



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **23 June 2021** which reads as follows:*

**“G.R. No. 252273 (*People of the Philippines v. Angelo Dela Cruz a.k.a. “Angelo Duque Dela Cruz”*). – The appeal is **DISMISSED**.**

*Criminal Case No. R-MKT-17-03832-CR  
Frustrated Murder*

Murder is defined and penalized under Article 248<sup>1</sup> of the Revised Penal Code (RPC), as amended by Republic Act No. 7659 (RA 7659).<sup>2</sup> It requires the following elements: (1) a person was killed; (2) the accused killed him or her; (3) the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the RPC; and (4) the killing is not parricide or infanticide.<sup>3</sup>

Under Article 6 of the RPC,<sup>4</sup> the killing becomes frustrated when the offender performs all the acts of execution which could have produced the

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<sup>1</sup> Art. 248. Murder. - Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by reclusion temporal in its maximum period to death, if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.

XXXX

<sup>2</sup> An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, as Amended, Other Special Penal Laws, and for Other Purposes, approved on December 13, 1993.

<sup>3</sup> See *Gumama v. People*, G.R. No. 253799 (Notice), February 3, 2021; *People v. Angeles*, G.R. No. 224289, August 14, 2019.

<sup>4</sup> Article 6 of the RPC pertinently provides:

Article 6. *Consummated, frustrated, and attempted felonies.* - Consummated felonies as well as those which are frustrated and attempted, are punishable.

A felony is consummated when all the elements necessary for its execution and accomplishment are present; and it is frustrated when the offender performs all the acts of execution which would produce the

crime but did not produce it for reasons independent of his or her will.<sup>5</sup> To support a conviction for frustrated murder, the prosecution must establish beyond reasonable doubt that the victim's wound would have been fatal without timely medical intervention.<sup>6</sup>

Here, AAA<sup>7</sup> testified that appellant Angelo Dela Cruz a.k.a. "Angelo Duque Dela Cruz" (Dela Cruz) physically attacked her until she fell unconscious. She positively identified him as the perpetrator. Dela Cruz himself admitted punching her in the body and in the face. The medical findings showed that she sustained multiple injuries all over her body which could have caused her death had she not been given timely medical attention. Thus, Dr. Geraldine Alcantara testified that AAA sustained the following wounds: (1) a deep laceration on the epigastric/umbilicus area; (2) multiple hematoma on both eyes and left ear; (3) multiple lacerations on the face; (4) abrasions on the neck and left arm; (5) vulvar hematoma; (6) lacerations in the perineum area; and (7) lacerations in both sides of the vaginal wall caused by a blunt force or penetrating trauma.<sup>8</sup> Dr. Alcantara explained that because of these multiple physical injuries, AAA suffered profuse bleeding which caused her blood pressure to drop and required immediate blood transfusion. AAA's condition only improved because of timely medical intervention.

The Court has repeatedly ruled that an attack made by a man with a deadly weapon upon an unarmed and defenseless woman constitutes abuse of superior strength which his sex and the weapon used in the act afforded him, and from which the woman was unable to defend herself.<sup>9</sup>

Here, Dela Cruz took advantage of the notorious inequality of forces between him and AAA when he viciously and persistently attacked AAA until she became unconscious. Indeed, his use of a knife and the number of wounds sustained by AAA manifested his intent to kill her. Verily, both the trial court and the Court of Appeals correctly found him guilty of frustrated murder.

*Criminal Case No. R-MKT-17-03831-CR*  
*Qualified Rape*

Under Article 266-A of the RPC,<sup>10</sup> rape is committed by a man who shall

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felony as a consequence but which, nevertheless, do not produce it by reason of causes independent of the will of the perpetrator. x x x x

<sup>5</sup> *Ramos v. People*, G.R. No. 252794 (Notice), January 18, 2021.

<sup>6</sup> *Quijano v. People*, G.R. No. 202151, February 10, 2021.

<sup>7</sup> 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.

<sup>8</sup> *Rollo*, p. 60

<sup>9</sup> *People v. Calpito*, 462 Phil. 172, 179 (2003); *People v. Appegu*, 429 Phil. 467, 482 (2002).

<sup>10</sup> Article 266-A of the RPC pertinently provides:

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;

have carnal knowledge of a woman through force, threat or intimidation. To support a conviction for rape, the prosecution must show that: (1) the offender had carnal knowledge of a woman; and (2) he 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.<sup>11</sup>

The Court agrees with the trial court and the Court of Appeals that the prosecution was able to establish to a moral certainty the elements of carnal knowledge and force or intimidation. Even though AAA was not able to give direct testimony on the details of the rape as she was unconscious when the rape was committed, the following pieces of circumstantial evidence sufficiently established that Dela Cruz had carnal knowledge of AAA without her consent and while she was unconscious: (1) on November 11, 2017, AAA was alone in her house when Dela Cruz broke in around 6 o'clock in the morning and asked to sleep over; (2) when AAA refused, Dela Cruz got mad, took a knife from the kitchen, then started beating her up until she fell unconscious; (3) Dela Cruz himself admitted inflicting physical injuries on AAA; (4) a CCTV still shot shows that Dela Cruz entered AAA's house at the time of the incident and, after a while, hurriedly left wearing a different set of clothes; (5) AAA's neighbor Monina Gayagas saw Dela Cruz leaving AAA's house around that time; (6) Fe Ecleo followed Dela Cruz back to AAA's house and found AAA lying unconscious on her bed, wearing only a blouse and a blood-stained underwear; (7) when AAA woke up, she was already in the hospital; and (8) AAA sustained hymenal lacerations, as shown by medical findings.

*People v. XXX*<sup>12</sup> decreed that a conviction for rape may be based on circumstantial evidence in cases where the victim, being the sole witness, cannot testify on the actual commission of the rape because she was rendered unconscious when the act was committed, as in this case. To rule otherwise would impede the successful prosecution of a rapist who renders his victim unconscious before consummating the act.

The Court now reckons with the qualifying circumstance alleged in the Information that Dela Cruz had knowledge of and took advantage of the victim's mental disability or emotional disorder at the time he committed the rape.<sup>13</sup> Such qualifying circumstance ought to be both sufficiently alleged in

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- 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. xxxx

<sup>11</sup> *People v. XXX*, G.R. No. 232308, October 7, 2020.

<sup>12</sup> *People v. XXX*, G.R. No. 247754 (Notice), October 7, 2020.

<sup>13</sup> 266-B of the Revised Penal Code provides:

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

x x x x

10. When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

the Information and established by competent evidence. Otherwise, there can be no conviction of the crime in its qualified form.<sup>14</sup> On this score, we agree with the findings of the Court of Appeals that the prosecution was unable to adduce competent evidence that AAA did have mental or emotional disorder when she got raped, thus:

Now in downgrading the offense to Simple rape by Sexual Intercourse, this Court noted that no competent evidence was submitted to prove the mental handicap of the victim so as to qualify the rape committed against her. Rape is deemed qualified “when the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.” Although the accused-appellant admitted to knowing that the victim has an emotional disorder, this Court cannot consider the same to qualify the rape because said emotional disorder was not proven beyond reasonable doubt. In *People of the Philippines v. Deniega*, the Supreme Court considered the mental disability of the victim to qualify rape when established by the Clinical Abstract prepared by a medical doctor as well as the testimony of the said doctor. In the instant case, however, there was no such expert attestation to prove the victim’s mental state; and for which reason, this circumstance cannot be considered to elevate the crime to Qualified Rape.

x x x x<sup>15</sup>

Hence, the Court of Appeals correctly modified the conviction of Dela Cruz from qualified rape to simple rape.

### ***Penalties and Civil Liabilities***

For the crime of frustrated murder, the minimum imposable penalty should be within the range of *prision mayor*, *i.e.*, six (6) years and one (1) day to twelve (12) years; and the maximum imposable penalty is within *reclusion temporal* in its medium period, *i.e.*, fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months.<sup>16</sup> The Court of Appeals, therefore, correctly sentenced Dela Cruz to the indeterminate penalty of twelve (12) years of *prision mayor*, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum.

As for civil liabilities, *People v. Juguetta*<sup>17</sup> decreed:

I. For those crimes like, **Murder**, Parricide, Serious Intentional Mutilation, Infanticide, and other crimes involving death of a victim where the penalty consists of indivisible penalties:

x x x x

2.1 Where the penalty imposed is *reclusion perpetua*, **other than the above-mentioned:**

<sup>14</sup> *People v. Niebres*, 822 Phil. 68, 77 (2017).

<sup>15</sup> *CA Rollo*, p. 98.

<sup>16</sup> *People v. Castrence*, G.R. No. 227882 (Notice), August 27, 2020.

<sup>17</sup> 783 Phil. 806, 847-848 (2016).

x x x

2.2 Where the crime committed was not consummated:

a. **Frustrated:**i. **Civil indemnity – ₱50,000.00**ii. **Moral damages – ₱50,000.00**iii. **Exemplary damages – ₱50,000.00** (emphasis supplied)

In *People v. Verallo*,<sup>18</sup> where the accused was found guilty of frustrated murder, the Court ordered the accused to pay the victim civil indemnity, moral damages, and exemplary damages of ₱50,000.00 each. The Court applied the same amounts in *People v. Angeles*<sup>19</sup> and most recently in *People v. Castrence*.<sup>20</sup> Thus, in accord with *Jugueta*, the awards of civil indemnity, moral damages, and exemplary damages here should be reduced to ₱50,000.00 each.

As for the crime of rape, the Court of Appeals, consistent with prevailing jurisprudence,<sup>21</sup> correctly imposed *reclusion perpetua* and awarded civil indemnity, moral damages, and exemplary damages of ₱75,000.00 each.

Finally, the Court of Appeals properly imposed six percent (6%) interest *per annum* on the total monetary awards from finality of judgment until fully paid.

**ACCORDINGLY**, the appeal is **DISMISSED**. The Decision dated December 26, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 11611 is **AFFIRMED with MODIFICATION**.

1) In Criminal Case No. R-MKT-17-03832-CR, accused-appellant Angelo Dela Cruz a.k.a. “Angelo Duque Dela Cruz” is found **GUILTY** of Frustrated Murder under Article 248 (1) of the Revised Penal Code. He is sentenced to the indeterminate penalty of twelve (12) years of *prision mayor*, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum. Further, he is ordered to pay AAA ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 as exemplary damages.

2) In Criminal Case No. R-MKT-17-03831-CR, accused-appellant Angelo Dela Cruz a.k.a. “Angelo Duque Dela Cruz” is found **GUILTY** of Simple Rape under Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353. He is sentenced to *reclusion perpetua* and ordered to pay AAA ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages.

All monetary awards are subject to six percent (6%) interest from finality of this Resolution until fully paid.

<sup>18</sup> G.R. No. 238755, November 28, 2018.

<sup>19</sup> G.R. No. 224289, August 14, 2019.

<sup>20</sup> G.R. No. 227882 (Notice), August 27, 2020.

<sup>21</sup> See *People v. XXX*, G.R. No. 252858 (Notice), February 3, 2021.

**SO ORDERED.”** (J. Lopez, J., designated additional member per Special Order No. 2822 dated April 7, 2021)

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court

09 AUG 2021

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

\*PUBLIC ATTORNEY’S OFFICE (reg)  
Special & Appealed Cases Service  
Department of Justice  
5<sup>th</sup> Floor, PAO-DOJ Agencies Building  
NIA Road corner East Avenue  
Diliman, 1104 Quezon City

\*ANGELO DELA CRUZ a.k.a. “ANGELO DUQUE  
DELA CRUZ” (reg)  
Accused-Appellant  
c/o The Director  
Bureau of Corrections  
1770 Muntinlupa City

THE DIRECTOR (reg)  
Bureau of Corrections  
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 136  
Makati City  
(Crim. Case Nos. R-MKT-17-03831-CR &  
R-MKT-17-03832-CR)

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Supreme Court, Manila

COURT OF APPEALS (x)  
Ma. Orosa Street  
Ermita, 1000 Manila  
CA-G.R. CR-HC No. 11611

\*with copy of CA Decision dated 26 December 2019  
*Please notify the Court of any change in your address.*  
GR252273. 6/23/2021(120)URES(m)