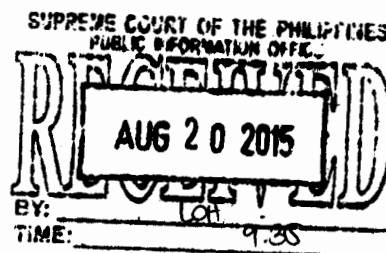




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **03 August 2015** which reads as follows:

"G.R. No. 208713 (People of the Philippines v. Jaime Magcalas y Roxas). – We resolve the appeal of appellant Jaime Magcalas y Roxas from the April 29, 2013 decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04922, penned by Associate Justice Jose C. Reyes, Jr., and concurred in by Associate Justices Mario V. Lopez and Socorro B. Inting. The CA affirmed the February 14, 2011 decision² of the Regional Trial Court (RTC), Branch 46, San Fernando, Pampanga, finding the appellant guilty beyond reasonable doubt of the crime of rape.

In its February 14, 2011 decision, the RTC convicted the appellant of the crime of rape for having carnal knowledge of 17-year-old AAA on July 17, 2006. The RTC gave credence to the candid and straightforward narration of AAA. It held that the prosecution sufficiently proved and established that the appellant had carnal knowledge of AAA through force, threat or intimidation. The RTC, on the other hand, rejected the appellant's defenses of denial and alibi. Accordingly, the RTC imposed on the appellant the penalty of *reclusion perpetua*, and directed him to pay ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages.

On appeal, the CA affirmed the RTC's ruling. In rejecting the appellant's argument, the CA held that the appellant cannot escape liability by questioning AAA's failure to offer tenacious resistance to the sexual abuse. It reasoned out that the victim's failure to shout, fight back, or escape from the scoundrel is not tantamount to consent or approval because the law imposes no obligation to exhibit defiance or to present proof of struggle. The CA pointed out that the contemporaneous and subsequent conduct of AAA and her parents proved the veracity of the rape charge. It also emphasized that the foremost consideration in the prosecution for rape is the victim's testimony and not the findings of the medico-legal officer. The CA held that the victim's testimony alone, if credible, is sufficient to convict. It likewise held that the positive identification of the victim absent any ill motive deserves full faith and credence.³ Like the RTC, the CA disregarded the appellant's defense of denial and alibi.

Our Ruling

We dismiss the appeal and uphold the appellant's conviction.

¹ Rollo, pp. 2-13.
² CA rollo, pp. 25-35.
³ Rollo, p. 11.

- more -

Under Article 266-A(1)(a) of the Revised Penal Code (*RPC*), as amended, there is rape when the offender had sexual intercourse with a woman through force, threat, or intimidation.

In the present case, the prosecution duly established and proved all the elements of rape under Article 266-A(1)(a) of the *RPC* through AAA's testimony.

First, AAA categorically stated how the appellant succeeded in having sexual intercourse with her on July 17, 2006. She testified that the appellant pushed her and she rolled down the slope of the dike as a consequence. Thereafter, the appellant went towards her and sat on her legs, then kissed her on the neck, removed her shorts and panty, and inserted his organ into her private part.

Second, the prosecution established that the appellant employed threat, force, and intimidation to satisfy his bestial desire. As an element of rape, force, threat or intimidation need not be irresistible, but just enough to bring about the desired result.⁴ In this case, AAA tried to shout and ask for help while being sexually abused but the appellant punched her on the stomach three (3) times. These, in addition to being pushed down the slope by the appellant were sufficient to subdue AAA's resistance.

In his attempt to discredit AAA, the appellant contended that while shallow healed lacerations do not negate the occurrence of rape, these also do not negate that AAA was not raped. The appellant referred to AAA's past live-in relationship to bolster his claim. We find this contention to be too flimsy to outweigh AAA's affirmative accusations.

We see no reason to disbelieve AAA's narration of her ordeal in the hands of the appellant on July 17, 2006. Both the trial and appellate courts found AAA's testimony credible and straightforward. We agree with the CA that when a woman or a girl-child says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed. Youth and immaturity are generally badges of truth and sincerity.⁵

As did the lower court, we also reject the appellant's defense of denial and alibi. It is well-settled that for alibi to prosper, it must be proved that during the commission of the crime the accused was in another place, making it physically impossible for him to be at the crime scene. Also, to be considered credible, corroboration of an alibi must necessarily come from disinterested witnesses.⁶

In the present case, the testimonies of the defense witnesses, who are friends and relatives of the appellant, cannot overthrow the conclusion that it

⁴ *People v. Hilarion*, G.R. No. 201105, November 25, 2013, 710 SCRA 562, 565, citing *People v. Cañada*, 617 Phil. 587 (2009).

⁵ *People v. Sabal*, G.R. No. 201861, June 2, 2014.

⁶ *People v. Velasco*, G.R. No. 190318, November 27, 2013, 710 SCRA 784, 798-799.

was not physically impossible for the appellant to be at the scene of the crime at the time it was committed. The appellant's defense cannot prevail over the positive and straightforward declarations of AAA who had no ulterior motive to testify against him.

The trial and appellate courts correctly imposed the penalty of *reclusion perpetua* in accordance with Article 266-B, in relation to Article 266-A(1)(a) of the RPC. We likewise sustain the awards of ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages, to conform to prevailing jurisprudence.⁷ Additionally, we order the appellant to pay the amount of ₱30,000.00 as exemplary damages in favor of AAA, which is justified under Article 2229 of the Civil Code, to set a public example and to serve as deterrent to those who abuse and corrupt the youth.⁸

Moreover, we impose interest at the rate of 6% per annum on all the monetary awards for damages, to be reckoned from the date of the finality of this Resolution until their full satisfaction.

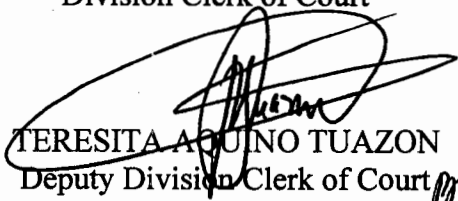
WHEREFORE, premises considered, we **AFFIRM** the Decision of the Court of Appeals dated April 29, 2013, in CA-G.R. CR-H.C. No. 04922 with the following **MODIFICATIONS**: (a) we order the appellant to pay AAA the amount of ₱30,000.00 as exemplary damages; and (b) the award of damages shall earn interest at the rate of 6% per annum, computed from the date of the finality of this Resolution until their full satisfaction.

SO ORDERED."

Very truly yours,

MA. LOURDES C. PERFECTO
Division Clerk of Court

By:


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court

⁷ *People v. Japson*, G.R. No. 210658, September 17, 2014.
⁸ *Id.*

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THE DIRECTOR (reg)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 46
San Fernando City, Pampanga
Crim. Case No. 1284

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GR208713. 08/03/15 (54)URES *MLW*