



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 225511

Present:

- versus -

BERSAMIN,* *C.J.*,
 PERALTA,**
 DEL CASTILLO,
*Acting Chairperson,****
 GISMUNDO, and
 CARANDANG, *JJ.*

VICENTE VAÑAS y BALDERAMA,
Accused-Appellant.

Promulgated:
MAR 20 2019

X -----

DECISION

DEL CASTILLO, J.:

Vicente Vañas y Balderama (appellant) appeals the January 29, 2015 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06215, which affirmed with modification the June 7, 2013 Judgment² of the Regional Trial Court (RTC) of Ligao City, Albay, Branch 11, in Criminal Case Nos. 6072 and 6073. The RTC found appellant guilty beyond reasonable doubt of the crime of rape committed against “AAA”³ under Article 266-A of the Revised Penal Code (RPC) in Criminal Case No. 6072, and violation of Section 5(b)

* On official leave.

** Per Raffle dated November 29, 2017.

*** Per Special Order No. 2645 dated March 15, 2019.

¹ CA *rollo*, pp. 194-208; penned by Associate Justice Socorro B. Inting and concurred in by Associate Justices Hakim S. Abdulwahid and Priscilla J. Baltazar-Padilla.

² Records, Crim. Case No. 6072, pp. 192-207; penned by Presiding Judge Amy Ana L. De Villa-Rosero.

³ “The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence And Special Protection Against Child Abuse, Exploitation And Discrimination, Providing Penalties for its Violation, And for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women And Their Children, Providing For Protective Measures For Victims, Prescribing Penalties Therefor, And for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and Their Children, effective November 15, 2004.” *People v. Dumadag*, 667 Phil. 664, 669 (2011).

of Republic Act No. (RA) 7610, also committed against “AAA”, in Criminal Case No. 6073.

The Information in Criminal Case No. 6072 charged appellant with the crime of rape committed in the following manner:

That sometime in May 2009 at more or less 3:00 o'clock in the morning x x x Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, thru force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of a 16-year old minor, AAA, against her will and consent, thus causing her pregnancy as a consequence, prejudicial to her development as a child, to her damage and prejudice.

The act of the commission of the rape is attended by the qualifying/aggravating circumstances of minority of herein victim and relationship, herein accused being the live-in partner of the mother of the victim.

ACTS CONTRARY TO LAW.⁴

On the other hand, the Information in Criminal Case No. 6073 charged appellant with violation of RA 7610, otherwise known as the Special Protection of Children Against Child Abuse, Exploitation and Discriminatory Act. The accusatory allegations read as follows:

That on June 15, 2009, at about 6:00 o'clock in the morning, x x x Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who is an adult, did then and there willfully, unlawfully and feloniously and, taking advantage of the tender age of AAA, a 16 year-old child, commit the act of sexual intercourse with the child, which act debases and demeans the intrinsic worth and dignity of the said child as a human being and prejudicial to her development.

The act of the commission of child abuse is attended by the qualifying/aggravating circumstances of minority of herein victim and relationship, herein accused being the live-in partner of the mother of the victim.

ACTS CONTRARY TO LAW.⁵

When arraigned, appellant pleaded “not guilty” to both Informations. After the termination of the pre-trial conference, trial ensued.



⁴ Records, Crim. Case No. 6072, p. 1.

⁵ Records, Crim. Case No. 6073, p. 2.

Version of the Prosecution

The prosecution's evidence established that, on two separate occasions, "AAA", then 16 years old, was sexually abused by appellant, the live-in partner of her mother.

The first incident occurred at around 3:00 a.m. sometime in May 2009 when "AAA's" mother went to the market to sell bananas leaving "AAA" sleeping beside appellant. "AAA" was aroused from her sleep by appellant who caressed her legs and touched her private parts. Appellant also exposed his penis after removing his underwear. He threatened to kill "AAA" as he undressed her. He then inserted his penis into "AAA's" vagina and made coital movements. After the appellant consummated his carnal knowledge of "AAA", the latter noted blood in her vagina.

The second incident happened at around 6:00 a.m. of June 15, 2009. "AAA's" mother was busy in the kitchen while she and appellant were in another room. Appellant removed the victim's clothes, caressed her legs, inserted his penis into her vagina and again did a push and pull movement.

On November 16, 2009, "AAA" underwent a medical examination and discovered that she was pregnant. She informed her brother about her condition and together, they reported the sexual misconduct of appellant to the police. A psychologist of the Department of Social Welfare and Development also conducted a mental status examination of "AAA". Based on the Psychological Report, the results showed "AAA" to be mentally impaired with an intelligence quotient (IQ) of 53. She was considered as moderately retarded with a mental age equivalent to an 8-year old child. During her cross-examination, "AAA" testified that she agreed to have sex with appellant.

Version of the Defense

Appellant admitted being the common-law husband of "AAA's" mother but denied raping the victim. He claimed that he and "AAA" never stayed in the same house. He surmised that the victim filed the charges against him since she and her siblings disapproved of his relationship with their mother.



Ruling of the Regional Trial Court

In its June 7, 2013 Judgment,⁶ the RTC found appellant guilty beyond reasonable doubt of rape under Article 266-A of the RPC in Criminal Case No. 6072, and violation of Section 5(b) of RA 7610 in Criminal Case No. 6073. The RTC found “AAA’s” testimony to be credible and held that appellant’s denial and alibi cannot prevail against “AAA’s” positive identification of him as her rapist. The dispositive portion of the Judgment reads as follows:

WHEREFORE, in light of the foregoing, judgment is hereby rendered:

- 1.) FINDING accused VICENTE VAÑAS Y BADERAMA guilty beyond reasonable doubt of the crime of Rape defined and penalized under the Revised Penal Code, as amended, in Criminal Case No. 6072, and for Violation of Section 5(b) of Article III of R.A. 7610 in Criminal Case No. 6073, and thereby sentence[s] him to suffer the penalty of Reclusion Perpetua for each case; and
- 2.) ORDERING accused VICENTE VAÑAS Y BALDERAMA to pay [AAA]:
 - a.) The sum of One Hundred Thousand Pesos (Php100,000.00) as moral damages for the two (2) cases;
 - b.) The sum of One Hundred Thousand Pesos (Php100,000.00) as civil indemnity for the two (2) cases; and
 - c.) The sum of Forty Thousand Pesos (Php40,000.00) as exemplary damages for the two (2) cases.

In the service of his sentence, accused VICENTE VAÑAS Y BALDERAMA shall be credited with the period of his preventive detention, subject to the provisions of Article 29 of the Revised Penal Code.

No costs.

SO ORDERED.⁷

Appellant appealed the RTC’s Judgment. In his Brief, appellant argued that the testimony of the victim could not be relied upon since it was improbable that he could simultaneously undress her, hold her hands, and insert his penis into her vagina. He claimed that there was no evidence of force, threat and intimidation. Notably, he shifted his defenses from denial

⁶ Id. at 192-207.

⁷ Id. at 206-207.

and alibi to consensual sex, based on the admission of the victim that she did not object to their sexual congress in both cases.

Ruling of the Court of Appeals

In its Decision⁸ dated January 29, 2015, the CA affirmed the conviction of appellant in both cases. It ruled that the prosecution indubitably established the elements of the crime of rape in Criminal Case No. 6072 and violation of Section 5(b) of RA 7610 in Criminal Case No. 6073. The CA did not give credence to appellant's claim that the sexual intercourse with the victim in both cases was consensual since a child cannot give a valid consent to sexual intercourse.

The dispositive portion of the CA's Decision reads as follows:

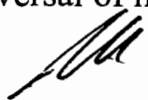
WHEREFORE, premises considered, the appealed [Judgment] dated 7 June 2013 of the Regional Trial Court (RTC), Branch 11, Ligao City, Albay is AFFIRMED with MODIFICATIONS:

- 1) In Criminal Case No. 6072, accused-appellant Vicente Vañas y Balderam[a] is found GUILTY of rape defined and penalized under [Article] 266-A and 266-B of the Revised Penal Code and is hereby sentenced to suffer the penalty of *reclusion perpetua*. He is likewise ordered to pay victim AAA the amount[s] of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages and ₱30,000.00 as exemplary damages; and
- 2) In Criminal Case No. 6073, accused-appellant Vicente Vañas y Balderam[a] is found GUILTY of sexual abuse defined and penalized under Section 5(b) of R.A. No. 7160 and is hereby sentenced to suffer the indeterminate penalty of 14 years and 8 months of *reclusion temporal* as minimum to 20 years of *reclusion temporal* as maximum. He is likewise ordered to pay victim AAA the amount[s] of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages and ₱30,000.00 as exemplary damages.

Moreover, all damages awarded shall earn interest at the rate of six percent (6%) *per annum* from the date of the finality of this [Decision] until fully paid. Costs against accused-appellant.

SO ORDERED.⁹

Unperturbed, appellant comes to this Court through this appeal, seeking a reversal of his conviction based on the same arguments that he raised in the CA.



⁸ CA *rollo*, pp. 194-208.

⁹ Id. at 207-208.

Our Ruling

There is partial merit in the appeal.

In Criminal Case No. 6072, the prosecution successfully established the elements of rape by sexual intercourse under paragraph 1, Article 266-A of the RPC, to wit: (1) the offender is a man; (2) the offender had carnal knowledge of a woman; and (3) such act was accompanied by any of the circumstances enumerated thereunder.¹⁰ Here, it was alleged in the Information that appellant had carnal knowledge of the victim using force, threat and intimidation. The victim testified that appellant inserted his penis into her vagina and threatened to kill her after committing the crime.

However, appellant must be convicted of qualified rape under Article 266-B of the RPC in Criminal Case No. 6072 since the Information alleged, and it was proved during trial, that the victim was a 16-year old minor and appellant was the live-in partner or common-law spouse of her mother. Appellant also admitted that he and the victim's mother were living as husband and wife.

Appellant seeks his exoneration by relying on the victim's admission during her cross-examination that she consented to have sexual intercourse with him. However, such a declaration has no weight in evidence. During the trial, the prosecution adduced evidence to establish that "AAA" was a mental retardate. The psychologist who conducted a mental status examination found her to be suffering from moderately impaired/delayed mental abilities with an IQ of 53 and the mental age of an 8-year old child. The Psychological Report¹¹ containing this information was submitted to the trial court and formed part of the records in this case. There is therefore no doubt that the victim was suffering from mild mental retardation. "[C]arnal knowledge of a woman who is so weak in intellect to the extent that she is incapable of giving consent constitutes rape."¹²

For committing the crime of qualified rape in Criminal Case No. 6072, appellant should have been meted the death penalty if not for the proscription in RA 9346.¹³ In lieu of the death penalty, appellant is sentenced to suffer the penalty of *reclusion perpetua*, without eligibility of parole.¹⁴



¹⁰ *People v. Jastiva*, 726 Phil. 607, 624 (2014).

¹¹ Records, Crim. Case No. 6072, pp. 105-107.

¹² *People v. Tablang*, 619 Phil. 757, 771 (2009).

¹³ An Act Prohibiting the Imposition of Death Penalty in the Philippines. Approved: June 24, 2006.

¹⁴ See *People v. Alhambra*, 737 Phil. 440, 455 (2014).

The awards of civil indemnity, moral damages and exemplary damages are proper but their amounts must be modified to ₱100,000.00 each, in line with prevailing jurisprudence.¹⁵

In Criminal Case No. 6073, appellant was charged and convicted for violation of Section 5(b) of RA 7610. The elements of this offense are: (1) the accused commits the act of sexual intercourse or lascivious conduct; (2) the said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and (3) the child, whether male or female, is below 18 years of age.¹⁶

An examination of the Information shows the insufficiency of the allegations therein as to constitute the offense of violation of Section 5 of RA 7610 as it does not contain all the elements that constitute the same. To be more precise, there was a complete and utter failure to allege in the Information that the sexual intercourse was “performed with a child exploited in prostitution or subjected to other sexual abuse”. “A child is deemed exploited or subjected to other sexual abuse, when the child indulges in sexual intercourse or lascivious conduct (a) for money, profit, or any other consideration, or (b) under the coercion or influence of any adult, syndicate or group.”¹⁷

To be sure, the exact phrase “exploited in prostitution or subjected to other abuse” need not be mentioned in the Information. Moreover, “[t]he use of derivatives or synonyms or allegations of basic facts constituting the offense charged is sufficient.”¹⁸ However, this established legal precept is not satisfied in this case since the Information failed to describe in intelligible terms with such particularity as to apprise the appellant, with reasonable certainty, the offense charged.¹⁹ The Information did not contain words of similar or identical meaning to describe the offense allegedly violated.

Thus, appellant cannot be convicted for violation of Section 5(b) of RA 7610 since not all the elements of this offense were clearly alleged in the Information. To convict him of an offense not properly alleged in the Information would violate his constitutional right to be informed of the nature and cause of the accusation against him. An Information that “does not contain all the elements constituting the crime charged cannot serve as a means by which said constitutional requirement is satisfied. Corollarily, the

¹⁵ *People v. Jugueta*, 783 Phil. 806, 848 (2016).

¹⁶ *People v. Bejim*, G.R. No. 208835, January 19, 2018.

¹⁷ *Caballo v. People*, 710 Phil. 792, 803 (2013).

¹⁸ See: *Quimvel v. People*, G.R. No. 214497, April 18, 2017, 823 SCRA 192, 232.

¹⁹ *Id.*

fact that all the elements of the crime were duly proven in trial cannot cure the defect of a Complaint or Information to serve its constitutional purpose.”²⁰

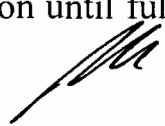
“In other words, the [Information] must contain a specific allegation of every fact and circumstance necessary to constitute the crime charged, the accused being presumed to have no independent knowledge of the facts that constitute the offense. Under Section 9 of Rule 117 of the 2000 Revised Rules on Criminal Procedure, [failure of the accused] to raise an objection to the insufficiency or defect in the information would not amount to a waiver of any objection based on said ground or irregularity.”²¹

In fine, appellant cannot be held liable for violation of Section 5(b) of RA 7610 since the Information therein was legally infirm for failing to state a vital element of the said offense.

Neither can appellant be found liable for rape under Article 266-A of the RPC in Criminal Case No. 6073 since the Information did not allege that the rape was committed under any of the following circumstances, to wit: 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.

Foregoing considered, appellant can only be convicted of qualified rape in Criminal Case No. 6072. He should be acquitted for violation of Section 5(b) of RA 7610 in Criminal Case No. 6073.

WHEREFORE, the appeal is **PARTIALLY GRANTED**. Appellant Vicente Vañas y Balderama is found **GUILTY** beyond reasonable doubt of qualified rape in Criminal Case No. 6072 and is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole and to pay “AAA” the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages and ₱100,000.00 as exemplary damages. All monetary awards shall earn interest at the rate of six percent (6%) *per annum* from date of finality of this Decision until fully paid. Appellant is **ACQUITTED** in Criminal Case No. 6073.



²⁰ *Guelos v. People*, 811 Phil. 37, 61 (2017),

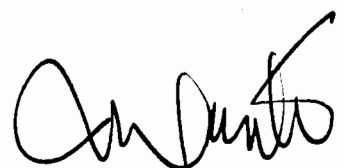
²¹ *Id.* at 63.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:

(On official leave)
LUCAS P. BERSAMIN
Chief Justice



DIOSDADO M. PERALTA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


ROSMARIE D. CARANDANG
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.


MARIANO C. DEL CASTILLO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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**



* Per Special Order No. 2644 dated March 15, 2019.