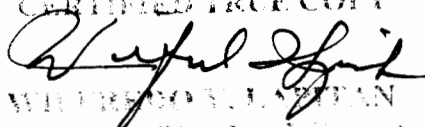
CERTIFICATION

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.



ANTONIO T. CARPIO
Senior Associate Justice

(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)

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WILFREDO V. LANTICAN
Division Chairperson
Third Division

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