



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 9, 2020, which reads as follows:

“G.R. No. 233649 (*People of the Philippines v. Herman Landicho y Amparo*). – This is an Appeal¹ from the Decision² dated April 21, 2017 of the Court of Appeals (CA) in CA - G.R. CR-HC No. 08080 which affirmed the Decision³ dated December 3, 2015 of Branch 5, Regional Trial Court (RTC), [REDACTED] convicting Herman Landicho y Amparo (accused-appellant) of Rape defined and penalized under Article 266-A, in relation to Article 266-B of the Revised Penal Code (RPC).

The Facts

Accused-appellant was charged with the crime of Rape in an Information⁴ dated January 6, 2004 which reads:

That on or about the 10th day of July 2003, at about 6:00 o'clock in the morning, at [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above named accused, by means of force and intimidation, did then and there willfully, feloniously lie with and have carnal knowledge with one AAA, a fifteen (15) year old minor, against her will and consent.

CONTRARY TO LAW.⁵

When the case was filed in court, accused-appellant went into hiding and remained at large until he was arrested on May 20, 2015.

¹ *Rollo*, pp. 11-13.

² *Id.* at 2-10; penned by Associate Justice Danton Q. Bueser with Associate Justices Apolinario D. Brusolas, Jr. and Marie Christine Azcarraga-Jacob, concurring.

³ *CA rollo*, pp. 48-54; penned by Acting Presiding Judge Eleuterio Larisma Bathan.

⁴ *Rollo*, p. 5.

⁵ *Id.*

Thereafter, the case was recalled from the archives on August 6, 2015. Trial ensued.⁶

Version of the Prosecution

On July 10, 2003, around 6:00 a.m., AAA,⁷ then fifteen (15) years old, was outside her house waiting for a ride going to her school. Accused-appellant passed by and offered AAA a ride in his jeep. AAA accepted the offer. However, they drove past the school as accused-appellant told AAA they needed to drop by some place.⁸

AAA was feeling nervous and insisted to be taken to her school. Accused-appellant continued driving until they stopped at a resort. Accused-appellant alighted from the car and forced AAA to alight as well. AAA continued asking, "*Saan tayo pupunta?*," to which accused-appellant merely replied with "*may pupuntahan lang.*" Later, accused-appellant pushed AAA into a nipa hut which was a few meters from the jeep. AAA was crying aloud, but accused-appellant punched her stomach twice. AAA felt pain, became dizzy, and lost consciousness. When she awoke, AAA was already naked lying on the bed as she saw accused-appellant also lying naked beside her.⁹

AAA tried to get up, but accused-appellant forced her to lie down, went on top of her and inserted his penis into her vagina. After accused-appellant had consummated raping AAA, he brought her home. Accused-appellant threatened AAA not to tell anyone what had happened between them, otherwise, something bad will happen to her family.¹⁰

It took a few months before AAA found the strength to tell the incident to her sister. After informing their parents about the incident, they immediately filed a complaint against accused-appellant.¹¹

⁶ CA rollo, p. 48-b.

⁷ In *People v. Cabalquinto*, 533 Phil. 703, 709 (2006), the Court resolved to withhold the real name of the victim-survivor and shall use fictitious initials instead to represent her. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well those of their immediate family or household members, shall not be disclosed. Thus, the name of the victim and her immediate family members shall appear as "AAA" and "BBB" and so forth.

⁸ *Rollo*, p. 3.

⁹ *Id.* at 3-4.

¹⁰ *Id.* at 4.

¹¹ *Id.*

Version of the Defense

Accused-appellant denied the accusations against him. He claimed that at around 9:00 a.m., of July 10, 2003, he was working as a chainsaw operator some sixteen (16) kilometers away from where AAA was on that same morning. He got off from work at around 6:00 p.m. He arrived at his house at around 8:00 p.m. and saw AAA watching television with his wife and their children.¹²

Ruling of the RTC

On December 3, 2015, the RTC found accused-appellant guilty beyond reasonable doubt of the crime charged. It ruled that AAA narrated the rape incident in a straightforward and convincing manner.¹³ Accused-appellant's denial cannot prevail over the positive, candid and categorical testimony of AAA. Further, accused-appellant's alibi cannot absolve him from liability because he failed to establish that it was physically impossible for him to be present at the place of the rape incident.¹⁴ The RTC disposed of the case as follows:

WHEREFORE, premises considered, accused Herman Landicho y Amparo is hereby found GUILTY beyond reasonable doubt of the crime of rape and is hereby sentenced to suffer *reclusion perpetua*, without eligibility for parole, and is ordered to pay the private complainant the amount of Seventy Five Thousand Pesos (P75,000.00) as moral damages and Thirty Five Thousand Pesos (P35,000.00) as exemplary damages, plus 6% interest reckoned from the filing of the complaint up to the finality of judgment, after which period the rate should be 12% per annum and to pay the cost of suit.

SO ORDERED.¹⁵

Ruling of the CA

On April 21, 2017, the CA agreed with the findings of the RTC and affirmed accused-appellant's conviction.¹⁶ The CA pointed out the absence of any ill motive saying that there is no plausible reason for AAA to falsely accuse accused-appellant.¹⁷ The CA disposed of the case as follows:

WHEREFORE, the appeal is DENIED and the Decision of the Regional Trial Court dated December 3, 2015 is AFFIRMED in toto.

¹² *Id.*

¹³ *CA rollo*, p. 50.

¹⁴ *Id.* at 52.

¹⁵ *Id.* at 53-54.

¹⁶ *CA rollo*, p. 90.

¹⁷ *Id.*

SO ORDERED.¹⁸

Hence, this appeal.

The Issue

The issue before the Court is whether the CA erred in affirming accused-appellant's conviction.

The Court's Ruling

Accused-appellant was charged with Rape under Article 266-A in relation to Article 266-B of the RPC. Article 266-A defines the crime of Rape by sexual intercourse as follows:

ART. 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;*

x x x x. (Emphasis supplied)

When the decision hinges on the credibility of witnesses and their respective testimonies, the trial court's observations and conclusions deserve great respect and are often accorded finality.¹⁹ In rape cases particularly, the conviction or acquittal of the accused most often depends almost entirely on the credibility of the complainant's testimony.²⁰ Once found credible, the complainant's lone testimony is sufficient to sustain a conviction.²¹

After a careful scrutiny of the testimonies of AAA and accused-appellant, the Court finds AAA's testimony to be credible, truthful, and logical as opposed to the testimony of accused-appellant. She recounted the circumstances surrounding the rape incident that occurred on July 10, 2003, unflawed by inconsistencies or contradictions in its material points and unshaken by the tedious and grueling cross-examination. Her declaration revealed the logical circumstances surrounding her defilement and gave no impression whatsoever that her testimony was a mere fabrication.

Moreover, the testimony of AAA was corroborated by the findings of Dr. Baby Detry D. Marcos that the hymen of AAA had complete

¹⁸ *Id.*

¹⁹ *People v. Condes*, 659 Phil. 375, 386 (2011).

²⁰ *People v. Espenilla*, 718 Phil. 153, 166 (2013).

²¹ *People v. Cararay*, 374 Phil. 590, 601 (1999).

lacerations at 1:00, 5:00, and 7:00 o'clock positions. It supports AAA's testimony as to the fact of carnal knowledge that occurred on July 10, 2003. It is well-settled that when a rape victim's testimony on the manner she was defiled is straightforward and candid, and is corroborated by the medical findings of the examining physician as in this case, the same is sufficient to support a conviction for rape.²²

Furthermore, accused-appellant's defense of alibi deserves scant consideration. He readily testified that his place of work was only sixteen (16) kilometers away from the place where the rape incident took place. Thus, it is not physically impossible for him to be at the crime scene at the time of the incident.

Finally, the Court notes that when the case was filed, before accused-appellant was arraigned, the case was archived because he went into hiding and remained at large. He was only caught more than ten (10) years after evading arrest. It has been held that the flight of an accused, in the absence of a credible explanation, would be a circumstance from which an inference of guilt might be established, for a truly innocent person would normally grasp the first available opportunity to defend himself and assert his innocence.²³

As the relationship between AAA and the accused-appellant was not alleged in the Information,²⁴ the rape committed is not qualified and merely simple, in which case accused-appellant shall be punished by *reclusion perpetua*. Notably, there is no longer a need to state that accused-appellant is not eligible for parole, given that the penalty to be imposed for the crime of simple rape is not death. There is only a need to qualify that the accused is not "eligible for parole" in cases where the penalty to be imposed should have been death were it not for the enactment of R.A. No. 9346.²⁵ Therefore, there is a need to modify the CA's disposition affirming the RTC's Decision *in toto*, the phrase "*without eligibility for parole*" need not be borne in the RTC's *fallo*.

Lastly, in line with *People v. Jugueta*,²⁶ the award of damages to be paid are as follows: (a) Civil indemnity – ₱75,000.00; (b) Moral damages – ₱75,000.00; and (c) Exemplary damages - ₱75,000.00.

WHEREFORE, the appeal is **DISMISSED**. The Decision dated April 21, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08080 is hereby **AFFIRMED with MODIFICATION** in that Herman Landicho y Amparo is sentenced to suffer *reclusion perpetua* and is ordered to pay

²² *People v. Bagnic*, 822 Phil. 784, 797 (2017).

²³ *People v. Beriber*, 693 Phil. 629, 643 (2012).

²⁴ *Rollo*, p. 3.

²⁵ An Act Prohibiting The Imposition Of Death Penalty In The Philippines.

²⁶ 783 Phil. 806 (2016).

the victim AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, with interest at the rate of 6% per *annum* from the date of finality of this resolution until fully paid.

SO ORDERED."

By authority of the Court:

Misael C. Batt
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court

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