



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **December 2, 2019**, which reads as follows:

“G.R. No. 237351 (*People of the Philippines v. Jerome De Vera y Baltazar*) – This ordinary appeal¹ assails the Decision² dated 28 June 2017 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 08205, which affirmed the Joint Decision³ dated 23 February 2016 of Branch 68, Regional Trial Court (RTC) of Lingayen, Pangasinan, in Criminal Case Nos. L-10208 and L-10209, finding XXX⁴ (accused-appellant) guilty beyond reasonable doubt of two (2) counts of rape, defined and penalized under Article 266-A, paragraph 1 of the Revised Penal Code (RPC), as amended by Republic Act (RA) 8353.

Antecedents

Two (2) Informations were filed before the RTC accusing accused-appellant of two (2) counts of rape committed against the victim, AAA.⁵ The accusatory portions of the Information state:

Criminal Case No. L-10208

That on or about 3:00 o'clock in the afternoon of February 15, 2014 in Barangay [REDACTED], Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, with force and intimidation, and (sic) did, then and there willfully, unlawfully and feloniously poke a knife on private complainant AAA, a 16 year old minor

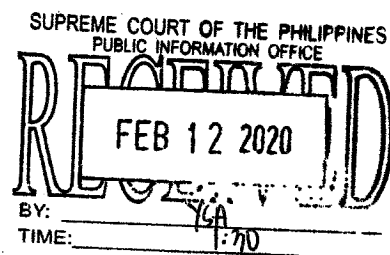
¹ See Notice of Appeal dated 24 July 2017; *Rollo*, pp. 15-17.

² *Id.* at 2-14; penned by Associate Justice Mariflor P. Punzalan Castillo with Associate Justices Florito S. Macalino and Maria Elisa Sempio Diy, concurring.

³ *CA rollo*, pp. 50-59; penned by Judge Maria Laarni R. Parayno.

⁴ The identity of the victim or any information which could establish or compromise her identity, including the names of her immediate family or household members, and the *barangay* and town of the incident, are withheld pursuant to SC Amended Administrative Circular No. 83-2015. The real name of the accused-appellant is also replaced with fictitious initials by reason of his relationship to the minor victim.

⁵ *Id.*



(DOB 05-02-98) and force her to drink hard liquor (emperador) and then pull her into his room, take away her pants, panty, blouse and bra and thereafter kiss her lips, neck, breasts and vagina and then have sexual intercourse with her, against her will and consent, to the damage and prejudice of said AAA.

Contrary to Art. 266-A, par. 1(a) of the Revised Penal Code.⁶

Criminal Case No. L-10209

That on or about 2:00 o'clock in the afternoon of February 22, 2014 in Barangay [REDACTED], Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, with force and intimidation, did, then and there willfully, unlawfully and feloniously bring private complainant AAA, a 16 year old minor (DOB 05-02-98) to his house while poking a knife on her, push her into his room, lay her and take away her leggings and panty and thereafter have sexual intercourse with the said minor, against her will and consent, to [the] damage and prejudice of said AAA.

Contrary to Art. 266-A, par. 1(a) of the Revised Penal Code.⁷

Accused-appellant entered a plea of not guilty, and the two (2) cases were jointly tried.⁸

The prosecution alleged that AAA was born on 02 May 1998. At the time of the incidents on 15 February 2014 and 22 February 2014, AAA was sixteen (16) years of age.⁹ These two (2) rape incidents were summarized by the CA as follows:

AAA testified that at around 3:00 p.m. on February 15, 2014, while she was in the house of her grandmother, which was near the house of the accused [appellant], the latter asked her to drink liquor with him. When she refused, he poked a knife at her. Since she was afraid, she just drank the liquor. When she became dizzy, the accused [appellant] brought her inside a room where he kissed her several times. He then removed her blouse and bra, and kissed her private organ. She was frightened at that time. The accused [appellant] then inserted his penis into her vagina which made her feel pain. She tried to fend off the accused [appellant] by kicking him, but she was not able to because she was already feeling very dizzy. The knife that the accused [appellant] poked at her was just beside her while [the] accused [appellant] raped her. After that, the accused told her not to report the matter, or else he will kill her. She was very afraid because of his threat. She then left the house of the accused and proceeded to her grandmother's house. She did not tell anyone what happened because of fear.

⁶ Records, L-10208, p. 1.

⁷ Records, L-10209, p. 1.

⁸ *Rollo*, p. 3.

⁹ *Id.* at 3-4.

The second incident happened on February 22, 2014. The witness [AAA] averred that at around 2:00 p.m. of that date, the accused entered her room in her grandmother's house as he wanted to bring her to his house nearby. She was alone in the house. When she refused to go with him, he brought out the knife that he inserted in his short pants and poked it at her right torso. She was then afraid that the accused might carry out his previous threat upon her. Hence, she went with him and while they were outside, the accused told her to act naturally so that their neighbors would not notice anything. The accused then held her neck with his right hand while he poked the knife at her with his left hand. She also did not shout or ask for help because the accused told her so. When they arrived at his house, he pushed her several times and she fell down. When she got up and tried to run, he chased her, got hold of her arm, and pulled her. Then, he again brought her to his room and forced her to lie down on the floor by holding both of her arms. In that position, accused removed her leggings and panty. He also removed his short pants and brief, and he inserted his penis into her vagina. The knife which was poked at her was placed near her. For five minutes, the accused's penis was inside her vagina. She pleaded for him to stop but he did not heed her. She was very frightened because the accused repeated what he had done to her before. After that, she went back to her grandmother's house. She did not tell anyone what happened.¹⁰

For his part, accused-appellant interposed the sweetheart defense and claimed that AAA was his girlfriend. He alleged that after courting her, they became sweethearts on 06 January 2014. However, he denied having sexual intercourse with AAA and only agreed to be her boyfriend even though he knew she had another. Allegedly, their relationship lasted only for a year. Accused-appellant also claimed that AAA filed the cases against him when he refused to buy her a cellphone case.¹¹

In its Joint Decision dated 23 February 2016, the RTC found accused-appellant guilty beyond reasonable doubt of two (2) counts of rape. Accordingly, accused-appellant was sentenced to suffer the penalty of *reclusion perpetua*, and to pay AAA the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱10,000.00 as exemplary damages, with legal interest of six percent (6%) *per annum* for each count. The RTC likewise held that pursuant to Section 3 of RA 9346, accused-appellant is not eligible for parole.¹²

Aggrieved, accused-appellant appealed to the CA.

In its Decision dated 28 June 2017, the CA affirmed accused-appellant's conviction but modified the penalty by increasing the awards of civil

¹⁰ *Id.* at 4-5.

¹¹ *Id.* at 5.

¹² *CA rollo*, pp. 58-59.

indemnity, moral damages and exemplary damages to ₱75,000.00 each.¹³ It held that AAA, who testified with candor, positively identified accused-appellant as the one who raped her. The CA gave no credence to accused-appellant's defense of alibi as it was admitted that the place of the crime was easily accessible from his residence.¹⁴

Hence, this appeal.

Ruling of the Court

The appeal is without merit.

Accused-appellant was charged with two (2) counts of rape under Section 266-A (1), which 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 offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

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Stated differently, the elements of rape under Article 266-A, paragraph (1) (a) of the RPC, as amended, are: (1) the act is committed by a man; (2) that said man had carnal knowledge of a woman; and (3) that such act was accomplished through force, threat, or intimidation.¹⁵

Here, the prosecution duly established all the elements of rape. AAA consistently and categorically stated that accused-appellant had carnal knowledge of her against her will twice. First, on 15 February 2014, whereby accused-appellant forced AAA to drink liquor, and once she felt dizzy, accused-appellant succeeded in kissing her, removing her clothes and then

¹³ *Rollo*, p. 14.

¹⁴ *Id.* at 7-12.

¹⁵ *People v. Jaime*, G.R. No. 225332, 23 July 2018.

inserting his penis inside her vagina despite her resistance.¹⁶ And second, on 22 February 2014, with accused-appellant threatening AAA with a knife. AAA tried to run away, but accused-appellant chased after her. When she was caught, he undressed her and inserted his penis inside her vagina despite her pleas for him to stop.¹⁷

In rape cases, the accused may be convicted on the sole basis of the victim's testimony, provided it is credible, natural, convincing and consistent with human nature and the normal course of things.¹⁸ In this regard, when the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, considering that the latter is in a better position to decide the question as it heard the witnesses themselves and observed their deportment and manner of testifying during trial. The exceptions to the rule are when such evaluation was reached arbitrarily, or when the trial court overlooked, misunderstood or misapplied some facts or circumstance of weight and substance which could affect the result of the case,¹⁹ which do not obtain in this case. Hence, accused-appellant's argument that he cannot be convicted on the basis of AAA's testimony does not deserve consideration since AAA has been adjudged as a credible witness.

Lastly, accused-appellant's denial of the charges against him does not overcome AAA's candid and categorical testimony. "No young girl would usually concoct a tale of defloration; publicly admit having been ravished and her honor tainted; allow the examination of her private parts; and undergo all the trouble and inconvenience, not to mention the trauma and scandal of a public trial, had she not in fact been raped and been truly moved to protect and preserve her honor, and motivated by the desire to obtain justice for the wicked acts committed against her."²⁰

However, the penalty imposed by the RTC, and affirmed by the CA, must be modified. The RTC imposed the penalty of *reclusion perpetua* and stated that pursuant to Section 3, RA 9346, accused-appellant is not eligible for parole. In this case, accused-appellant only committed simple rape, whereby the impossible penalty is *reclusion perpetua*, not death.²¹

¹⁶ *Rollo*, p. 7.

¹⁷ *Id.* at 7-8.

¹⁸ *People v. Sinoro*, G.R. Nos. 138650-58, 22 April 2003, 401 SCRA 371, 386.

¹⁹ *People v. Mabalo*, G.R. No. 238839, 27 February 2019.

²⁰ *People v. Barberan*, G.R. No. 208759, 22 June 2016, 794 SCRA 348, 356.

²¹ The crime of simple rape under Article 266-A, paragraph 1 (a) of the Revised Penal Code, as amended by Republic Act No. 8353 is penalized with *reclusion perpetua*. (*People v. Jaime*, G.R. No. 225332, 23 July 2018)

In A.M. No. 15-08-02-SC,²² the Court clarified that in cases where the death penalty is not warranted, as in this case, there is no need to use the phrase, "without eligibility for parole," to qualify the penalty of *reclusion perpetua*; it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole.

WHEREFORE, the appeal is hereby **DISMISSED**. Accordingly, the Decision dated 28 June 2017 of the Court of Appeals in CA-G.R. CR-H.C. No. 08205 finding accused-appellant Jerome De Vera y Baltazar **GUILTY** beyond reasonable doubt of two (2) counts of Rape, as defined and penalized under Article 266-A, in relation to Article 266-B of the Revised Penal Code, is **AFFIRMED with MODIFICATION**. He is **SENTENCED** to suffer the penalty of *reclusion perpetua* for each count, and is **ORDERED** to pay AAA, for each count, the amounts of: (a) ₱75,000.00 as civil indemnity; (b) ₱75,000.00 as moral damages; and (c) ₱75,000.00 as exemplary damages, with legal interest of six percent (6%) *per annum* on all amounts due, from the date of finality of this Resolution until fully paid.

SO ORDERED."

Very truly yours,

Misael DC Batt
MISAEAL DOMINGO C. BATTUNG III
Deputy Division Clerk of Court *2/6/2020*

Mr. Jerome B. De Vera
Accused-Appellant
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²² Guidelines for the Proper Use of the Phrase "Without Eligibility for Parole" in Indivisible Penalties, A.M. No. 15-08-02-SC, 04 August 2015.

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In these lights, the following guidelines shall be observed in the imposition of penalties and in the use of the phrase "without eligibility for parole":

(1) In cases where the death penalty is not warranted, there is no need to use the phrase "without eligibility for parole" to qualify the penalty of *reclusion perpetua*; it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole.

COURT OF APPEALS
CA G.R. CR HC No. 08205
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The Presiding Judge
REGIONAL TRIAL COURT
Branch 68, Lingayen
2401 Pangasinan
(Crim. Case No. L-10208 & L-10209)

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