



Republic of the Philippines
Supreme Court
Manila

CERTIFIED TRUE COPY
Wilfredo V. Lapytan
WILFREDO V. LAPYTAN
Division Clerk of Court
Third Division

MAR 25 2019

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 221428

Present:

- versus -

PERALTA,
Chairperson,
LEONEN,
REYES, A. JR.,
HERNANDO, and
CARANDANG,* JJ.

Promulgated:

RENATO GALUGA y WAD-AS,
Accused-Appellant.

February 13, 2019

Wilfredo V. Lapytan

x-----x

DECISION

HERNANDO, J.:

Challenged in this appeal is the Decision dated June 9, 2015¹ of the Court of Appeals in CA-G.R. CR-H.C. No. 05592, which affirmed with modification the Decision² dated November 15, 2011 of the Regional Trial Court (RTC), Branch 19 of Cauayan City, Isabela, in Criminal Case No. 19-1972, finding accused-appellant Renato Galuga y Wad-as guilty beyond reasonable doubt of the crime of rape committed against AAA.³

Accused-appellant was charged before the RTC with violating Article 335 of the Revised Penal Code, as amended by Republic Act (R.A.) No. 7659, and further amended by R.A. No. 8353, in relation with R.A. No. 7610, Article III, Section 5, paragraph b, in an Information⁴ that reads:

* Designated additional member per Special Order No. 2624 dated November 28, 2018.
¹ *Rollo*, pp. 2-19; penned by Associate Justice Amy C. Lazaro-Javier with Associate Justices Celia C. Librea-Leagogo and Melchor Q.C. Sadang concurring.
² *CA rollo*, pp. 71-77; penned by Executive Judge Raul V. Babaran.
³ Under Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act), Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004), its implementing rules, and A.M. No. 12-7-15-SC, the real name of the woman or child victim and those of the victim's immediate relatives, as well as other personal circumstances that would establish or compromise their identities, are withheld and replaced with fictitious initials to protect the victim's privacy.
⁴ Records, pp. 1-2.

That on or about the 16th of April, 2002, in the municipality of x x x, province of Isabela, Philippines and within the jurisdiction of this Honorable Court, the said accused, by means of force and intimidation and with lewd designs, did then and there, willfully, unlawfully and feloniously, lay with, and have carnal knowledge [of] one [AAA], a minor girl of 12 years of age, thereby subjecting her to exploitation and sexual abuse, against her will and consent.

With the aggravating circumstance, that the victim [AAA], is a minor below 18 years of age, during the commission of the crime.

Upon arraignment, accused-appellant pleaded not guilty to the crime charged.⁵ Thereafter, trial on the merits ensued.

Private complainant herself, AAA; AAA's mother, BBB; AAA's father, CCC; Mitchell Garlitos (Garlitos); and Joselito Borja (Borja), appeared as witnesses for the prosecution. Dr. Ramon Hilomen, who allegedly conducted the physical examination of AAA, failed to appear before the RTC despite several subpoenas sent to him.

The evidence for the prosecution presented the following version of events:

In the evening of April 16, 2002, after an altercation with her father CCC, 12-year-old AAA left home and went to the barangay hall of Barangay II, San Mateo, Isabela. After 10 minutes, AAA proceeded to the park, sat beside the fountain, and cried for about 30 minutes. Accused-appellant approached AAA and introduced himself as "Jun-jun." When AAA refused his invitation for them to go to the plaza, he then invited her to the market place but, again, the latter refused. Accused-appellant then forcibly pulled AAA towards the market place. AAA tried to free herself from accused-appellant's grasp but she was unable to escape. At that time, there were about 12 people nearby but AAA did not cry out for help because accused-appellant threatened to kill her.

Accused-appellant managed to pull AAA towards a parlor in the market place. The parlor was already closed and had no lights on. Accused-appellant removed his clothes, laid AAA on the ground, and started removing her shorts and shirt. AAA tried to resist but accused-appellant threatened to kill her with a knife that was protruding from his bag. After removing AAA's clothes, accused-appellant went on top of her and inserted his penis into her vagina. AAA tried to push accused-appellant away but was unsuccessful. AAA cried because she was overwhelmed by fear and she could not do anything to free herself from her assailant.

At the time of the incident, witness Borja was driving his tricycle, with a passenger on-board, witness Garlitos, when they saw accused-appellant pulling

⁵ *Id.* at 39.

AAA towards the market place. They immediately reported the incident to the victim's parents and also accompanied AAA's father, CCC, to the place where they last saw AAA, which was in front of Joy's Canteen (J's Canteen). The trio saw AAA and accused-appellant sitting on a wooden bench outside Naty's Restaurant (N's Restaurant). They confronted accused-appellant and brought him to the police station. AAA was crying and her hair was ruffled; she also appeared to be in a state of confusion.

When AAA's mother, BBB, arrived at the police station, she asked AAA what happened but she did not respond. Only when a lady police officer arrived did AAA disclose that she was raped by accused-appellant.

On the other hand, the defense presented the accused-appellant himself, accused-appellant's live-in partner, Realyn Acosta (Acosta), and Teddy Santos (Santos) as witnesses.

According to the evidence for the defense, accused-appellant was on his way home from work on April 16, 2002 when he saw AAA crying beside a fountain at the public park. Accused-appellant asked AAA to come with him to N's Restaurant, which was just across the fountain. She agreed and went with him. She then asked him to buy bread because she was hungry. However, after a few minutes, AAA's father and his two companions arrived and suddenly boxed accused-appellant. Thereafter, accused-appellant was brought to the municipal police station. Acosta and Santos both testified that many people go to the park at night since there are several mini-stores and eateries in the area.

On November 15, 2011, the RTC rendered a Decision convicting accused-appellant for the crime of rape.

The RTC found that AAA testified in open court in a straightforward and unequivocal manner and positively identified accused-appellant as the one who raped her. AAA also willingly pursued the case for three years just to finish her testimony in court despite the lengthy delay in the proceedings caused by the defense. The trial court gave greater weight to AAA's testimony as no woman would be willing to undergo a public trial, along with the shame, humiliation, and dishonor of exposing her own degradation. The fact that the doctor who allegedly examined her failed to testify in court did not destroy the prosecution's case against accused-appellant.

Moreover, the RTC adjudged that accused-appellant's denial and his self-serving assertions could not overcome AAA's affirmative, categorical, and convincing testimony. Also, accused-appellant did not deny the fact that he was with AAA during the incident which made the testimonies of defense witnesses Acosta and Santos inconsequential.

The *fallo* of the RTC judgment reads:

WHEREFORE, judgment is hereby rendered finding the accused RENATO GALUGA guilty beyond reasonable doubt of the crime of RAPE and hereby sentences him to suffer the penalty of Reclusion Perpetua without eligibility for parole and to pay complainant AAA the amount of ₱75,000.00 as moral damages, ₱75,000.00 as civil indemnity and ₱25,000.00 as exemplary damages.⁶

Accused-appellant filed an appeal before the Court of Appeals.

In its assailed Decision, the Court of Appeals denied accused-appellant's appeal. According to the appellate court, AAA's straightforward testimony satisfactorily established the elements of rape: AAA testified that the accused-appellant had carnal knowledge of her by forcibly laying her down on the floor, inserting his penis into her vagina, and threatening to kill her if she made a sound, and that she tried to push accused-appellant away but did not succeed. AAA's positive testimony thus prevailed over accused-appellant's plain denial.

The Court of Appeals ultimately affirmed with modification the RTC Decision dated November 15, 2011 as follows:

ACCORDINGLY, the appeal is **DENIED**. The assailed Decision dated November 15, 2011 is **AFFIRMED WITH MODIFICATION**. The awards of moral damages and civil indemnity are **REDUCED** from ₱75,000.00 to ₱50,000.00, each. The award of exemplary damages is **INCREASED** from ₱25,000.00 to ₱30,000.00.⁷

Hence, the present appeal.⁸

Accused-appellant and plaintiff-appellee adopted their respective briefs before the Court of Appeals.⁹ Accused-appellant reiterates the following assignment of errors on the part of the RTC, and subsequently also of the Court of Appeals:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED ALTHOUGH HIS GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES DESPITE THEIR PATENT INCONSISTENCIES.¹⁰

Accused-appellant claims that the RTC gravely erred in giving credence to AAA's testimony despite numerous inconsistencies and contradictions in her

⁶ CA rollo, p. 77.

⁷ Rollo, p. 18.

⁸ Id. at 20.

⁹ Id. at 28-32; id. at 36-40.

¹⁰ CA rollo, p. 56.

testimony. He points out that the complainant claimed that there were a number of people in the park who saw them together at the time of the incident. Even the prosecution witnesses, Borja and Garlitos, narrated that they merely saw accused-appellant with AAA at the park. He additionally highlights AAA's failure to immediately inform her parents that she was raped by accused-appellant.

We find no merit in accused-appellant's contentions; hence, his appeal must be denied, subject to modification as to the amount of damages as shall hereafter be discussed.

In resolving this case, we refer to the time-tested principles in deciding rape cases, to wit:

In the review of rape cases, we continue to be guided by the following principles: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the nature of the crime of rape where only two persons are usually involved, the testimony of the complainant is scrutinized with extreme caution; and, (3) the evidence for the prosecution stands or falls on its own merits and cannot be allowed to draw strength from the weakness of the defense. Thus, in a prosecution for rape, the complainant's credibility becomes the single most important issue.¹¹ (Citation omitted.)

Taking into consideration the aforementioned principles, we have carefully reviewed the records of this case and saw no compelling reason to reverse or modify the factual findings of the RTC, particularly since the Court of Appeals had affirmed the same with modification only as to the amount of damages awarded to AAA.

We will not disturb the weight and credence accorded by both the RTC and the Court of Appeals with respect to AAA's testimony. When it comes to credibility, the assessment by the trial court deserves great weight, and even conclusive and binding effect, unless the same is tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. Since it had the full opportunity to observe directly the deportment and the manner of testifying of the witnesses before it, the trial court is in a better position than the appellate court to properly evaluate testimonial evidence. The rule finds an even more stringent application where the Court of Appeals sustained said findings,¹² as in this case.

The records of this case clearly bear out that accused-appellant had carnal knowledge of AAA through the use of force, threat, and intimidation. AAA categorically narrated that accused-appellant had inserted his penis into her vagina against her will, thus:

¹¹ *People v. Ramos*, 743 Phil. 344, 355-356 (2014).

¹² *People v. Regaspi*, 768 Phil. 593, 598 (2015).

PROSECUTION:

Q: Now, after meeting Junjun, did you go somewhere else?

A: He invited me x x x to go to plaza, sir.

Q: And did you accede with his invitation?

A: No, sir.

Q: And so when you turned down his invitation what if any [did] Junjun do?

A: He asked me if I want to go to the public market, sir.

Q: And what was your reply?

A: I did not accede, sir.

Q: And when you again declined the offer of Junjun, what if any did Junjun do?

A: He [held] me and brought me to the public market, sir.

Q: By the way, if that Junjun is in court, will you please identify?

A: Yes, sir, he is the one. (Witness pointing to a man who previously entered the courtroom wearing a green choleko (sic) and when asked by the Court Interpreter he gave his name as Renato Galuga y [Wad]-as).

Q: You said a while ago [that] when you refused to go [to] the public market, the accused held your arms[.] [W]hat next did he do aside from holding your arms?

A: He pulled me and brought me to the public market, sir.

Q: And did you not resist when he pulled you?

A: I resisted, sir, but he [was] stronger than me.

Q: [Were] there other people around when the accused pulled you?

A: There were, sir.

Q: How many?

A: About twelve (12) persons, sir.

Q: And did you not shout, AAA?

A: I was then confused, sir.

x x x x

A: I was threatened by the accused and if I will shout he will kill me, sir.

x x x x

Q: Was the accused holding anything at that time?

A: There was, sir.

Q: What?

A: He was holding a bag and inside the bag there was a protruding knife, sir.

Q: Did he bring out the knife?

A: No, sir.

Q: And did the accused succeed in bringing you to the market from the fountain?

A: Yes, sir.

x x x x

Q: While the accused was taking you to the public market, what if any did you do, AAA?

A: I was struggling and pulling away my hands from him, sir.

Q: And did you succeed?

A: No, sir.

x x x x

Q: Upon reaching the public market, what if any [did] the accused do?

A: We stopped at the parlor place, sir.

Q: And was that parlor [open]?

A: No, sir.

Q: What did you do then?

A: He removed his clothes, sir.

x x x x

Q: And when the accused was removing his clothes, what did you do?

A: I was trying to pull my hand from him but still he was removing my clothes, sir.

Q: [Were] there people around [at or] near the parlor x x x?

A: None, sir.

x x x x

Q: And after the accused [removed] his clothes, what did you do next?

A: He placed his clothes [on] the ground floor and he layed (sic) me down, sir.

Q: When the accused was already naked and when he laid you down on the ground, what occurred [in] your mind, AAA?

A: I was crying, sir.

Q: And so was the accused able to lay you down on the ground?

A: Yes, sir.

Q: Did you not resist?

A: I tried to push him, sir, but he was still strong, sir.

Q: Did you not shout?

A: If I will shout he will kill me, sir.

- Q: What was your attire at that time?
A: Shorts and shirt, sir.
- Q: What happened to your attire when you were already laid to the ground by the accused AAA?
A: He removed, sir.
- Q: Who removed?
A: Junjun, sir.
- Q: And when you were already naked, what if any [did] the accused do?
A: He went on top of me, sir.
- Q: And when he was already on top of you, what if any did [he] do?
A: He inserted his penis [into] my vagina, sir.
- Q: And could you tell us your x x x exact position when the accused inserted his penis [into] your vagina?
A: I was lying down, sir.
- Q: What about the accused?
A: He was on top of me, sir.
- Q: And could you tell us how was he able to insert his penis [into] your vagina?
A: Yes, sir.
- Q: While the accused was inserting his penis [into] your vagina, did you not resist?
A: I was crying and tried to push him, sir.
- Q: And did you succeed?
A: No, sir.
- Q: And was he able to insert his penis [into] your vagina?
A: Yes, sir.
- Q: And was he still on top of you when the accused inserted his penis into your vagina?
A: Yes, sir.
- x x x x
- Q: But did you push him all the time?
A: Yes, sir.
- Q: So after the accused inserted his penis into your vagina, AAA, what if any did he tell you?
A: I was crying, sir, and he threatened me that if I will make any noise he will kill me.¹³

The RTC found, and the Court of Appeals affirmed, that AAA's testimony was straightforward, convincing, and consistent. Indeed, AAA described vividly how accused-appellant deflowered her and we cannot

¹³ TSN, May 4, 2004, pp. 6-14.

imagine how a child, as young in years as AAA, could directly and consistently recount in open court such an ordeal, unless she, in fact, had experienced the same. Between accused-appellant's plain denial and AAA's categorical testimony, we give weight to the latter, especially because accused-appellant admitted that he was actually found together with AAA in front of N's Restaurant by AAA's father and prosecution witnesses Borja and Garlitos.

AAA could not have been compelled by a motive other than to bring to justice the despoiler of her virtue. There was no showing that she was moved by anger or any ill motive against accused-appellant or that she was unduly pressured or influenced by anyone to charge accused-appellant with the serious crime of rape. Where there is no evidence that the principal witness for the prosecution was actuated by improper motive, the presumption is that he/she was not so actuated and his/her testimony is entitled to full credence.¹⁴

Relevant herein are our declarations in *People v. Magtibay*¹⁵:

The trial court correctly gave full faith and credence to Rachele[']s testimony. There was no showing that Rachele had an improper motive to testify against accused-appellant. The non-attendance of any ill motive on the part of Rachele gains more weight in the light of Merlyn Magtibay[']s description of Rachele as a nice person. Accused-appellant also had no reason why Rachele would falsely accuse [him] of such serious crime as rape if she were not motivated to bring her perpetrator to justice. **Needless to say, it is settled jurisprudence that testimonies of child-victims are given full weight and credit, since when a woman, more so if she is a minor, says she has been raped, she says in effect all that is necessary to show that rape was committed.** Youth and immaturity are generally badges of truth and sincerity.

A girl of such age as the victim would not concoct a tale of defloration, allow the examination of her private parts, make public the offense, undergo the trouble and humiliation of a public trial, and endure the ordeal of narrating all its gory details, if she had not in fact been raped. If the accused-appellant had really nothing to do with the crime, it would be against the natural order of events and of human nature, and against the presumption of good faith, that a prosecution witness would falsely accuse him of such a serious crime as rape. (Emphasis ours, citations omitted.)

In an attempt to raise doubts as to the credibility of AAA's testimony, accused-appellant points out that (a) AAA did not shout for help during the time of the incident; and (b) she failed to immediately inform her parents that she was raped. We have always held that there is no standard behavior expected of rape victims. Depending on the circumstances and their personal and emotional situation, victims react differently. In this case, AAA explained that she was confused at the time of the incident and afraid that if she shouted for help, accused-appellant would kill her. Also, it is not rare for young girls to

¹⁴ *People v. Invencion*, 446 Phil. 775, 787 (2003) citing *People v. Ramos*, 371 Phil. 66, 78 (1999).

¹⁵ 435 Phil. 353, 370-371 (2002).

hide for some time the violation of their honor because of the threats on their lives.¹⁶ As correctly ruled by the Court of Appeals:

[BBB], the victim's mother, saw her daughter at the police precinct in a state of confusion. AAA did not respond immediately after she was asked what happened. AAA was crying. It was only when a policewoman arrived that AAA confessed to having been raped by appellant, in the presence of her mother. AAA's initial silence, her state of confusion, and crying are natural reactions of a rape victim who suffered pain, trauma and shame in appellant's brutal hands. Besides, AAA was only a 12-year-old child at the time she got raped. Be that as it may, different people react differently to the same situation, and not every victim of a crime can be expected to act reasonably and conformably to the expectations of everyone. In any event, this matter is post facto and totally irrelevant to the fact that appellant raped the victim.¹⁷

Since accused-appellant is guilty beyond reasonable doubt of the crime of rape, we affirm the imposition by the RTC and the Court of Appeals of the penalty of *reclusion perpetua* under Article 266-B of the Revised Penal Code. However, in line with recent jurisprudence,¹⁸ we increase the awards for civil indemnity, moral damages, and exemplary damages to PhP75,000.00 each. In addition, we impose interest at the rate of six percent (6%) *per annum* on all monetary awards from date of finality of this Decision until fully paid.

As a final matter, a pending incident in this case is accused-appellant's Letter dated March 20, 2017, which was received by this Court on March 25, 2017, in which he pleads for the withdrawal of his appeal, asserting that he is eligible for parole and/or probation.

We deny accused-appellant's prayer for withdrawal of his appeal as he is ineligible to apply for either parole or probation.

Accused-appellant, as he is sentenced herein to suffer the penalty of *reclusion perpetua*, cannot apply for parole because Section 3 of R.A. No. 9346¹⁹ explicitly states that "[p]ersons convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to *reclusion perpetua*, by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended."

Accused-appellant is likewise disqualified from applying for probation as Section 9(a) of the Probation Law²⁰ is clear that the benefits of probation shall not extend to those sentenced to serve a maximum term of imprisonment of more than six (6) years. Irrefragably, the sentence of *reclusion perpetua* imposed on accused-appellant in this case exceeds six (6) years of imprisonment.

¹⁶ *People v. Cacayan*, 579 Phil. 803, 815 (2008).

¹⁷ *Rollo*, p. 16.

¹⁸ *People v. Jugueta*, 783 Phil. 806 (2016).

¹⁹ An Act Prohibiting the Imposition of Death Penalty, approved on June 24, 2006.

²⁰ Presidential Decree No. 968 as amended by R.A. No. 10707.

Furthermore, Section 4 of the Probation Law, as amended, reads:

SEC. 4. *Grant of Probation.* – Subject to the provisions of this Decree, the trial court may, after it shall have convicted and sentenced a defendant for a probationable penalty and **upon application by said defendant within the period for perfecting an appeal**, suspend the execution of the sentence and place the defendant on probation for such period and upon such terms and conditions as it may deem best. **No application for probation shall be entertained or granted if the defendant has perfected the appeal from the judgment of conviction:** *Provided*, That when a judgment or conviction imposing a non-probationable penalty is appealed or reviewed, and such judgment is modified through the imposition of a probationable penalty, the defendant shall be allowed to apply for probation based on the modified decision before such decision becomes final. The application for probation based on the modified decision shall be filed in the trial court where the judgment of conviction imposing a non-probationable penalty was rendered, or in the trial court where such case has since been raffled. In a case involving several defendants where some have taken further appeal, the other defendants may apply for probation by submitting a written application and attaching thereto a certified true copy of the judgment of conviction. (Emphasis ours.)

Section 4 of the Probation Law, as amended, intends to put a stop to the practice of appealing from judgments of conviction even if the sentence is probationable, for the purpose of securing an acquittal and applying for the probation only if the accused fails in his bid. An accused must not have appealed his conviction before he can avail himself of probation. Jurisprudence treats appeal and probation as mutually exclusive remedies because the law is unmistakable about it. The law is very clear and a contrary interpretation would counter its envisioned mandate.²¹ Thus, even assuming that herein accused-appellant is qualified to apply for parole, he has already availed himself of the remedy of appeal twice, by appealing the RTC judgment of conviction before the Court of Appeals, and then appealing the Court of Appeals decision affirming his conviction before this Court, which already proscribes him from applying for probation.


WHEREFORE, we hereby **RESOLVE** to:

(a) **DISMISS** the instant appeal and to **AFFIRM with MODIFICATION** the Decision dated June 9, 2015 of the Court of Appeals in CA-G.R. CR-H.C. No. 05592 as to the monetary awards, by ordering accused-appellant Renato Galuga y Wad-as to pay the private complainant AAA the amounts of PhP75,000.00 as civil indemnity, PhP75,000.00 as moral damages, and PhP75,000.00 as exemplary damages, and imposing interest of six percent (6%) per *annum* on all monetary awards from date of finality of this Decision until fully paid; and


(b) **DENY** the plea of accused-appellant Renato Galuga y Wad-as to withdraw his appeal.

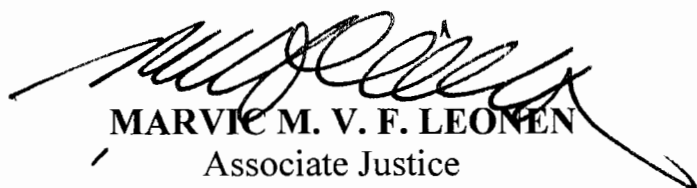
²¹ *Dimakuta v. People*, 771 Phil. 641, 660-661 (2015) citing *Sable v. People*, 602 Phil. 989, 997 (2009).


SO ORDERED.


RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Associate Justice
Chairperson



MARVIC M. V. F. LEONEN
Associate Justice


ANDRES B. REYES, JR.
Associate Justice


ROSMARI D. CARANDANG
Associate Justice


ATTESTATION

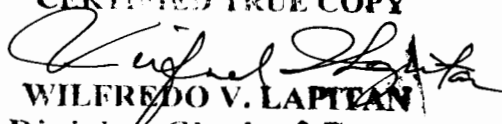
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
Associate Justice

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.


LUCAS P. BERSAMIN
Chief Justice

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

MAR 25 2019