



Republic of the Philippines
Supreme Court
 Manila

CERTIFIED TRUE COPY
Wilfredo V. Lapitan
 WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division
 JAN 15 2016

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 215201

Present:

- versus -

VELASCO, JR., J., *Chairperson,*
 PERALTA,
 VILLARAMA, JR.,
 MENDOZA,* and
 REYES, JJ.

MARK ANTHONY ROAQUIN y
NAVARRO,
 Accused-Appellant.

Promulgated:

December 9, 2015

X-----*Wilfredo V. Lapitan*-----X

RESOLUTION

VILLARAMA, JR., J.:

Before us is an appeal¹ from the February 19, 2014 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04698 which affirmed with modification appellant Mark Anthony Roaquin's conviction for the crime of rape as defined under Article 266-A of the Revised Penal Code, as amended, (RPC) in Criminal Case No. 07-2524 before the Regional Trial Court (RTC), Branch 136, Makati City.

On October 10, 2007, appellant was accused and charged with the crime of rape against AAA,³ a 17-year-old minor. The Information⁴ filed by the city prosecutor reads:

The undersigned Prosecutor, on the basis of the sworn statement of complainant, [AAA], minor, 17 years old, a copy of which is hereto attached as Annex "A" and made an integral part hereof, accuses **MARK**

* Designated additional Member per Raffle dated April 20, 2015.

¹ CA *rollo*, pp. 104-105.

² *Rollo*, pp. 2-12. Penned by Associate Justice Zenaida T. Galapate-Laguilles with Associate Justices Celia C. Librea-Leagogo and Franchito N. Diamante concurring.

³ The victim's name was substituted pursuant to Section 44 of R.A. No. 9262 or the "Anti-Violence Against Women and Their Children Act of 2004," *People v. Cabalquinto*, 533 Phil. 703 (2006) and Section 40, A.M. No. 04-10-11-SC.

⁴ Filed on October 17, 2007.

any.

ANTHONY ROAQUIN y NAVARRO of the crime of Rape, committed as follows:

That on or about the 7th day of October, 2007, in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of complainant [AAA], minor, 17 years old, without her consent and against her will.

CONTRARY TO LAW.⁵

Appellant pleaded not guilty on arraignment.⁶ After pre-trial terminated, trial on the merits ensued.

Prosecution's Version

Based on the testimonies of AAA, Dr. Mamerto Bernabe, Jr., and Ventura Dacanay Jr., at around 10 o'clock in the evening of October 7, 2007, AAA left the boarding house she was staying in to walk towards a canteen in Guadalupe, Makati City where she worked. On her way and near the billiard hall in Barangay South Cembo, a certain Marlon blocked her way and forced her to go inside the billiard hall where appellant, Kevin Sales and other friends of the appellant were present. The group urged her to drink substantial amounts of Emperador brandy which left her half asleep.

Disoriented AAA felt that she was led to the house of Kevin and brought inside a room where she fell asleep. When she woke up she saw Marlon on top of her. He had removed her shorts and underwear and placed his penis in her vagina. She tried to fight Marlon but she lost consciousness due to an asthma attack. By the time she regained consciousness, she felt that someone was on top of her again. Because of the moonlight, she was able to identify appellant as the person violating her. She tried preventing appellant by kicking him but failed to do so since appellant bit her arm. Thereafter, AAA walked, bleeding, back to the boarding house.

She complained to the authorities the following day. On October 9, 2007, two days after the incident, she was examined by a medico-legal officer at the Philippine National Police Crime Laboratory. Results of the medical examination stated that AAA suffered multiple injuries on her right arm and deep-healed laceration at 9 o'clock position accompanied by vaginal bleeding. The report concluded that there was clear evidence of blunt penetrating trauma. It reads:

PHYSICAL INJURIES:

1. Ecchymosis, neck region, measuring 2 x 2 cm, 5cm left of the anterior midline;

⁵ Records, p. 1.

⁶ Id. at 22.

2. Area of multiple abrasions, & single contusion, right arm, measuring 7 x 6 cm, along its anterior midline.

x x x x

HYMEN: deep healed laceration at 9 o'clock position; presence of vaginal bleeding;

x x x x

CONCLUSION: Genital examination shows clear evidence of blunt penetrating trauma. Barring unforeseen complication, the above-stated physical injuries are estimated to heal within 5-6 days.⁷

During trial, AAA identified appellant as her violator. She also related to the lower court that before taking the stand appellant's father threatened her.

Defense's Version

Appellant denied the allegations against him. As the defense's lone witness, appellant testified that he met AAA for the first time on October 7, 2007 while playing billiards with friends. Since it was the billiard owner's wife's birthday, someone gave AAA a drink which she took and drank. Shortly thereafter, she left the billiard hall. Appellant stayed for another two hours before going home. He called AAA's assertion a baseless claim. He stated that his father discovered that AAA, in order to extort money from others, filed cases for rape against other people which were later settled.

The RTC found appellant guilty beyond reasonable doubt of the crime of rape, thus:

WHEREFORE, the Court renders judgment finding the accused Mark Anthony Roaquin **GUILTY** beyond reasonable doubt of the crime of rape by sexual intercourse. The Court sentences him to suffer the penalty of *reclusion perpetua*. The Court directs the accused to indemnify the complainant [AAA] in the amounts of P50,000.00 as civil indemnity and P50,000.00 as moral damages. No costs.

SO ORDERED.⁸

On appeal, the CA affirmed with modification the RTC's decision. It found that AAA was also entitled to the award of exemplary damages. Thus:

WHEREFORE, premises considered, the appeal is hereby **DENIED**. The appealed Decision dated September 29, 2010 of the Regional Trial Court (RTC), Branch 136 of Makati City in Criminal Case No. 07-2524 is hereby **AFFIRMED with MODIFICATION** as to the award of exemplary damages. Accordingly, the accused-appellant is hereby ordered to pay AAA the following: Php50,000.00 as civil

⁷ Id. at 85.

⁸ CA *rollo*, pp. 22-23. The Decision was penned by Presiding Judge Rico Sebastian D. Liwanag.

indemnity, Php50,000.00 as moral damages and Php30,000.00 as exemplary damages.

SO ORDERED.⁹

Hence, this appeal.

In its January 26, 2015 Resolution,¹⁰ this Court required the parties to file their supplemental briefs, but both parties manifested¹¹ that they would no longer file the pleadings and opted to replead and adopt the arguments submitted before the CA.

The issue for our consideration is whether the CA erred in affirming appellant's guilt beyond reasonable doubt.

Appellant pointed to AAA's inconsistent statements while testifying. Moreover, he points out that there is a disparity between AAA's testimony and the findings of the medical report. He argues that given that the examination was conducted two days after the supposed incident, lacerations sustained by AAA should have been fresh not healed.

We are not persuaded.

This Court has often reiterated the guidelines in addressing the issue of credibility of witnesses. First, this Court gives the highest respect to the RTC's evaluation of the testimony of the witness, it having the distinct opportunity of observing the witness's demeanor on the stand.¹² Second, absent substantial reasons, *i.e.* significant facts and circumstances, affecting the outcome of the case, that are shown to have been overlooked or disregarded, which would warrant the reversal of the RTC's evaluation, the appellate court is generally bound by the lower court's findings.¹³ Lastly, the rule is stringently applied when the CA affirms the lower court's ruling.¹⁴

Here, appellant did not present any compelling reason to disturb the RTC and the CA's assessment of AAA's credibility. He merely attacks AAA's testimony for its supposed lack of detail without giving any additional evidence to buttress his contention. As we have stated, absent any substantial reasons that the court has overlooked facts and circumstances this Court is bound by the RTC's evaluation of the witness's credibility especially since the CA has affirmed the finding.

⁹ *Rollo*, p. 11.

¹⁰ *Id.* at 18-19.

¹¹ *Id.* at 24-26 and 28-30.

¹² *People v. Prodenciano*, G.R. No. 192232, December 10, 2014, p. 7.

¹³ *Id.*

¹⁴ *Id.*

We also agree with both CA and RTC that appellant is guilty beyond reasonable doubt of the crime of rape. Article 266-A(1) and Article 266-B of the RPC defines and penalizes the crime of rape:

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;

b. When the offended party is deprived of reason or is 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.

x x x x

ART. 266-B. *Penalties.* – 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

After a careful examination of the case's records, we find that the prosecution established that appellant had carnal knowledge of AAA under the circumstances described under Article 266-A(1). AAA consistently testified in a spontaneous and straightforward manner relative to the circumstances surrounding the incident. She stated:

Fiscal Matira:

I will proceed now. In the evening of October 7, 2007, before 10 o'clock in the evening, do you still remember where you were?

A: Yes, sir.

Q: Please tell the Court where you were?

A: I just came from the boarding house, sir.

Q: Going to what place?

A: I was on my way to the place where I was working in a canteen in Guadalupe, sir.

Q: Were you able to reach the canteen?

A: No, sir.

Q: Why?

A: Because Marlon blocked my way, sir.

Q: In what place?

A: At the billiard hall, sir.

x x x x

Q: You said you were blocked by Marlon in that billiard hall located at South Cembo, Makati City, will you please tell this Honorable Court how you were blocked by Marlon?

A: He forced me to go inside the billiard hall, sir.

Q: And because you were forced to go inside the billiard hall by Marlon, what did Marlon do after (sic) entered by means of force in that billiard hall?

A: He forced me to drink liquor, sir, emperador.

Q: While you were force[d] by Marlon to enter in that billiard hall and thereafter offered emperador, my question now is who was or were with you in that billiard hall together with Marlon, if there were any?

A: Mark Anthony Roaquin and Kevin Sales and some other *barkadas* of the [appellant], sir.

Q: How many bottles of *emperador* were consumed?

A: Two long bottles of emperador, sir.

x x x x

Q: Of that two bottles of *emperador*, how much quantity were you able to consume at that time?

A: Because I do not drink too much liquor, sir, I can say that I was able to consume maybe half of the bottle of *emperador*, sir.

x x x x

Q: After consuming that two bottles of *emperador*, what happened next?

A: I was already feeling dizzy and sleepy, sir inside the billiard hall[.]

Q: Considering that that was your condition at that time, what happened next?

A: Because I was already feeling dizzy and sleepy and that's why I fell half [a]sleep and that was the time I felt I was being ushered towards the house of Kevin Sales.

Q: Were you able to reach that house?

A: Yes, sir.

Q: Together with whom?

A: Marlon and his other barkadas.

Q: How about Mark and Kevin?

- A: They are also with us, sir.
- Q: After reaching the house of Kevin, what happened?
- A: Marlon brought me directly [to] the room of Kevin.
- Q: And after that what happened?
- A: I fell asleep, [sir].
- Q: And thereafter, what happened?
- A: When I woke up, somebody was already on top of me.
- Q: And after noticing that somebody was on top of you, what happened next?
- A: My shortpants and underwear was being forced to be removed, sir.
- Q: And what did you do when that person on top of you was forcing to remove [your] underwear and short?
- A: I was trying to prevent him from doing it and I tried hitting him, sir.
- Q: By means of what?
- A: My hands, sir.
- Q: After that what happened next?
- A: I was already feeling weak, sir.
- Q: And because you were feeling we[a]k, were you able to prevent Marlon?
- A: No, sir.
- Q: Why?
- A: Because he was stronger than I am, sir.
- Q: And because he was stronger, what do you mean?
- A: I cannot prevent him, sir.
- Q: And thereafter what happened?
- A: I had an asthma [attack], sir.
- Q: And because you were attacked by your asthma, what happened next?
- A: I was feeling weaker and weaker and I finally fell asleep.
- Q: And what did Marlon do to you?

x x x x

Fiscal Matira:

You mean by rape, he forced you by inserting his private organ into [your] vagina?

A: Yes, sir.

Q: And after that what else happened?

A: Because of the asthma [attack] that I had had and because I [lost] consciousness, I overheard that there was somebody calling the name of Marlon.

x x x x

Q: And what did Marlon do after being called?

A: He went out of the room, sir.

Q: And thereafter what happened?

A: Somebody went on top of me again, sir.

Q: And do you recognize that person?

A: Yes, sir.

Q: Who? What is the name?

A: Mark Anthony, sir.

Q: The person now being prosecuted and the one you pointed to awhile ago?

A: Yes, sir.

Q: And after noticing that Mark Anthony Roaquin was already on top of you, what else did you notice?

A: He inserted his penis into my vagina.

Q: Did you consent or not?

A: No, sir.

Q: In what way were you preventing insertion o[f] his private organ into your vagina?

A: Through my legs, sir, I was trying to prevent him from doing it.

Q: What else?

A: I cannot move my arms because he suddenly bit me, sir.

(at this juncture the witness is trying to demonstrate by pointing to her right arm)

Q: You mean he bit your right arm?

A: Yes, "*Kinagat niya po ako.*"

Q: Okay, who else went on top of you at that time, if any?

A: I could no longer remember, sir.

x x x x

Q: After you were [raped], first by Marlon, second by Mark, what did you do?

A: I was crying, sir.

Q: At that time, what else did you do?

A: I was afraid but at the same time was very furious of what he had done to me, sir.¹⁵

The same narration was repeated by AAA on cross-examination and any minor discrepancies are negligible. As to the finding of healed and not fresh lacerations, it will not negate the commission of rape. It is settled that medical evidence is merely corroborative, and is even dispensable, in proving the crime of rape.¹⁶ AAA's injuries are reflected in the medico-legal report, particularly the presence of vaginal bleeding and multiple abrasions on her right arm.¹⁷ That appellant succeeded to have carnal knowledge of AAA with the use of force and without her consent consummates the crime of rape.


Moreover, appellant's defense of denial and alibi are inherently weak and self-serving, especially if uncorroborated.¹⁸ Denial cannot prevail over complainant's direct, positive and categorical assertion. As between a positive and categorical testimony which has the ring of truth, on one hand, and a bare denial, on the other, the former is generally held to prevail.¹⁹

WHEREFORE, the appeal is **DISMISSED** for lack of merit.

SO ORDERED.


MARTIN S. VILLARAMA, JR.
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

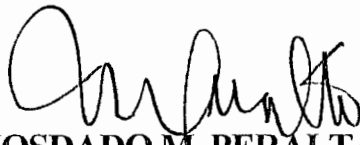
¹⁵ TSN, November 10, 2008, pp. 6-13.

¹⁶ *People v. Bohol*, 415 Phil. 749, 760 (2001), citing *People v. Lerio*, G.R. No. 116729, January 31, 2000, 324 SCRA 76, 83; *People v. Juntilla*, 373 Phil. 351, 365 (1999).


¹⁷ *Supra* note 7.

¹⁸ *People v. Prodenciado*, *supra* note 12, at 14-15.

¹⁹ *People v. Bonaagua*, 665 Phil. 750, 765 (2011).



DIOSDADO M. PERALTA
 Associate Justice


JOSE CATRAL MENDOZA
 Associate Justice


BIENVENIDO L. REYES
 Associate Justice

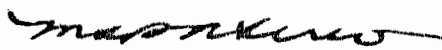
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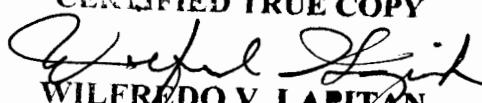
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
 Associate Justice
 Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
 Chief Justice

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WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

JAN 13 2018

