



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **09 December 2020** which reads as follows:*

**“G.R. No. 224925 (People of the Philippines v. Lonie J. Rementizo).**  
– The appeal must fail.

To secure a conviction for rape under Article 266-A, paragraph 1 of the Revised Penal Code, as amended by Republic Act No. 8353 (RA 8353),<sup>1</sup> the prosecution must establish the following elements: (1) the offender had carnal knowledge of a woman; and (2) the offender accomplished such act through force or intimidation, or when the victim was deprived of reason or otherwise unconscious, or when she was under twelve (12) years of age or was demented.

Both the trial court and the Court of Appeals here found that the prosecution had established beyond reasonable doubt the elements of carnal knowledge and force, threat, or intimidation. AAA (complainant)\* positively identified Lonie J. Rementizo (appellant) as the man who, through force or intimidation, had carnal knowledge of her against her will, thus:

Q: What did he say to you if any?

A: When he open (sic) the right window of his car[,] his face was so fierce and he sharply looked at me that is why I was scared.

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<sup>1</sup> The Anti-Rape Law of 1997.

\* The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used in accordance with *People v. Cabalquinto* [533 Phil 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

Q: And so what happened after that?

A: I was scared more when he took is (sic) gun and pointed at my face.

x x x x

Q: And what did [appellant] tell you to do?

A: He told me to ride in his car.

Q: So what did you do?

A: I rode on his car because I was so scared he might his [sic] fire his gun.

x x x x

Q: So after that what happened next?

A: I did not go out of the car but he pulled me out in order for me to get out of the car.

x x x x

Q: And where did he bring you next?

A: He forced me to get inside the room but I did not go inside but he was already angry.

Q: Did you finally get inside the room?

A: Yes ma'am.

x x x x

Q: So what happened next after he turn-on the TV that pornographic show, what did he do to you next?

A: He told me to take a bath and I hurriedly went inside the bathroom.

x x x x

Q: And so what did [appellant] do next?

A: He shouted at me, he said hurry up.

x x x x

Q: So when you were already outside the bathroom, what happened next?

A: When I went out of the bathroom, I saw him already naked and he put his gun on his side.

Q: Where was he, he was naked where was he situated?

A: On the bed.

x x x x

Q: And what happened next?

A: Then he stood up and pull the towel which I wrapped my body.

Q: So at this point in time when he pulled out the towel what were you wearing?

A: I was wearing my bra and panty.

Q: And after doing that, what did he do to you next?

A: He pushed me towards the bed.

x x x x

Q: What happened after that?

A: Then [when] I was crying then he went to the bed and turn me around face up.

Q: And what did he do?

A: Then he put himself on top of me and he pulled my bra and my panty.

Q: And at that point what were you doing??

A: I did not want him to remove my panty and my bra but he forcibly pulled it, he was so strong.

Q: And so it left you completely naked also?

A: Yes ma'am.

Q: You said he went on top of you, what did he do while he was already on top of you and you were both completely naked?

A: He lay on top of me and he put his penis inside my vagina and he made a push and pull motion.

x x x x

Q: So when that penis of [appellant] went inside your vagina as you describe, how did it feel on your vagina?

A: It is still very painful.

Q: And when [he] made the push and pull motion, how did you feel?

A: I cried because there was an intense pain.

Q: And so if you can remember how long did it take him to do that making a push and pull motion?

A: Several times.

Q: And so after that what happened next?

A: I beg of him to stop and let me go home but still he continued.

Q: So after that, what happened?

A: He continued kissing my face, my neck, my breast.

Q: How about your hands [,] where was your hands?

A: I pushed him but I could not do it because he was strong.

Q: Did he finally [stopped] what he was doing to you?

A: Not yet he still continued what he was doing.

Q: Until what happened?

A: Because I keep on begging him until he stop and then he stood up and told me "bisag unsaon wala gyod kay lami" no matter how you are tasteless.

Q: How did you understand the term "wala [gyod] kay lami"?

A: He said he does not like me because whenever he had sex with me because I have a dark skin.<sup>2</sup>

Complainant made a clear, candid, and positive narration of how appellant pointed a gun at her, forced her to get inside his car, drove her to a motel, threatened her by displaying a gun beside him on the bed, pushed her to the bed, stripped off her panty and bra, mounted her, forcefully inserted his penis into her vagina, made several push and pull motions, and despite her plea, continued to have sex with her, and kissed her face, neck, and breast. Her allegation of rape conforms with the physical evidence. The testimony and medical findings of Dr. Marie Kathleen Cañete Sarmen revealed that complainant sustained hymenal lacerations at 3, 5, 7 & 10 o'clock which indicated sexual intercourse or penetration by a man's penis, thus, supporting complainant's disclosure that she had been raped.

In rape cases, the testimonies of child-victims are given full weight and credit,<sup>3</sup> especially when it is supported by physical evidence, as in this case. A physician's finding of penetration bolsters the prosecution's testimonial evidence on the existence of carnal knowledge. Together, they produce moral certainty that appellant indeed raped the victim. As decreed in *People v. Rupal*,<sup>4</sup> a young girl's revelation that she had been raped, coupled with her voluntary submission to medical examination and willingness to undergo public trial where she could be compelled to give out the details of an assault on her dignity, cannot be so easily dismissed as mere concoction.

The Court respects the trial court's factual assessment and conclusion that complainant's testimony was credible and convincing<sup>5</sup> since it had the opportunity to observe first hand complainant's conduct and demeanor while testifying. More so because such findings carry the Court of Appeal's full concurrence.<sup>6</sup>

On this score, complainant's alleged failure to offer tenacious resistance does not negate the commission of rape, especially considering that appellant intimidated and threatened her into submission, first pointing a gun at her to force her to board his car, and later placing it beside him on the bed while he raped the girl. Rape victims react differently when confronted with sexual abuse.<sup>7</sup> For a young girl like complainant, who was then only fifteen (15) years old, it is not uncommon to be intimidated into silence by the mildest threat against her life.<sup>8</sup>

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<sup>2</sup> Rollo, pp. 90-93.

<sup>3</sup> *People v. Mayola*, 802 Phil. 756, 764 (2016).

<sup>4</sup> G.R. No. 222497, June 27, 2018.

<sup>5</sup> See *People v. Hirang*, 803 Phil. 277, 290 (2017).

<sup>6</sup> *Castillano v. People*, G.R. No. 222210 (Notice), June 20, 2016.

<sup>7</sup> *People v. Barberan*, 788 Phil. 103, 112 (2016).

<sup>8</sup> *People v. Negosa*, 456 Phil. 861, 875 (2002), citing *People v. Villamor*, 357 Phil. 940, 950 (2002).

Neither do the past sexual encounters between complainant and appellant on August 23 and 24, 2010 render the recent *coitus* voluntary, especially when the same were also done against complainant's will. Notably, complainant recounted that in those instances, appellant repeatedly threatened to kill her and her family should she divulge these incidents to them. These threats instilled in her fear towards appellant, forcing her to submit to his lustful desires.

At any rate, complainant tried to repel, albeit unsuccessfully, appellant's sexual acts. She repeatedly begged him to stop and even pushed him away, but her efforts were overcome by appellant's brute strength. Together with her sister, she later reported the rape incidents to the police officer and submitted herself to physical examination. These strongly indicate that complainant was truly wronged and she wanted the wrongdoer to be punished accordingly.

Finally, in the prosecution of rape cases, the presence or absence of spermatozoa and vaginal bleeding is immaterial. For it is well settled that penetration of the woman's vagina, however slight, and not ejaculation constitutes rape.<sup>9</sup> Thus, even if no spermatozoa was found in complainant's vaginal area, the same does not negate penile penetration and the commission of rape. The element of penile penetration is established by complainant's graphic account of the incident, *viz.*: "*he (appellant) lay on top of me and put his penis inside my vagina and he made a push and pull motion,*" when appellant's penis went inside her vagina, "*it is very painful.*" It was further supported by the doctor's finding of multiple lacerations in complainant's hymenal area which strongly indicated sexual intercourse.

On the other hand, appellant's defenses boil down to denial and alibi. These are the weakest of all defenses for they are easy to contrive but difficult to disprove. For the defense of alibi to prosper, appellant must prove that he was somewhere else when the offense was committed and that it was impossible for him to have been physically present at the place of the crime or at its immediate vicinity at the time of its commission. Unless supported by clear and convincing evidence, alibi cannot prevail over the positive declaration of a victim who, in a natural and straightforward manner, convincingly identifies the appellant.<sup>10</sup>

In any event, appellant failed to disprove his presence at the *locus criminis* when the crime was committed. There were inconsistencies between the testimonies of appellant and his buddy, PO3 Gilbert Vitas Sabellano (PO3 Sabellano).<sup>11</sup> The latter did not corroborate appellant's claim that the two (2) of them had dinner together at La Ilonga around 7 o'clock in the evening. Further, appellant claimed that the VIPs they were supposed to

<sup>9</sup> *People v. Balora*, 388 Phil. 193, 206 (2000).

<sup>10</sup> *People v. Ganaba*, 829 Phil. 306, 322 (2018).

<sup>11</sup> Sometimes referred to as "Sabellina," "Sabellana," and "Sabellena," in some parts of the *rollo*.

assist that night arrived only around 9 o'clock in the evening. PO3 Sabellano, on the other hand, testified that the VIP's had already arrived as early as 7 o'clock in the evening, which shows that appellant was no longer at La Ilonga at that time. Appellant further failed to prove that it was physically impossible for him to be at the crime scene at the time the rape was committed. As between complainant's credible and positive identification of appellant as the person who by force, threat, or intimidation had carnal knowledge of her against her will, appellant's bare denial and alibi, necessarily crumbles.<sup>12</sup>

When rape is committed with the use of a deadly weapon, the penalty is *reclusion perpetua* to death. Article 266-B of the Revised Penal Code provides:

**Article 266-B. Penalty.** – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.

x x x x

Republic Act No. 9346 (RA 9346),<sup>13</sup> however, proscribed the imposition of death penalty. Under Administrative Matter No. 15-08-02-SC,<sup>14</sup> when there are circumstances warranting the imposition of the death penalty, but the same is not imposed in view of RA 9346, the phrase “*without eligibility for parole*” shall be used to qualify *reclusion perpetua* in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for RA 9346. Conversely, when death penalty is not warranted, there is no need to qualify the penalty of *reclusion perpetua*.

In *People v. Villalobos*,<sup>15</sup> where rape was committed with the use of a deadly weapon and there was neither aggravating nor mitigating circumstance, the Court ruled that the proper imposable penalty is the lesser penalty of *reclusion perpetua* without any qualification. It also awarded civil indemnity, moral damages and exemplary damages of ₱75,000.00 each. Thus:

Whenever the crime of rape is committed with the use of a deadly weapon, the penalty shall be *reclusion perpetua* to death as provided under Article 266-B of the Revised Penal Code. The prosecution was able to sufficiently allege in the Information and establish during trial that **a handgun was used in the commission of rape. Considering that no aggravating or mitigating circumstance attended the**

<sup>12</sup> See *Etino v. People*, 826 Phil. 32, 48 (2018); see *People v. Candellada*, 713 Phil. 623, 637 (2013).

<sup>13</sup> *An Act Prohibiting The Imposition Of Death Penalty In The Philippines*.

<sup>14</sup> Guidelines for the Proper Use of the Phrase “Without Eligibility for Parole” in Indivisible Penalties, A.M. No. 15-08-02-SC, August 4, 2015.

<sup>15</sup> G.R. No. 228960, June 11, 2018.

**commission of the crime, the lesser penalty of *reclusion perpetua* is the proper imposable penalty.** However, the RTC, in its decision, added the qualification of “without eligibility for parole” to describe or qualify *reclusion perpetua*, and this was affirmed by the CA. In light of the attendant circumstances in the case at bench, **there is no more need to append the phrase “without eligibility for parole” to Villalobos’ prison term in line with the instructions given by the Court in A.M. No. 15-08-02-SC. Therefore, the dispositive portion of this decision should simply state that Villalobos is sentenced to suffer the penalty of *reclusion perpetua* without any qualification.**

Coming now to the pecuniary liabilities, the Court finds that the CA is correct in awarding P75,000.00 each for civil indemnity, moral damages and exemplary damages being consistent with our pronouncement in *People v. Jugueta*. Further, six percent (6%) interest *per annum* shall be imposed on all damages awarded to be reckoned from the date of the finality of this judgment until fully paid. (Emphasis supplied)

Here, rape was committed with the use of a deadly weapon. It was properly alleged in the Information and sufficiently proved during trial. Complainant testified that appellant pointed a gun at her to force her to ride his car. Appellant also brandished the gun beside him on the bed, which effectively forced complainant into submission. Contrary to the Court of Appeal’s ruling, there is no need to append the phrase “without eligibility for parole” to appellant’s prison term. Since no aggravating circumstance was established to warrant the imposition of death penalty, the proper penalty is *reclusion perpetua* without any qualification.

In accordance with *People v. Villalobos*<sup>16</sup> and *People v. Jugueta*,<sup>17</sup> the award of civil indemnity, moral damages, and exemplary damages should all be increased to Seventy-Five Thousand Pesos (P75,000.00). On the other hand, we affirm the imposition of six percent (6%) interest on all the monetary awards from finality of decision until fully paid.

**ACCORDINGLY**, the appeal is **DISMISSED**. The Decision dated June 1, 2015 of the Court of Appeals in CA-G.R. CR HC No. 01209-MIN is **AFFIRMED with MODIFICATION**. Appellant Lonie J. Rementizo is found **GUILTY** of **RAPE** and sentenced to **RECLUSION PERPETUA**. He is further ordered to **PAY** complainant AAA P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages. All monetary awards are subject to six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

<sup>16</sup> *Id.*

<sup>17</sup> *People v. Jugueta*, 783 Phil. 806, 848-849 (2016).

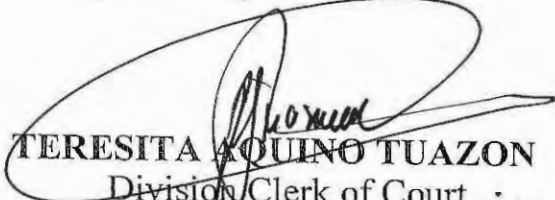
“II. For Simple Rape/Qualified Rape:

x x x x

- 2.1 Where the penalty imposed is *reclusion perpetua*, other than the above-mentioned:
- a. Civil indemnity — P75,000.00
  - b. Moral damages — P75,000.00
  - c. Exemplary damages — P75,000.00.

**SO ORDERED.**" (Rosario, J., additional member per S.O. No. 2797 dated November 5, 2020)

By authority of the Court:



TERESITA AQUINO TUAZON  
Division Clerk of Court *p. 1/13*  
14 JAN 2021

\*ATTY. FRANCIS U. KU & ASSOCIATES (reg)  
Counsel for Petitioner  
3/F, Street, St. Gregory Building  
6<sup>th</sup> corner 7<sup>th</sup> Streets, Nazareth  
9000 Cagayan de Oro City

\*OFFICE OF THE SOLICITOR GENERAL (reg)  
134 Amorsolo Street  
1229 Legaspi Village  
Makati City

\*MR. LONIE J. REMENTIZO(reg)  
Accused-Appellant  
c/o The Superintendent  
Davao Prison and Penal Farm  
B.E. Dujali, 8105 Davao del Norte

THE SUPERINTENDENT (reg)  
Davao Prison and Penal Farm  
B.E. Dujali, 8105 Davao del Norte

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 37  
9000 Cagayan de Oro City  
(FC Crim. Case No. 2011-062)

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\*with copy of CA Decision dated 01 June 2015  
*Please notify the Court of any change in your address.*  
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