



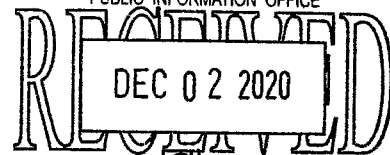
Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

*MisADC Batt*  
MISAEAL DOMINGO C. BATTUNG III  
Division Clerk of Court  
Third Division

DEC 01 2020

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



BY: \_\_\_\_\_  
TIME: 8:33 am

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 244255

Present:

- versus -

LEONEN, J., *Chairperson*,  
GESMUNDO,  
CARANDANG,  
ZALAMEDA, and  
GAERLAN, JJ.

XYZ,<sup>1</sup>

Accused-Appellant.

Promulgated:  
August 26, 2020

*MisADC Batt*

X - - - - - X

DECISION

**GESMUNDO, J.:**

The Information must allege not only all the elements of the crime but also all the proper qualifying and aggravating circumstances that would change the nature of the offense or increase the penalty. In case of doubt in the allegations in the Information, such doubt shall be construed in favor of the accused and against the State if only to give life to the constitutional right of the accused to be informed of the nature and cause of the accusation against him and the presumption of innocence of the accused.

<sup>1</sup> Pursuant to the Court's ruling in *People v. Cabalquinto* (G.R. No. 167693, September 19, 2006), the real name of the private offended party and her immediate family members, including any other personal circumstance or information tending to establish or compromise the identity of said party, shall be withheld.

*AM*

### The Case

Under consideration is this appeal directed against the Decision<sup>2</sup> promulgated on May 31, 2018 of the Honorable Court of Appeals (CA) in CA-G.R. CR-HC No. 09716 whereby the appellate court affirmed with modification the Decision<sup>3</sup> dated April 28, 2017 of the Regional Trial Court, [CCC],<sup>4</sup> Branch 51 (RTC), in Criminal Case Nos. 2012-8309 and 2012-8310, finding XYZ (*accused-appellant*), guilty of two (2) counts of qualified rape rather than penile rape.

### Antecedents

The public prosecutor filed two (2) Informations against accused-appellant for allegedly raping his daughter, the indictment reads:

#### **Criminal Case No. 2012-8309:**

That on or about noon of November 20, 2009, at [CCC], Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there, willfully, unlawfully and feloniously by means of force, intimidation and taking advantage of his moral ascendancy, have sexual intercourse with one [BBB],<sup>5</sup> an eleven (11) years old (*sic*) girl, against her will and without her consent, which act likewise constitute[s] child abuse as it debases, degrades and demeans the dignity of the victim as a child causing her emotional and psychological trauma, to her damage and prejudice.

The aggravating circumstance of relationship is attendant in this case, as the respondent is the natural father of the victim, [BBB].

#### **Criminal Case No. 2012-8310:**

That on or about 8:00 o'clock in the evening of December 22, 2011 at [CCC], Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, did

<sup>2</sup> *Rollo*, pp. 3-14; penned by Associate Justice Apolinario D. Bruselas, Jr. with Associate Justice Maria Luisa Quijano-Padilla (retired) and Associate Justice Rafael Antonio M. Santos, concurring.

<sup>3</sup> *CA rollo*, 41-50; penned by Acting Presiding Judge Bernardo R. Jimenez, Jr.

<sup>4</sup> The city where the crime was committed is withheld to protect the identity of the rape victim pursuant to Amended Administrative Circular No. 83-2015 issued on September 5, 2017.

<sup>5</sup> The true name of the victim has been replaced with fictitious initials in conformity with Amended Administrative Circular No. 83-2015 dated September 5, 2017 (*Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances*). The confidentiality of the identity of the victim is mandated by Republic Act (R.A.) No. 7610 (*Special Protection of Children Against Abuse, Exploitation and Discrimination Act*); R.A. No. 8505 (*Rape Victim Assistance and Protection Act of 1998*); R.A. No. 9208 (*Anti-Trafficking in Persons Act of 2003*); R.A. No. 9262 (*Anti-Violence Against Women and Their Children Act of 2004*); and R.A. No. 9344 (*Juvenile Justice and Welfare Act of 2006*).

then and there, willfully, unlawfully and feloniously by means of force, intimidation and taking advantage of his moral ascendancy, have sexual intercourse with one [BBB], a thirteen (13) year old girl, against her will and without her consent, which act likewise constitute[s] child abuse as it debases, degrades and demeans the dignity of the victim as a child causing her emotional and psychological trauma, to her damage and prejudice.

The aggravating circumstance of relationship is attendant in this case, as the respondent is the natural father of the victim, [BBB].<sup>6</sup>

Upon arraignment on May 18, 2012, accused-appellant pleaded “not guilty” to said charges.<sup>7</sup> Thereafter, trial on the merits ensued.

To establish the prosecution’s case, it presented the testimonies of private complainant and the doctor who examined her, Dr. Salve B. Sapinoso (*Dr. Sapinoso*). The CA summarized their testimonies in this wise:

The private complainant testified that she was born on [DDD],<sup>8</sup> 1998 and that accused-appellant is her step-father. Her birth certificate, however, indicated accused-appellant as her father. She claimed that accused-appellant sexually abused her several times. Specifically, on November 20, 2009, when she was eleven (11) years old, she was sleeping in their bedroom when accused-appellant entered and removed her shirt and short. While accused-appellant was removing his clothes, he threatened her that he will kill her mother and brother. Accused-appellant then made her lie down, went on top of her, and inserted his penis in her vagina. Accused-appellant also kissed her and forced his tongue into her mouth. She cried while accused-appellant covered her mouth with his hand. After accused-appellant had carnal knowledge of her, he again warned her that he will kill her mother and brother if she talks about the sexual abuse. The incident happened again on December 22, 2011 when she was thirteen (13) years old.

Private complainant's testimony was corroborated by Dr. Salve Sapinoso, who conducted a physical examination of the private complainant and issued a Medical Certificate finding five healed lacerations in her hymen.<sup>9</sup> (citation omitted)

In response, the defense presented the testimony of accused-appellant. The CA summarized his testimony in this manner:

Accused-appellant testified in his own behalf, denying that he raped private complainant and offering as *alibi* that he was working in another barangay three kilometers away from their residence at the time of the

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<sup>6</sup> CA rollo, pp. 84-85.

<sup>7</sup> Id. at 41.

<sup>8</sup> Supra note 1.

<sup>9</sup> Rollo, pp. 5-6.

alleged incidents. He denied being the biological father of private complainant and claimed that it was his older brother, [EEE]<sup>10</sup> who fathered her.<sup>11</sup>

### Judgment of the RTC

After trial, the RTC rendered a Decision of conviction. The trial court ruled that all the elements of the crime have been duly proven by the public prosecutor. More, there is nothing in the testimony of private complainant that would cast doubt on its truthfulness and veracity especially when her testimony jibes with the physical evidence and medical testimony of the medico-legal officer. The *fallo* reads:

**WHEREFORE**, in light of the above foregoing, judgment is hereby rendered finding the accused [XYZ] guilty beyond reasonable doubt of the offense of rape, and he is hereby sentenced to suffer the penalty of *Reclusion Perpetua* in both cases.

Accused is further ordered to pay the private complainant [BBB] the amount of ₱75,000.00 as civil damages and another ₱75,000.00 as moral damages.

**SO ORDERED.**<sup>12</sup>

### Decision of the CA

As stated above, the CA found accused-appellant guilty of qualified rape rather than penile rape because of the presence of the relationship between him and private complainant. Further, the appellate court ruled that accused-appellant's *alibi* and denial cannot be credited considering the positive identification of private complainant that accused-appellant abused her. The CA ruled thus:

**WHEREFORE**, the appeal is **DENIED**. The *Decision* of the RTC is **AFFIRMED** with the **MODIFICATION** that accused appellant [XYZ] is found **GUILTY** of two (2) counts of Qualified Rape and is sentenced to suffer the penalty of *reclusion perpetua* for each count, without eligibility for parole. The award of civil indemnity

<sup>10</sup> The complete names and personal circumstances of the victim's family members or relatives, who may be mentioned in the court's decision or resolution have been replaced with fictitious initials in conformity with Amended Administrative Circular No. 83-2015 dated September 5, 2017 (*Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances*).

<sup>11</sup> *Rollo*, p. 6.

<sup>12</sup> *CA rollo*, p. 50.

is increased to ₱100,000 and moral damages to ₱100,000, for each of the two counts of rape. In addition, accused-appellant is further directed to pay private complainant ₱100,000 as exemplary damages, for each of the two counts. The award of damages shall earn straight interest at the rate of 6% *per annum* from the date of finality of the judgment until fully paid.

**IT IS SO ORDERED.**<sup>13</sup>

Hence, this appeal.

Accused-appellant and the Office of the Solicitor General (*OSG*) both manifested that they are submitting the appeal for resolution on the strength of their briefs submitted before the appellate court.

### **The Issue**

Accused-appellant raises the following assignment of errors:

#### **I.**

**THE TRIAL COURT GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO [PRIVATE COMPLAINANT'S] INCREDIBLE AND DUBIOUS TESTIMONY.**

#### **II.**

**THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF RAPE DESPITE THE PROSECUTION'S FAILURE TO PROVE ALL THE ELEMENTS THEREOF.**

#### **III.**

**THE TRIAL COURT GRAVELY ERRED IN DISREGARDING THE ACCUSED-APPELLANT'S DEFENSE OF DENIAL.**<sup>14</sup>

Simply, accused-appellant raises doubt as regards the credibility of private complainant. He argues that because he disciplined private complainant often, she had the incentive to fabricate stories against him. Also, accused-appellant argues that there was nothing in the testimony of private complainant that shows she was ever forced or that force was

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<sup>13</sup> Id. at 93-94.

<sup>14</sup> Id. at 30, 33 and 36.

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employed in order to satisfy his bestial desires. Lastly, he blames the lower courts in nonchalantly disregarding his defense. To him, when properly considered, his defense would lead to his acquittal.

On the other hand, the OSG argues that all the elements of qualified rape were duly established by the prosecution. More, it argues that there was nothing in the testimony of private complainant that would cast doubt on her credibility.

Thus, the central issue in this appeal is whether or not accused-appellant is entitled to an acquittal.

### **The Court's Ruling**

The appeal lacks merit.

First, accused-appellant's attempt to question the credibility of private complainant should be disregarded. It must be remembered that testimonies of victims which are given in a categorical, straightforward, spontaneous, and frank manner are considered worthy of belief, for no woman would concoct a story of defloration, allow an examination of her private parts and thereafter allow herself to be perverted in a public trial if she was not motivated solely by the desire to have the culprit apprehended and punished.<sup>15</sup> Also, it is highly improbable for an innocent girl of tender years like the victim, who is very naive to the things of this world, to fabricate a charge so humiliating not only to herself but also to her family.<sup>16</sup>

Further, the trial court's evaluation of the credibility of witnesses is entitled to the highest respect and will not be disturbed on appeal considering that the trial court is in a better position to decide such question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial. Its findings on the issue of credibility of witnesses and the consequent findings of fact must be given great weight and respect on appeal, unless certain facts of substance and value have been overlooked which, if considered, might affect the result of the case.<sup>17</sup> Here, the fact that accused-appellant was a disciplinarian which made private complainant despise him is not a sufficient reason for private complainant to concoct a story of sexual abuse. More so, her testimony was corroborated by medical evidence that there was indeed carnal knowledge.

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<sup>15</sup> *People v. De Guzman*, 644 Phil. 229, 243 (2010); citation omitted.

<sup>16</sup> *People v. Santos*, 532 Phil. 752, 762 (2006).

<sup>17</sup> *People v. Bensig*, 437 Phil. 748, 756 (2002); citation omitted.

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Hence, without sufficient justification, this Court will respect the assessment of the trial court as regards the credibility of the prosecution witnesses.

Second, despite accused-appellant's pleas, the Court affirms the lower court's treatment of his defense. Jurisprudentially, while his *alibi* can be considered as a valid defense, the following elements must be alleged and proven for it to be entitled merit: (a) that he was present at another place at the time of the perpetration of the crime, and (b) that it was physically impossible for him to be at the scene of the crime during its commission. "Physical impossibility refers to distance and the facility of access between the crime scene and the location of the accused when the crime was committed. He must demonstrate that he was so far away and could not have been physically present at the crime scene and its immediate vicinity when the crime was committed."<sup>18</sup>

Here, accused-appellant alleged that he was at the other barangay approximately three (3) kilometers away from their residence. Unfortunately, the distance between his alleged whereabouts and their residence hardly meets the requirement of physical impossibility. At such distance, he could walk from that barangay to their residence in a matter of hours, if not minutes. More, such statement is self-serving, as he failed to present independent proof that would corroborate his *alibi*. Lastly, but most damaging of them, private complainant had positively, unequivocally and categorically identified accused-appellant as her abuser. Jurisprudence has dictated that positive identification prevails over *alibi* since the latter can easily be fabricated and is inherently unreliable.<sup>19</sup> Thus, the lower courts did not err in disregarding accused-appellant's defense.

Lastly, it must be remembered that statutory rape, as punished under Article 266-A of the Revised Penal Code and amended by Republic Act No. 8353, paragraph 1(d),<sup>20</sup> is different compared to other forms of rape. What the law punishes in statutory rape is carnal knowledge of a woman below twelve (12) years old. Thus, force, intimidation and physical evidence of injury are not relevant considerations; the only subject of inquiry is the age of the woman and whether carnal knowledge took place. The law presumes that the victim does not and cannot have a will of her own on account of her

<sup>18</sup> *People v. Ramos*, 715 Phil. 193, 206 (2013); citations omitted.

<sup>19</sup> *People v. Dadao*, 725 Phil. 298, 312 (2014); citation omitted.

<sup>20</sup> **Article 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:  
x x x x
- 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.

tender years; the child's consent is immaterial because of her presumed incapacity to discern good from evil.<sup>21</sup>

From the foregoing, the prosecution needs only to establish the following facts in order to secure conviction of the accused for statutory rape: (1) that the accused had carnal knowledge of a woman; and (2) that the woman was below 12 years of age.<sup>22</sup>

Thus, in Criminal Case No. 2012-8309, the prosecution has sufficiently established all the elements stated above. The unlawful carnal knowledge was established by the testimony of private complainant who described how accused-appellant undressed himself, threatened her mother and brother with bodily harm if she refused, climbed on top of her and abused her. Such sexual abuse was corroborated by the medico-legal who testified that accused-appellant showed healed lacerations in her private parts. Also, the prosecution was able to present private complainant's birth certificate that shows that she was merely eleven (11) years old at the time of the abuse. From the foregoing, it is undisputable that accused-appellant's guilt for statutory rape had been established.

As for Criminal Case No. 2012-8310, the Information alleges that at the time of the commission of the crime, private complainant was already thirteen (13) years old and, therefore, outside the definition of statutory rape. Be that as it may, the Information was sufficient to charge accused-appellant with rape as defined under Article 266-A, paragraph 1(a). From the foregoing, the following are the elements of the offense: (a) the offender had carnal knowledge of a woman; and (b) he accomplished this act under the circumstances mentioned in the provision, *e.g.*, through force, threat or intimidation. The gravamen of rape is sexual intercourse with a woman against her will.<sup>23</sup>

Contrary to accused-appellant's contention, all the elements for violation of Article 266-A, paragraph 1(a) are present. First, the testimony of private complainant recounts the harrowing tale when accused-appellant sexually abused her when she was thirteen (13) years old. The injuries she suffered were corroborated with medical evidence. Secondly, from the testimony of private complainant, she was obviously threatened into submission to his bestial desires when accused-appellant threatened to harm her mother and brother if she did not succumb to him. It is clear, therefore, that on the basis of the Informations filed, accused-appellant deserves his

<sup>21</sup> *People v. Teodoro*, 622 Phil. 328, 337 (2009); citations omitted.

<sup>22</sup> *People v. Pacheco*, 632 Phil. 624, 632 (2010); citation omitted.

<sup>23</sup> *People v. Ejercito*, G.R. No. 229861, July 2, 2018, 869 SCRA 353, 366.



convictions for two (2) counts of rape, one (1) statutory rape under Article 266-A, paragraph 1(d) and another penile rape under Article 266-A, paragraph 1(a).

Despite this, the Court is unable to give its imprimatur to the CA's ruling that accused-appellant should be found guilty for qualified rape.

The Court now explains.

Jurisprudence has been clear in laying down the elements of qualified rape, especially *incestuous* rape. These elements are: (a) the victim is a female over 12 years but under 18 years of age; (b) the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim; and (c) the offender has carnal knowledge of the victim either through force, threat, or intimidation.<sup>24</sup>

In relation to these elements, the Rules of Court require that the elements of the crime as well as the qualifying and aggravating circumstances must be alleged in the Information.<sup>25</sup> The rules require the qualifying circumstances to be specifically alleged in the Information in order to comply with the constitutional right of the accused to be properly informed of the nature and cause of the accusation against him. The purpose is to allow the accused to prepare fully for his defense to prevent surprises during the trial.<sup>26</sup>

Lastly, qualifying circumstances must be properly pleaded in the indictment. If the same are not pleaded but proved, they shall be considered only as aggravating circumstances since the latter admit of proof even if not pleaded. It would be a denial of the right of the accused to be informed of the charges against him and consequently, a denial of due process, if he is charged with simple rape and convicted of its qualified form, although the attendant circumstance qualifying the offense and resulting in the capital punishment was not alleged in the indictment on which he was arraigned.<sup>27</sup>

Here, the allegations involving the qualifying circumstances of relationship in the Informations similarly read:

<sup>24</sup> *People v. Vitero*, 708 Phil. 49, 59 (2013); citation omitted.

<sup>25</sup> See Rule 110, Sections 8 and 9, 2000 Rules on Criminal Procedure.

<sup>26</sup> *People v. Aquino*, 435 Phil. 417, 425 (2002); citations omitted.

<sup>27</sup> *People v. De Guzman*, G.R. No. 224212, November 27, 2019.

“The aggravating circumstance of relationship is attendant in this case, as the respondent is the natural father of the victim, BBB.”

While the age of the victim was alleged and proven with the presentation of private complainant’s birth certificate, the qualifying circumstance of relationship, however, was not properly alleged and unproven or, at the very least, not proven by sufficient evidence.

In finding accused-appellant guilty of qualified rape, the CA ruled:

The Court, however, finds that the RTC failed to consider the qualifying circumstance of private complainant’s minority and her relationship to accused-appellant in disposing of the case. Under Article 266-B of the RPC, the crime of Rape is qualified when the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity and affinity within the third civil degree, or the common law spouse of the parent of the victim.

Here, the articles of Information expressly alleged that private complainant was a minor when the crimes were committed and that accused-appellant is her father. These are duly established by the private complainant’s birth certificate which indicates her birth date and bears accused-appellant’s name as her father. Accused-appellant’s assertion that he is not the private complainant’s biological father could not overcome the presumption of regularity in the preparation of said certificate. Nonetheless, even assuming that he is not the private complainant’s biological father, the conclusion would still be the same. Accused-appellant is married to private complainant’s mother. This would make accused-appellant the private complainant’s step-father, a relationship that is still covered by Article 266-B of the RPC.”<sup>28</sup>

The Court disagrees with the appellate court.

To begin with, although the Court respects the factual findings of the trial courts, it is equally axiomatic that appeal in criminal cases opens the whole case wide open for review.<sup>29</sup> As such, the Court can review the evidence presented by the prosecution and whether the same is sufficient to warrant a conviction for a qualified offense.

The Information alleged that accused-appellant was the “natural father” of private complainant. As such, the Information seems to claim that accused-appellant is the biological father of private complainant. This was

<sup>28</sup> CA rollo, p. 92.

<sup>29</sup> *Agustin v. People*, 576 Phil. 188, 194 (2008).

supported by private complainant's birth certificate which names accused-appellant as the father.

In response, accused-appellant denied parentage over private complainant and alleged that it was his older brother who fathered her. For the Court, the CA was too quick in dismissing accused-appellant's allegations considering that private complainant herself admitted this fact; that accused-appellant is not her biological father despite what was stated in the birth certificate. This is a judicial admission that does not require proof. Interestingly, neither did the prosecution explain that such admission was made through palpable mistake or no such admission was made.<sup>30</sup> As such, accused-appellant's claim was not an uncorroborated allegation but was a conceded fact.

Of course the CA would lean on the presumption of regularity of government functions to protect the entries in the birth certificate. However, such argument is based solely on a rebuttable presumption that can be overturned by evidence. The *praesumptio iuris tantum* of the entries in the birth certificate is reflected in the rules, thus:

*Public documents as evidence.* — Documents consisting of entries in public records made in the performance of a duty by a public officer are *prima facie* evidence of the facts therein stated. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter.<sup>31</sup>

Hence, the entry in the birth certificate that accused-appellant was the father of private complainant is not conclusive and evidence may be presented to disprove the same. The evidence here came in the form of a judicial admission which conclusively binds the party making it. He cannot thereafter take a position contradictory to, or inconsistent with his pleadings. Acts or facts admitted do not require proof and cannot be contradicted unless it is shown that the admission was made through palpable mistake or that no such admission was made.<sup>32</sup> Therefore, there was no evidence that, indeed, accused-appellant is the father of the private complainant.

In its effort to sustain the qualified rape charge, the CA argues that even if it is true that accused-appellant is not the father of private complainant, he is nevertheless married to the private complainant's mother

<sup>30</sup> See Rule 128, Section 4, Revised Rules on Evidence.

<sup>31</sup> Rule 132, Section 23, Revised Rules on Evidence.

<sup>32</sup> *Extraordinary Development Corp. v. Samson-Bico*, 745 Phil. 276, 293 (2014).

making him the step-father of private complainant which is one of the filial relationships enumerated under Article 266-B, qualifying the offense.

Again, the Court disagrees.

First, the Information filed against the accused contain all the allegations that needed to be proven. The prosecution cannot go beyond what is alleged in the same. Here, the allegation did not state the correct filial relationship between accused-appellant and private complainant. Instead of alleging that accused-appellant was the step-father of private complainant, it erroneously relied on private complainant's birth certificate that stated that accused-appellant was her father.

Secondly, even if the proper relationship was alleged, the fact of marriage must be proven through the marriage certificate of accused-appellant and the victim's mother. However, despite the Court's effort to look for such evidence, the search was in vain. The same was not submitted into evidence.

Lastly, the Court cannot consider the allegation of "natural father" as to include step-father. It is a basic rule in statutory construction that penal statutes are construed against the State and in favor of the accused.<sup>33</sup> The reason for this principle is the tenderness of the law for the rights of individuals and the object is to establish a certain rule by conformity to which mankind would be safe, and the discretion of the court limited.<sup>34</sup> Also, the purpose of strict construction is not to enable a guilty person to escape punishment through a technicality but to provide a precise definition of forbidden acts.<sup>35</sup> Moreover, the relationship was also expressly included in the enumeration in Article 266-B. Therefore, step-father cannot be implied from the term "father".

In *People v. Alcoreza*,<sup>36</sup> the Court refused to convict the accused for qualified rape due to the erroneous allegation in the Information regarding the relationship between the accused and the victim, thus:

Be that as it may, *the accused can be convicted only of simple statutory rape and, accordingly, the penalty of death imposed against him should be reduced to reclusion perpetua.* The Information alleged that the appellant raped his 11-year old stepdaughter Mary Joy. The qualifying circumstance of minority of Mary Joy was proved beyond

<sup>33</sup> *People v. Valdez*, 774 Phil. 723, 747 (2015).

<sup>34</sup> *Ursua v. Court of Appeals*, 326 Phil. 157, 168 (1996).

<sup>35</sup> *Centeno v. Villalon-Pornillos*, 306 Phil. 219, 231 (1994).

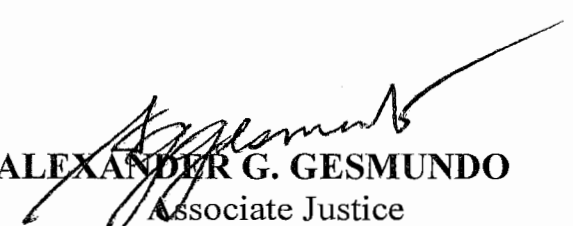
<sup>36</sup> 419 Phil. 105 (2001).

reasonable doubt by the presentation of her birth certificate. However, the relationship between the appellant and Mary Joy was not established with the same degree of proof. Although the prosecution established that Mary Joy was the daughter of Melita, it failed to offer the marriage contract of the appellant and Melita which would establish that Mary Joy is the stepdaughter of the appellant. The testimony of Melita and even the admission of the appellant regarding their marriage do not meet the required standard of proof. *The Court cannot rely on the disputable presumption that when a man and a woman live together as husband and wife, they are presumed to be married. Relationship as a qualifying circumstance in rape must not only be alleged clearly. It must also be proved beyond reasonable doubt, just as the crime itself.* Neither can it be argued that without the marriage contract, a common-law relationship between the appellant and Melita was still proved and this should qualify the crime at bar. To be sure, what the Information alleged is that the appellant is the stepfather of Mary Joy. It made no mention of a common-law relationship between the appellant and Melita. Hence, to convict appellant with qualified rape on the basis of the common-law relationship is to violate his right to be properly informed of the accusation against him.”<sup>37</sup> (citations omitted)

Hence, the Court can only find accused-appellant guilty of two (2) counts of rape. The Court’s refusal to qualify the charge, however, does not lessen its condemnation of the acts accused-appellant committed against private complainant. The Court’s refusal stems rather from its solemn duty to protect the Constitution and the constitutional rights of individuals.

**WHEREFORE**, the Court **DISMISSES** the appeal; **AFFIRMS** with **MODIFICATION** the Decision promulgated on May 31, 2018 of the Honorable Court of Appeals in CA-G.R. CR-HC No. 09716; **FINDS** accused-appellant XYZ **GUILTY** of two (2) counts of rape in Criminal Case Nos. 2012-8309 and 2012-8310; **IMPOSES** the penalty of *reclusion perpetua* for each count of rape; and **ORDERS** him to **PAY** the amounts of ₱75,000.00 for civil indemnity, ₱75,000.00 for moral damages, ₱75,000.00 for exemplary damages for each count of rape, and six percent (6%) interest imposed on all monetary awards reckoned from finality of this Judgment until full payment.<sup>38</sup>


**SO ORDERED.**

  
**ALEXANDER G. GESMUNDO**  
Associate Justice

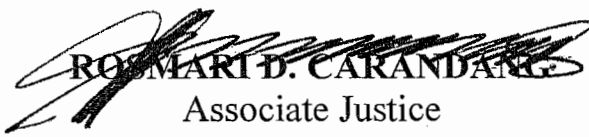
<sup>37</sup> Id. at 119.

<sup>38</sup> *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

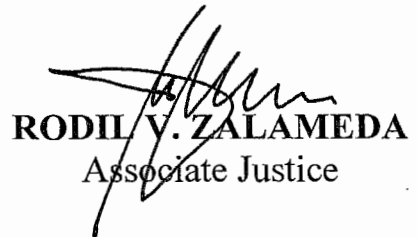
**WE CONCUR:**




**MARVIC M.V.F. LEONEN**  
Associate Justice  
Chairperson



**ROSMARI D. CARANDANG**  
Associate Justice



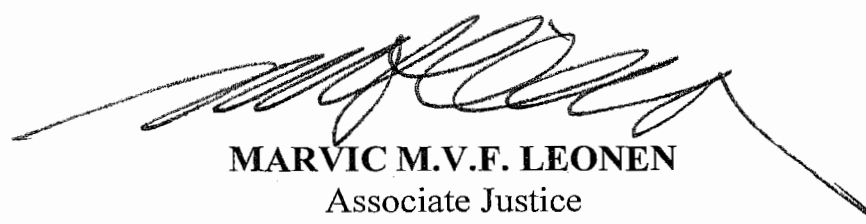
**RODIL V. ZALAMEDA**  
Associate Justice



**SAMUEL H. GAERLAN**  
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.



**MARVIC M.V.F. LEONEN**  
Associate Justice  
Chairperson, Third Division

AP

### 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.



**DIOSDADO M. PERALTA**  
Chief Justice

CERTIFIED TRUE COPY

*MISPDCBatt*  
**MISAELO DOMINGO C. BATTUNG III**  
Division Clerk of Court  
Third Division

DEC 01 2020

