



Republic of the Philippines
 Supreme Court
 Manila

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

JUL 21 2016

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Appellee,

G.R. No. 203458

Present:

VELASCO, JR., J., *Chairperson,*
 PERALTA,
 PEREZ,
 REYES, and
 LEONEN,* *JJ.*

- versus -

Promulgated:

QUIRINO BALMES y CLEOFE,
 Appellant.

June 6, 2016

Wilfredo V. Lapitan

X-----X

DECISION

PERALTA, J.:

On appeal is the February 6, 2012 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04148, which affirmed with modification the May 7, 2009 Joint Decision² of Regional Trial Court (RTC), Branch 40, Calapan City, Oriental Mindoro, in Criminal Cases No. C-03-7163 to C-03-7165, convicting appellant Quirino Balmes y Cleofe of three (3) counts of rape committed against his daughter, AAA.

On January 20, 2003, three (3) separate Informations were filed charging appellant Quirino as follows:

* Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated September 22, 2014.

¹ Penned by Associate Justice Rodil V. Zalameda, with Associate Justices Rebecca De Guis-Salvador and Normandie B. Pizarro, concurring; *rollo*, pp. 2-21.

² CA *rollo*, pp. 55-64.

OK

CRIMINAL CASE NO. C-03-7163

That sometime in the month of July 1992, at Barangay Sto. Niño, City of Calapan, Province of Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a bladed instrument, motivated by lust and unchaste design, and by means of force and intimidation, willfully, unlawfully and feloniously did lie, and succeed in having carnal knowledge with one AAA, [his] own daughter, against her will and without her consent, to the damage and prejudice of the latter.

Contrary to law.³

CRIMINAL CASE NO. C-03-7164

That sometime in the month of September 1992 at around 1:00 in the afternoon, at Barangay Sto. Niño, City of Calapan, Province of Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a bladed instrument, motivated by lust and unchaste design, and by means of force and intimidation, willfully, unlawfully and feloniously did lie, and succeed in having carnal knowledge with one AAA, [his] own daughter, against her will and without her consent, to the damage and prejudice of the latter.

Contrary to law.⁴

CRIMINAL CASE NO. C-03-7165

That on or about the 23rd of May 2002 at around 7:30 in the evening, at Barangay Sto. Niño, City of Calapan, Province of Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a bladed instrument, motivated by lust and unchaste design, and by means of force and intimidation, willfully, unlawfully and feloniously did lie, and succeed in having carnal knowledge with one AAA, [his] own daughter, against her will and without her consent, to the damage and prejudice of the latter.

Contrary to law.⁵

In his arraignment on May 14, 2003, Quirino pleaded not guilty to the crime charged.⁶ Joint trial ensued while he was detained in the provincial jail.⁷

Presented as witnesses for the prosecution were private complainant AAA, her brother BBB, her maternal aunt CCC, and the rural health physician who examined her, Dr. Angelita C. Legaspi. Only Quirino testified for the defense.

³ Records (Folder I), p. 1.

⁴ *Id.* (Folder II) at 1.

⁵ *Id.* (Folder III) at 1.

⁶ *Id.* (Folder I) at 24-25.

⁷ *Id.* at 132.



The facts, according to the prosecution, are as follows:

AAA was born on December 1, 1969. Her father, Quirino, is a widower whose wife, DDD, died on May 6, 1983. She has five siblings: EEE, FFF, GGG, HHH and BBB.

In the evening of July 1992, while she was asleep in the upper room of their two-storey house at Barangay Sto. Niño, Calapan City, Oriental Mindoro, AAA was awakened by her father lying beside her. Quirino, who was holding a *balisong*, told her not to create any noise since her siblings were likewise sleeping. GGG was in the same room but separated by a cabinet while HHH and BBB were downstairs. After Quirino touched AAA's entire body, including her breasts, he raised her T-shirt, lowered her pajama, and removed her underwear. She begged for mercy, uttering "[h]uwag po itay, maawa ka sa akin," but it fell on deaf ears. Quirino then undressed himself, moved her legs apart, and placed himself on top of her. He inserted his penis into her vagina and made a pumping motion. When AAA felt a warm substance, her father got up. Quirino warned her not to tell the incident to anybody, otherwise, she and her siblings would be killed. Because of the threat, AAA remained silent.

Two months passed, at about 1:00 p.m. in September 1992, while she was resting in the room upstairs and her siblings were attending school, AAA was again approached by Quirino. After warning her not to make any noise, he started to touch her body parts, removed her lower garments, kissed her, and licked her private organ. He then stood up, removed his shorts, placed himself on top of her, and inserted his penis into her vagina. AAA, who could not move because a *balisong* was poking at her neck, pleaded for mercy. When his carnal desires were consummated, Quirino repeated his threat to AAA, who again remained silent.

Meantime, from 1994 until 1998, AAA stayed in Manila and worked as a saleslady in a factory. She ran away because she did not like the way her father strictly administered the house and his desire to rape her everytime.⁸ Moreover, after confiding to her paternal grandmother, she was advised "to go away because that would be a great shame to the family."⁹ She went back to Calapan when her father and brother fetched her upon knowing that she got pregnant by her boyfriend.

On May 23, 2002, at around 7:30 p.m., AAA was again raped by her father while she was in their house, at a room with her three-year-old

⁸ TSN, February 2, 2004, pp. 20-21.

⁹ TSN, November 12, 2003, p. 16.



daughter.¹⁰ Quirino said that he wanted to have sexual intercourse. She refused, but he insisted and threatened to kill her as well as her siblings and daughter. He touched her body parts, forcefully pulled her pajama and underwear, moved her legs apart, placed himself on top of her, inserted his penis into her vagina, and “*nagparaos*.” Still afraid of her father, AAA kept her silence.

A week after, however, AAA divulged to GGG their father's bestial acts. Subsequently, on November 22, 2002, she was able to disclose the same to BBB, while her daughter had a check-up at the Ma. Estrella Clinic. On the same day, the three of them agreed to immediately go to their maternal grandmother III and aunt CCC in Barangay Loyal, Victoria, Oriental Mindoro. When Quirino failed to explain his side, they went to the Victoria Police Station, which referred them to the PNP Provincial Headquarters. The sworn statements of AAA, BBB, and CCC were then taken. As a result thereof, Quirino was later apprehended.

On May 7, 2009, the RTC convicted Quirino of the crime charged. The *fallo* of the Joint Decision states:

ACCORDINGLY, finding herein accused **Quirino Balmes y Cleofe** guilty beyond reasonable doubt as principal of the crime of three (3) counts of rape in Criminal Case No. C-03-7163 punishable then under Article 366 of the Revised Penal Code and in Criminal Case Nos. C-03-7164 and C-03-7165, now punishable under Article 266-A of the Revised Penal Code, said accused is hereby sentenced to suffer the penalty of **THREE (3) RECLUSION PERPETUA**, with all the accessory penalties as provided for by law.

Said accused is hereby directed to indemnify the private complainant [AAA] the amount of Php100,000.00 as civil indemnity, the amount of Php75,000.00 as moral damages and the amount of Php50,000.00 as exemplary damages and to pay the costs.

SO ORDERED.¹¹

The RTC found that the constitutional presumption of innocence of the accused had been overcome by his guilt beyond reasonable doubt. It noted that AAA's testimony on the witness stand was positive, clear and convincing, and free from serious contradictions. In contrast, Quirino's denial of the crime charged was uncorroborated and self-serving and that his reason as to why AAA filed the rape charges against him was too flimsy and insignificant compared to the humiliation, anxiety and exposure to public trial as well as the family scandal brought about by the disclosure of the rape

¹⁰ At the time, BBB and GGG were attending Flores de Mayo; EEE was in Kuwait; FFF was in Manila; and HHH stowed away to a place unknown to AAA; TSN, November 13, 2003, pp. 4-5.

¹¹ CA *rollo*, p. 64.

charges. Moreover, it was opined that the failure of the defense to present any child or relative of Quirino to support his denial is a clear manifestation that even his own family was ashamed of what he did.

On appeal, the CA saw no reason to deviate from the findings of the court *a quo* as it upheld its assessment of the credibility of the prosecution witnesses especially that of AAA's. However, in adopting the recommendation of the Office of the Solicitor General (*OSG*), the trial court's judgment was modified, thus:

WHEREFORE, premises considered, the assailed Decision is hereby **AFFIRMED** insofar as finding accused-appellant guilty beyond reasonable doubt of the crime of rape on all counts. However, the penalties must be **MODIFIED** to read as follows –

Accused-appellant is hereby sentenced to suffer the penalty of *reclusion perpetua* for each count of rape without eligibility for parole, in accordance with Republic Act 9364. Furthermore, accused-appellant is required to indemnify private complainant the following –

- a. Civil indemnity of Seventy-Five Thousand (₱75,000.00) Pesos for each count of rape;
- b. Moral damages of Seventy-Five Thousand (₱75,000.00) Pesos for each count of rape; and
- c. Exemplary Damages of Thirty Thousand (₱30,000.00) Pesos for each count of rape.

SO ORDERED.¹²

Before Us, Quirino manifested that he would no longer file a Supplemental Brief considering that he had exhaustively discussed the assigned errors in his Appellant's Brief in the CA.¹³ In view thereof, the OSG dispensed with the filing of a Supplemental Brief and instead submitted the case for decision.¹⁴

The appeal is unmeritorious.

The settled rule is that the trial court's evaluation and conclusion on the credibility of witnesses in rape cases are generally accorded great weight and respect, and at times even finality, and that its findings are binding and conclusive on the appellate court, unless there is a clear showing that it was reached arbitrarily or it appears from the records that certain facts or

¹² *Id.* at 20.

¹³ *Rollo*, pp. 33-36.

¹⁴ *Id.* at 37-40.

circumstances of weight, substance or value were overlooked, misapprehended or misappreciated by the lower court and which, if properly considered, would alter the result of the case.¹⁵ Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial court stood in a much better position to decide the question of credibility.¹⁶ Indeed, trial judges are in the best position to assess whether the witness is telling a truth or lie as they have the direct and singular opportunity to observe the facial expression, gesture and tone of voice of the witness while testifying.¹⁷

To determine the innocence or guilt of the accused in rape cases, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.¹⁸ Accordingly, in resolving rape cases, the primordial or single most important consideration is almost always given to the credibility of the victim's testimony.¹⁹ When the victim's testimony is credible, it may be the sole basis for the accused person's conviction since, owing to the nature of the offense, in many cases, the only evidence that can be given regarding the matter is the testimony of the offended party.²⁰ A rape victim's testimony is entitled to greater weight when she accuses a close relative of having raped her, as in the case of a daughter against her father.²¹

After an exhaustive review of the entire case records, We see no reason to reverse or modify the findings of the RTC and the CA as to the credibility of AAA's testimony and the weakness of Quirino's defense of denial.

Certainly, AAA's failure to shout or wake up her siblings or her silence on the repeated rape incidents does not affect her credibility.

x x x The Court had consistently found that there is no uniform behavior that can be expected from those who had the misfortune of being

¹⁵ *People v. Padilla*, 617 Phil. 170, 183 (2009); *People v. Lopez*, 617 Phil. 733, 744 (2009); and *People v. Villamor*, G.R. No. 202187, February 10, 2016.

¹⁶ *People v. Padilla*, *supra*.

¹⁷ *People v. Lopez*, *supra* note 15, at 744; *People v. Madsali, et al.*, 625 Phil. 431, 451 (2010); and *People v. Villamor*, G.R. No. 202187, February 10, 2016.

¹⁸ *People v. Padilla*, *supra* note 15, at 182-183.

¹⁹ *Id.* at 183; *People v. Madsali, et al.*, *supra* note 17, at 447; and *People v. Villamor*, G.R. No. 202187, February 10, 2016.

²⁰ *People v. Madsali et al.*, *supra* note 17, at 447.

²¹ *People v. Padilla*, *supra* note 15, at 184.

sexually molested. While there are some who may have found the courage early on to reveal the abuse they experienced, there are those who have opted to initially keep the harrowing ordeal to themselves and attempted to move on with their lives. This is because a rape victim's actions are oftentimes overwhelmed by fear rather than by reason. The perpetrator of the rape hopes to build a climate of extreme psychological terror, which would numb his victim into silence and submissiveness. In fact, incestuous rape further magnifies this terror for the perpetrator in these cases, such as the victim's father, is a person normally expected to give solace and protection to the victim. Moreover, in incest, access to the victim is guaranteed by the blood relationship, magnifying the sense of helplessness and the degree of fear.²²

This Court has recognized that "[t]he fear of [the victim] that her father would kill her and the other members of her family, should she report the incident to her mother or the police, is not so unbelievable nor is it contrary to human experience."²³ Here, the constant fear towards Quirino was actually not experienced by AAA alone. BBB testified that prior to November 2002, he already noticed a sign that his sister was a victim of sexual molestation as she always cried whenever her father approached her.²⁴ Despite this observation, he did not do anything.²⁵ He also confirmed that AAA did not file a complaint because she was afraid.²⁶ Similarly, AAA stated that when she informed GGG, the latter did not do anything as she was also afraid.²⁷

Delay in reporting an incident of rape due to death threats does not affect the credibility of the complainant, nor can it be taken against her because the charge of rape is rendered doubtful only if the delay was unreasonable and unexplained.²⁸ In this case, AAA testified that it took her almost a year to report the July and September 1992 incidents to her paternal grandmother because she could not go to the latter's house as Quirino was always guarding her at the time.²⁹ Likewise, when she was working as a saleslady of a certain Nick Chua in Calapan public market, her father would always fetch her from work, already at the store upon its closing.³⁰ BBB corroborated this, attesting that AAA was regularly scolded by Quirino and that she was never allowed to go out of the house alone.³¹

The fact that AAA resolved to still remain under the same roof with their father does not weaken the rape charges. Following the second

²² *People v. Villamor*, G.R. No. 202187, February 10, 2016.

²³ *People v. Prodeciado*, G.R. No. 192232, December 10, 2014 (Resolution).

²⁴ TSN, March 28, 2007, pp. 11-12.

²⁵ *Id.* at 11.

²⁶ *Id.* at 13.

²⁷ TSN, February 2, 2004, p. 17.

²⁸ *People v. Madsali, et al.*, *supra* note 17, at 443.

²⁹ TSN, February 2, 2004, p. 23.

³⁰ *Id.* at 25-27.

³¹ TSN, November 2, 2007, p. 4.

incident, the eldest of her siblings, EEE, arrived from Manila and stayed in their house;³² hence, possibly providing temporary security. More importantly, there was a real threat to the lives of her remaining younger brothers and sister, which she did not tell them due to their minority.³³ Lastly, after running away for four years, she returned to Calapan because she did not expect that her father would repeat the same ruthless act, mistakenly thinking that he already reformed himself.³⁴

The direct, positive and categorical testimony of the prosecution witnesses, absent any showing of ill-motive, prevails over the defense of denial.³⁵ Like alibi, denial is an inherently weak and easily fabricated defense.³⁶ It is a self-serving negative evidence that cannot be given greater weight than the stronger and more trustworthy affirmative testimony of a credible witness.³⁷ In the present case, there is no showing of any improper motive on the part of AAA and the other witnesses for the prosecution to falsely testify against Quirino. In fact, he admitted in open court that, both BBB and CCC did not receive any admonition or scolding from him.³⁸ Hence, the logical conclusion is that no such improper motive exists and that their testimonies are worthy of full faith and credence.

Quirino alleged that he did not have a good relationship with his children since he had been castigating them for leaving the house without his permission and doing things that they wanted.³⁹ He claimed that he does not know exactly how many times AAA left the house from 1992 to 2002.⁴⁰ These will not suffice. Alleged motives of family feuds, resentment, or revenge are not uncommon defenses, and have never swayed the Court from lending full credence to the testimony of a complainant who remained steadfast throughout her direct and cross-examinations.⁴¹ Besides, no woman would cry rape, allow an examination of her private parts, subject herself (and even her entire family) to humiliation, go through the rigors of public trial, and taint her good name if her claim were not true.⁴²

As the lower courts found, Quirino's defenses are weak and unconvincing. While he denied the charges against him, he failed to produce any material and competent evidence to controvert the same and justify an acquittal. He neither established his presence in another place at

³² TSN, November 12, 2003, p. 14.

³³ TSN, February 2, 2004, pp. 19, 27-28.

³⁴ *Id.* at 23; TSN, November 13, 2003, p. 24.

³⁵ *People v. Padilla*, *supra* note 15, at 185; *People v. Madsali, et al.*, *supra* note 17, at 446; and *People v. Villamor*, G.R. No. 202187, February 10, 2016.

³⁶ *People v. Madsali, et al.*, *supra* note 17, at 446 and *People v. Villamor*, G.R. No. 202187, February 10, 2016.

³⁷ *People v. Lopez*, *supra* note 15, at 745 and *People v. Madsali, et al.*, *supra* note 17, at 446.

³⁸ TSN, September 1, 2008, pp. 8-9.

³⁹ *Id.* at 4-6.

⁴⁰ *Id.* at 6-7.

⁴¹ *People v. Prodeciado*, G.R. No. 192232, December 10, 2014 (Resolution).

⁴² *People v. Padilla*, *supra* note 15, at 184.

the time of the commission of the offense and the physical impossibility for him to be at the scene of the crime nor presented a single witness to stand in his favor.⁴³

Finally, the CA correctly imposed the penalty of *reclusion perpetua* without eligibility for parole. Criminal Cases No. C-03-7163 to 7164 occurred in 1992, while Criminal Case No. C-03-7165 transpired in 2002. At the time, the law in force⁴⁴ provided for the penalty of *reclusion perpetua* to death whenever the crime of rape is committed with the use of a deadly weapon. Considering that the aggravating circumstance of relationship between AAA and Quirino was sufficiently alleged in the Information and proven during the trial, the rape would have warranted the imposition of death penalty. However, when the RTC promulgated its Decision in 2009, Republic Act No. 9346 already prohibited the imposition of death sentence. In lieu thereof, the penalty of *reclusion perpetua* shall be imposed. Consequently, the trial court penalized Quirino to three (3) *reclusion perpetua*. As amended by the CA, pursuant to Section 3 of R.A. No. 9346, he is also no longer eligible for parole.⁴⁵

With respect to the monetary awards granted to AAA, We modify. The fairly recent case of *People v. Ireneo Jugueta*⁴⁶ held that where the penalty imposed is death but reduced to *reclusion perpetua* because of R.A. No. 9346, the civil indemnity *ex delicto*, moral damages, and exemplary damages shall be in the amount of ₱100,000.00 each. Further, interest at the rate of six percent (6%) *per annum* is imposed on all the amounts awarded, from the date of finality of this judgment until the damages are fully paid.⁴⁷

WHEREFORE, premises considered, the instant appeal is **DISMISSED**. The February 6, 2012 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 04148, which sustained with modification the May 7, 2009 Joint Decision of the Regional Trial Court, Branch 40, Calapan City, Oriental Mindoro, in Criminal Cases No. C-03-7163 to C-03-7165, convicting appellant Quirino Balmes y Cleofe of three (3) counts of rape and imposing the penalty of *reclusion perpetua* for each count, without eligibility for parole, under Republic Act No. 9346 is hereby **AFFIRMED WITH THE MODIFICATION** that Quirino Balmes should pay AAA the amount of ₱100,000.00 as civil indemnity *ex delicto*, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages. In addition, interest at the rate of six percent (6%) *per annum* is imposed on all the amounts

⁴³ See *People v. Villamor*, G.R. No. 202187, February 10, 2016.

⁴⁴ Revised Penal Code, as amended by Republic Act No. 7659 and Republic Act No. 8353.

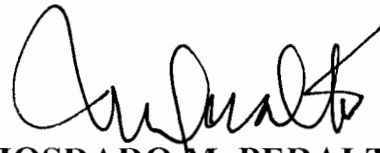
⁴⁵ See *People v. Lopez*, *supra* note 15, at 746.

⁴⁶ G.R. No. 202124, April 5, 2016.

⁴⁷ Bangko Sentral ng Pilipinas Monetary Board Circular No. 799, Series of 2013, effective July 1, 2013, in *Nacar v. Gallery Frames*, 716 Phil. 267, 483 (2013). See also *People v. Edgardo Perez*, G.R. No. 208071, March 9, 2016.


awarded, from the date of finality of this judgment until the damages are fully paid.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice


WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



JOSE PORTUGAL PEREZ
Associate Justice




BIENVENIDO L. REYES
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision 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

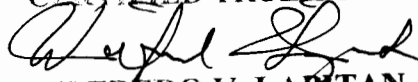
CERTIFICATION

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



ANTONIO T. CARPIO
Acting Chief Justice

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

JUL 21 2016