



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, **G.R. No. 227749**
Plaintiff-Appellee,

Present:

- versus -

PERALTA, *C.J.*, Chairperson
CAGUIOA,
LAZARO-JAVIER,
LOPEZ, and
GAERLAN, *JJ.*

Promulgated:

BEN SUWALAT,
Accused-Appellant.

SEP 22 2020

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DECISION

LAZARO-JAVIER, J.:

The Case

This appeal¹ seeks to reverse and set aside the Decision² dated July 29, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 01734 which affirmed the trial court's verdict of conviction³ against appellant Ben Suwalat for two (2) counts of rape. Its dispositive portion reads:

WHEREFORE, the appeal is DENIED. The October 25, 2012 Decision of the RTC, Branch 27, Iloilo City in Crim. Case Nos. 06-63115 and 06-63116 finding accused Ben Suwalat guilty beyond reasonable doubt of two (2) counts of rape and sentencing him to suffer the penalty of

¹ Rollo, pp. 24-25. Filed under Section 13(c), Rule 124 of the Rules of Court.

² Penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Gabriel T. Ingles and Germano Francisco D. Legaspi, *id.* at 4-23.

³ CA rollo, pp. 26-44.

reclusion perpetua for each count is hereby AFFIRMED with the following MODIFICATIONS:

- 1) For each count of rape, accused is hereby ordered to pay CCC the following amount: civil indemnity of 75,000.00, moral damages of 75,000.00 and exemplary damages of 75,000.00.
- 2) All damages awarded in this case should be imposed with interest at the rate of six percent (6%) per annum from the finality of this judgment until fully paid.

SO ORDERED.⁴

The Information

Appellant was charged with two (2) counts of rape by carnal knowledge in relation to Republic Act No. 7610 (RA 7610), under the following Informations, *viz.*:

Criminal Case No. 06-63115

That on or about November 1, 2006 in the Municipality of [REDACTED], Province of Iloilo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lust and lewd designs, taking advantage of nighttime to better attain his purpose, knowing of the mental disability of minor-victim, by means of force, threat and intimidation, and for other consideration, did then and there willfully, unlawfully and feloniously have carnal knowledge of [CCC],⁵ a minor of fourteen years of age and a mental retardate, against her will and consent, to the damage and prejudice of said minor victim.

Contrary to law.⁶

Criminal Case No. 06-63116

That on or about August 2006 in the Municipality of [REDACTED], Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lust and lewd designs, taking advantage of nighttime to better attain his purpose, knowing of the mental disability of minor-victim, by means of force, threat and intimidation, and for other consideration, did then and there willfully, unlawfully and feloniously have carnal knowledge of [CCC], a minor of fourteen years of age and a mental retardate, against her will and consent, to the damage and prejudice of said minor victim.

⁴ *Rollo*, p. 22.

⁵ The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used in accordance with *People v. Cabalquinto* [533 Phil 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

⁶ *Rollo*, pp. 4-5.

Contrary to law.⁷

The cases were raffled to the Regional Trial Court (RTC)-Iloilo City, Branch 27 and docketed as Criminal Case Nos. 06-63115 and 06-63116, respectively.

Arraignment and Plea

On arraignment, appellant pleaded “not guilty” to both charges.⁸

During the trial, complainant CCC, Elsie Agcanas, Dr. Ma. Ruby Duyag (Dr. Duyag), PO1 Romadel Velasco (PO1 Velasco), Dr. Ali Robles (Dr. Robles) and complainant’s father testified for the prosecution. On the other hand, appellant, his wife, and his neighbor testified for the defense.

The prosecution presented the following documentary evidence: complainant’s sworn statement, police blotter report, complainant’s certificate of live birth, complainant’s medico-legal certificate, affidavit of Elsie Agcanas, psychological report, and psychiatric report.

The Prosecution’s Version

Complainant testified that appellant raped her twice when she was fourteen (14) years old. The first rape incident happened in the evening of August 2006. On that day, her father went to appellant’s house to make charcoal. In the evening of that day, her father left her and her sister to sleep at appellant’s house. Her sister slept between her and appellant’s wife on the same bed.

She was roused from sleep when she felt pain and saw appellant on top of her. He had removed her shorts and panties, mounted her, and forcefully inserted his penis into her vagina. She kicked, punched, and pushed him away. But he threatened to kill her if she told her father, and something more would happen if she woke up her sister and his wife.

The following morning, appellant again threatened to waylay and kill her if he heard anything about the rape incident. Meantime, she told her father that she saw blood on her panties but the latter thought it was just her menstruation. She did not tell her father about the rape incident because she was scared of appellant.⁹

On November 1, 2006, appellant again raped her inside their own house. Around 10 o’clock in the evening of October 31, 2006, appellant

⁷ *Id.* at 5.

⁸ *Id.*

⁹ TSN dated July 24, 2007, pp. 2-7; TSN dated August 7, 2007, pp. 16-23.

went to their house, asked coffee from her father, then slept on a bench downstairs. She, her sister, and her father slept on the elevated portion of their house. She slept on their bed, while her sister and father slept on the floor beside the bed. Around 4 o'clock the following morning, appellant went to her bed, undressed her, mounted her and forcibly thrust his penis into her vagina. She pushed and kicked him off the bed, but he stood up and mounted her anew. He then held both her hands with his one hand, and pressed a knife against her body with his other hand. He threatened to impale her with the knife if she tried to shout or made any noise. She cried helplessly out of pain and fear. She tried but failed to wake up her father. After appellant left, she told her father that appellant raped her. They then went to the barangay and [REDACTED] Police Station to charge appellant with two (2) counts of rape. She underwent medico-legal examination at the Western Visayas Medical Center in Mandurriao, Iloilo City.¹⁰

Dr. Duyag testified that she examined complainant. She found an old hymenal laceration at 5 o'clock position. Based on this finding and her interview with complainant, she concluded that complainant was sexually abused.¹¹

Elsie Agcanas, a child development social worker at the Department of Social Welfare and Development (DSWD) Child Development, [REDACTED], Iloilo, testified that in the morning of November 1, 2006, the barangay captain requested her to accompany complainant and complainant's father to the [REDACTED] police station where complainant was subsequently investigated. She also got appellant himself to go with her to the police station. There, complainant identified appellant as the person who raped her. Appellant was thereafter detained.¹²

Dr. Robles, a psychiatrist at the Western Visayas Medical Center, Mandurriao, Iloilo City, testified that based on her examination of complainant on May 25, 2007, she found that complainant could not conclusively be considered a mental retardate as the latter performed well in her adaptive skills. She also opined that complainant can improve her mental ability given suitable education for her age.¹³

Amelita Lelia Piojo, a psychologist, testified that Dr. Ali Robles referred complainant to her for psychological evaluation. After conducting a series of examinations on complainant, they concluded that although complainant's mental age was eight (8) years old, her level of adaptive skills was not of a mental retardate.¹⁴

¹⁰ TSN dated July 24, 2007, pp. 8-13; TSN dated August 7, 2007, pp. 22-28; TSN dated March 1, 2011, pp. 2-9; TSN dated December 11, 2007, pp. 2-15,

¹¹ TSN dated August 7, 2007, pp. 33-46; *rollo*, p. 15

¹² TSN dated December 11, 2007, pp. 2-15.

¹³ *Rollo*, p. 7.

¹⁴ *Id.*

PO1 Velasco, a member of the Calinog Philippine National Police (PNP) assigned at the Women and Children Protection Center, testified that on November 1, 2006, complainant, complainant's father and Elsie Agcanas came to the police station to report the alleged rape incidents committed by appellant. She took complainant's statement and referred her for medical examination at the Western Visayas Medical Center. She and other police officers headed to Brgy. Agcalaga to effect appellant's arrest. But they decided to return when they received information that the barangay is NPA infested. They asked Elsie Agcanas instead to fetch and bring appellant to the police station. When appellant arrived at the station, complainant pointed to him as the one who raped her. They, thus arrested and detained appellant.¹⁵

Complainant's father corroborated complainant's testimony. He testified that appellant was in their house in the evening of October 31, 2006. The following morning, he found appellant already sleeping under the bed where complainant was sleeping. When complainant told him about the alleged rape incidents, they reported the same to the barangay. Thereafter, Elsie Agcanas accompanied them to the police station.

The Defense's Version

Appellant denied the charge. He admitted that complainant went to his house with her father sometime in August 2006, but denied that she slept there. While they were in his house, complainant never left her father's side. He never went to complainant's house in the evening of November 1, 2006 as he was then in his own house together with his wife and their neighbor.¹⁶

In the morning of November 1, 2006, his wife went to Passi to visit the grave of her deceased relatives in the cemetery. He did not go with her as he helped butcher his neighbor's pig from 9 to 10 o'clock in the morning. Around 11 o'clock in the morning, his other neighbor Elsie came to his house to bring him to the police station for complainant's rape charges against him. He willingly went with Elsie, for only a guilty person would be afraid to go to the police. He was not arrested. But he was put in jail when he arrived at the police station.¹⁷

Appellant's neighbor confirmed that appellant was one of the seven (7) or eight (8) men who helped butcher his pig on November 1, 2006, from 8 o'clock until 10 o'clock in the morning.¹⁸

¹⁵ *Id.* at 7-8.

¹⁶ *Id.* at 8.

¹⁷ *Id.*

¹⁸ *Id.* at 8-9.

Appellant's wife testified that around 8 o'clock in the evening of October 31, 2006, their neighbor went to their house and talked with appellant about the pig they would butcher the next morning. Their neighbor left around 11 o'clock in the evening. Thereafter, she and appellant went to sleep, then woke up around 5 o'clock the next morning. She left for Passi around 7 o'clock in the morning. When she learned about appellant's arrest later in the afternoon, she went back to [REDACTED] to see him. Three (3) days later, she met complainant and the latter's father who told her that he wanted to settle the case. The two (2) did not sleep in their house.¹⁹

The Trial Court's Ruling

By Decision²⁰ dated October 25, 2012, the trial court rendered a verdict of conviction, *viz.*:

WHEREFORE, finding the accused BEN SUWALAT guilty beyond reasonable doubt of two counts of rape by carnal knowledge under paragraph 1 of Article 266-A of the Revised Penal Code as amended by R.A. 8353, he is hereby sentenced to suffer the penalty of *reclusion perpetua* in each case. He is ordered to pay CCC the amount of P50,000.00 as civil indemnity and P50,000.00 as moral damages in each case.

SO ORDERED.²¹

The Proceedings before the Court of Appeals

On appeal, appellant faulted the trial court for finding him guilty of two (2) counts of rape despite the victim's alleged incredulous testimony and the prosecution's purported failure to prove his guilt beyond reasonable doubt. Appellant essentially argued: (1) His warrantless arrest was illegal as the police officers did not have any personal knowledge of the rape he allegedly committed; and (2) Complainant's testimony was hardly straightforward, much less, categorical, thus, casting doubt on the consummation of rape and the identity of the assailant.

On the other hand, the Office of the Solicitor General (OSG), through Assistant Solicitor General Raul J. Mandin and Associate Solicitor Ormil D. Go, maintained that the prosecution was able to establish appellant's guilt beyond reasonable doubt. Appellant was deemed to have waived any objection against his warrantless arrest when at the arraignment, he did not timely raise it.²²

¹⁹ *Id.* at 9.

²⁰ Penned by Judge Ma. Elena G. Opinion, *CA rollo*, pp. 26-44.

²¹ *Id.* at 43-44.

²² *CA rollo*, pp. 77-93.



The Court of Appeals' Ruling

In its assailed Decision²³ dated July 29, 2016, the Court of Appeals affirmed in the main but modified the award of damages and interest pursuant to *People v. Jugueta*.²⁴

The Present Appeal

Appellant now seeks affirmative relief from the Court and prays anew for his acquittal. In compliance with Resolution²⁵ dated January 23, 2017, appellant and the People both manifested that, in lieu of supplemental briefs, they were adopting their respective briefs filed before the Court of Appeals.²⁶

Issue

Did the Court of Appeals err in convicting appellant of two (2) counts of rape?

Ruling

We affirm with modification.

The RTC and the CA correctly appreciated the prosecution's evidence supporting appellant's conviction

Rape is defined and penalized under Article 266-A, paragraph 1 of the Revised Penal Code (RPC), as amended by Republic Act No. 8353 (RA 8353), *viz*:

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;

²³ Penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Gabriel T. Ingles and Germano Francisco D. Legaspi, all members of the Eighteenth Division, *id.* at 2-19.

²⁴ 783 Phil. 848, (2016).

²⁵ *Rollo*, pp. 29-30.

²⁶ *Id.* at 50-52, 39-42.

- b) When the offended party is deprived of reason or otherwise unconscious,
- c) By means of fraudulent machination or grave abuse of authority; and
- d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

Rape requires the following elements: (1) the offender had carnal knowledge of a woman; and (2) the offender accomplished such act through force or intimidation, or when the victim was deprived of reason or otherwise unconscious, or when she was under twelve (12) years of age or was demented.

Here, the prosecution had established beyond moral certainty the elements of carnal knowledge and force or intimidation in both cases. Complainant positively identified appellant as the man who had carnal knowledge of her against her will on two (2) separate occasions, thus:

Q. And what happened when you were in the house of Ben Suwalat in August of 2006?

A. (Witness is crying) Ben Suwalat and my father left the house and the wife of Ben Suwalat watched T.V. at the house of her uncle.

Q. And what happened next?

A. The wife of Ben Suwalat made us sleep in their room together with her and then Ben Suwalat went inside the room and then rape me.

Q. And how did Ben Suwalat rape you?

A. Ben Suwalat remove my clothing then he laid on top of me and then he made it enter.

Q. Where did he made his penis enter?

A. Into my vagina.²⁷

x x x x x x x x x

Q. Now, did you fight Ben Suwalat when he made his penis into your vagina?

A. Yes, ma'am.

Q. How did you fight him?

A. I pushed him. Then he threatened me and talked to me after I pushed him.

Q. What did he threaten you?

A. He told me if I will tell my father he will kill me.

Q. And what did you do when he told you that if you tell your father he will kill you?

²⁷

Id. at 11-12.

- A. I was afraid that is why, the following morning when he told me that if he will hear anything regarding that incident he will waylay me and kill me.
- Q. Now, how did you feel when Ben Suwalat inserted his penis into your vagina.
- A. Pain.
- Q. Did you shout when Ben Suwalat laid on top of you?
- A. (Witness crying) I just pushed him. I did not shout because his wife was on my side.
- Q. Did you not try to wake up his wife?
- A. I was afraid to awaken his wife because according to Ben if his wife will know about of what happened, something more might happen.²⁸

x x x x x x x x x

- Q. Now, when you say that you were afraid because Ben told you that if his wife will awaken something more will happen, you are trying to say that Ben Suwalat will do something bad against you if you will awaken his wife?
- A. Yes, ma'am.
- Q. Now, when you said that you were sleeping when Ben enter(ed) the room and laid on top of you, did Ben Suwalat say something to you when he first laid on to you?
- A. Yes, ma'am.
- Q. What did he say?
- A. He said that he will just think about what he will do to me if someone will know what he did to me. If I will be still alive.²⁹
- Q. And because of what Ben Suwalat said to you, did you feel very afraid of Ben Suwalat?
- A. Yes, ma'am I was afraid.
- Q. Now, when Ben Suwalat entered his penis into your vagina, did you try to kick him?
- A. Yes, ma'am.
- Q. And were you able to kick him?
- A. Witness is nodding in the affirmative.
- Q. And what happened to Ben Suwalat when you kicked him?
- A. He went out of the room.
- Q. When you kicked him. Was that before or after he inserted his penis into your vagina?
- A. Before he inserted.
- Q. You said that after you kicked him he left his room, when did he left the room, after or before he inserted his penis into your vagina?
- A. After.³⁰

x x x x x x x x x

- Q. Now what happened on November 1, 2006?

²⁸ *Id.* at 11-12.

²⁹ *Id.*

³⁰ *Id.* at 13.

- A. At about 10:00 o'clock in the evening, Ben Suwalat went to our house and asked coffee from my father but he did not drink that coffee and then he slept our bench. My father covered him with towel and then my father went up and closed the door. At about 4:00 o'clock in the morning, Ben Suwalat went up.
- Q. Now, you said that at about 4:00 o'clock in the morning, Ben Suwalat went up, where did he go up?
- A. He went up the bed and he did the same thing to me. He removed my clothing because at that time I was wear(ing) 3 garments, a blouse, a skirt, and a panty and then he went on top of me.
- Q. Now, what did he do when he went on top of you?
- A. He removed all my clothing and then he laid on top of me and did what he did last time. He inserted his penis into my vagina and then I pushed him and then he fell from the bed and then he stood up and again laid on top of me.
- Q. So, you mean to say, you pushed him and he fell but he went back and laid on top of you, so, what did you do when he laid on top of you again?
- A. He held both of my hands and then he pointed a knife at me and said, "This is the knife that I am going to kill you if you will tell your father." On the following morning, I went to my father and I told my father that there is a man who went upstairs, but my father did not move or as if did not hear what I said.³¹

x x x x x x x x x

Complainant made a clear, candid, and positive narration of how, in both incidents, appellant went to her bed, undressed her, mounted her, and inserted his penis into her vagina with a threat that he would kill her if she told her father or his wife. The fourteen-year-old complainant could not have merely concocted these ugly details had she not actually experienced them in appellant's hands. *People v. Alberca* is in point:

Indeed, no woman, least of a child, will concoct a story of defloration, allow an examination of her private parts, and subject herself to public trial or ridicule if she has not, in truth, been a victim of rape and impelled to seek justice for the wrong done to her. As found by the RTC and CA, AAA's testimony was candid, spontaneous, and consistent. We find no cogent reason to deviate from such finding.

As it was, the trial court found complainant's testimony to be spontaneous and straightforward. The Court respects the trial court's factual findings on complainant's credibility.³² For the trial court's assessment of the credibility of the witnesses' testimonies deserves great weight and is conclusive and binding if not tainted with arbitrariness. More so when the

³¹ *Id.* at 13-14.

³² *People v. Hirang*, 803 Phil. 277, 290 (2017).

trial court's factual findings carry the full concurrence of the Court of Appeals,³³ as in this case.

Appellant, however, attempts to discredit complainant, averring that the facts and circumstances narrated by complainant are improbable and questionable. He points out that, it was highly unlikely for him to have raped complainant considering that, in both incidents, there were other people present in the same room with them. If it were true, complainant could have easily asked them for help. But she did not. Likewise, it was impossible to have had sexual intercourse with complainant in his house as complainant herself testified that: (a) she never slept in other people's house; and (b) before he allegedly inserted his penis into her vagina, she kicked him prompting him to walk out of the room. Finally, complainant did not identify him with moral certainty considering that when she told her father about her harrowing experience, she simply said that a "man" went up to her bed and raped her, without specifically naming him.

The argument must fail.

For one, the close proximity of other people or even relatives at the rape scene does not disprove the commission of rape. For lust is no respecter of time and place. *People v. Descartin, Jr.*³⁴ ordains:

It is well-settled that close proximity of other relatives at the scene of the rape does not negate the commission of the crime. Rape can be committed even in places where people congregate, in parks, along the roadside, within school premises, inside a house where there are other occupants, and even in the same room where other members of the family are also sleeping. It is not impossible or incredible for the members of the victim's family to be in deep slumber and not to be awakened while a sexual assault is being committed. Lust is no respecter of time and place; neither is it deterred by age nor relationship.

For another, complainant's failure to ask for help and offer tenacious resistance does not negate rape. More so since appellant in fact intimidated and threatened her into submission. At any rate, rape victims react differently when confronted with sexual abuse.³⁵ Their actions are often overwhelmed by fear rather than reason. While some find the courage to immediately reveal their ordeal, others opt to initially keep the harrowing ordeal to themselves.³⁶ For a young girl of tender age, it is not uncommon to be intimidated into silence by the mildest threat against her life.³⁷ As shown, appellant here repeatedly threatened to kill complainant who was then only fourteen (14) years old.

³³ *Castillano v. People*, G.R. No. 222210 (Notice), June 20, 2016.

³⁴ 810 Phil. 881, 892 (2017).

³⁵ *People v. Barberan*, 788 Phil. 103, 111 (2016).

³⁶ *People v. Descartin, Jr.*, supra note 34, at 893.

³⁷ *People v. Villamor*, 780 Phil. 817, 830-831 (2003).

Notably, complainant tried to repel, albeit unsuccessfully, appellant's sexual acts by pushing, kicking, and boxing him. She later reported the rape incidents to her father, the barangay officials, and the police officers. She also submitted herself to physical examination. Complainant's courageous actions against appellant are eloquent proofs that she was truly wronged and she wanted the wrongdoer to be punished accordingly.

Still another, complainant did not categorically state that she never slept in other people's house, specifically in appellant's house in August 2006. The fact that she stayed in their own house when their father had no work does not absolutely preclude the possibility of her sleeping in other people's house. In fact, she testified that there was no instance that she slept in their house when her father was not there. She, too, categorically testified that appellant's wife made her and her sister sleep in appellant's house that fateful night when the first rape incident happened.

Appellant next claims as doubtful the allegation of penile penetration during the first rape incident. Indeed, appellant left the room after complainant kicked him, but he did so after he had already inserted his penis into her vagina. Complainant testified:

- Q. Now, when Ben Suwalat entered his penis into your vagina, did you try to kick him?
- A. Yes, ma'am.
- Q. And were you able to kick him?
- A. Witness is nodding in the affirmative.
- Q. And what happened to Ben Suwalat when you kicked him?
- A. He went out of the room.
- Q. When you kicked him. Was that before or after he inserted his penis into your vagina?
- A. Before he inserted.
- Q. **You said that after you kicked him he left his room, when did he left the room, after or before he inserted his penis into your vagina?**
- A. **After.**³⁸ (Emphasis added)

Indubitably, there was penile penetration in both incidents. We reckon with complainant's graphic account of the first incident in August 2006: "*At first Ben Suwalat remove(d) my clothing then he laid on top of me and then he made it (his penis) enter.*"³⁹ x x x "*Into my vagina.*"⁴⁰ x x x She felt "*Pain.*"⁴¹ As regards the second incident on November 1, 2006, complainant

³⁸ *Rollo*, p. 13.

³⁹ *Id.* at 11.

⁴⁰ *Id.* at 11.

⁴¹ *Id.* at 2.

vividly narrated: “*He (appellant) removed all my clothing and then he laid on top of me and did what he did last time. He inserted his penis into my vagina and then I pushed him and then he fell from the bed and then he stood up and again laid on top of me.*”⁴² If this is not penile penetration, what is?

Finally, appellant claims that his identity was not established considering that when complainant disclosed her ordeal to her father, she only said that a “man” raped her, without specifically naming him. This is misleading as appellant only cited a portion of complainant’s testimony. A contextual reading of complainant’s testimony readily shows that the “man” she was referring to was appellant. Her testimony is replete with references to appellant. In fact, she specifically named appellant “*Ben Suwalat*” as the one who raped her on both occasions.

While appellant’s conviction was primarily based on complainant’s testimony, the same solidly conforms with the physical evidence through the medical findings of Dr. Duyag that complainant sustained a “complete healed hymenal laceration at 5 o’clock position” which, taken together with complainant’s credible disclosure and age, “shows definite evidence of sexual abuse.” Dr. Duyag also explained that the absence of fresh laceration does not necessarily mean that no rape was committed as it is possible for sexual intercourse not to result in a laceration.

At any rate, appellant’s defenses boil down to denial and alibi. These are the weakest of all defenses - - - easy to contrive but difficult to disprove. As between complainant’s credible and positive identification of appellant as the person who had carnal knowledge of her against her will, on one hand, and appellant’s bare denial and alibi, on the other, the former indubitably prevails.⁴³

Where nothing supports the alibi except the testimonies of a close relative and friend, appellant’s wife and neighbor in this case, it deserves but scant consideration.⁴⁴ For such testimonies are suspect and cannot prevail over the unequivocal declaration of a complaining witness. More, the testimony of appellant’s neighbor is immaterial as it only pertains to appellant’s activities on November 1, 2006, from 8 o’clock until 10 o’clock in the morning, when the second rape incident had long been consummated.

***Appellant is estopped from assailing
his warrantless arrest***

⁴² *Id.* at 13.

⁴³ *Etino v. People*, 826 Phil. 32, 48 (2018); *People v. Candellada*, 713 Phil. 623, 637 (2013).

⁴⁴ *People v. Sanchez*, 419 Phil. 808, 814 (2001).

It is settled that an accused is estopped from assailing any irregularity of his arrest if he fails to raise this issue or to move for the quashal of the information against him on this ground before arraignment.⁴⁵

Here, appellant went into arraignment and actively participated in his trial, without questioning his arrest. He only challenged his warrantless arrest on appeal, after a verdict of conviction was handed down by the trial court. Appellant's challenge, therefore, came too late in the day.

At any rate, the Court of Appeals correctly affirmed appellant's conviction. For the alleged irregularity of appellant's arrest is not sufficient to invalidate the judgment of conviction. *Castillano v. People*⁴⁶ is *apropos*:

Nevertheless, even if the petitioner's warrantless arrest is proven to be indeed invalid, this eventuality would still not support his cause; it is settled that the illegal arrest of an accused is not sufficient cause to set aside a valid judgment rendered upon a sufficient complaint after a trial free from error.

All told, we find that the CA did not commit any reversible error in affirming the petitioner's conviction of the crime of rape.

The Penalty

Rape is penalized under Article 266-A of the Revised Penal Code, as amended by RA 8353. It carries the penalty of *reclusion perpetua*⁴⁷ unless attended by the qualifying circumstances defined under Article 266-B.⁴⁸ The offender's knowledge of the victim's mental disability during the commission of the crime of rape is a special qualifying circumstance which makes it punishable by death. To be properly appreciated, such qualifying circumstance must be sufficiently alleged and proved with equal certainty and clearness as the crime itself. Otherwise, the same cannot be recognized⁴⁹ and there can be no conviction of the crime in its qualified form.

Here, appellant's knowledge of complainant's mental retardation at the time of the commission of rape cannot be appreciated as a qualifying or aggravating circumstance as there is no sufficient and competent evidence to substantiate the same. Neither is there a clear evidence that complainant is a mental retardate. The prosecution did not present any evidence that complainant exhibited external manifestations of mental retardation. On the other contrary, psychiatrist Dr. Ali Robles testified that complainant could not be conclusively considered a mental retardate because complainant

⁴⁵ *Castillano v. People*, supra note 33.

⁴⁶ *Id.*

⁴⁷ Revised Penal Code, Article 266-B. *Penalty*. - Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

⁴⁸ *People v. Mingming*, 594 Phil. 170, 196-197 (2008).

⁴⁹ *People v. Niebres*, 822 Phil. 68, 77 (2017).

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performed well in her adaptive skills. She further opined that complainant's mental ability can be improved given age-appropriate education. Likewise, psychologist Amelita Lelia Piojo found that while complainant's mental age is eight (8) years old, her adaptive skills level is not of a mental retardate.

In *People v. Niebres*,⁵⁰ the prosecution failed to prove beyond reasonable doubt that the accused was aware of the victim's mental disability at the time he raped her. The Court, thus, convicted him of Simple Rape only and meted the the penalty of *reclusion perpetua* plus civil indemnity, moral damages, and exemplary damages of P75,000.00 each, with interest.

All told, both the trial court and the Court of Appeals correctly convicted appellant of Simple Rape and sentenced him to *reclusion perpetua* in Criminal Case No. 06-63115 and in Criminal Case No. 06-63116. In accord with prevailing jurisprudence, we also sustain the awards of civil indemnity, moral damages and exemplary damages of P75,000.00 each, subject to six percent (6%) annual interest from finality of judgment until fully paid.⁵¹

ACCORDINGLY, the appeal is **DENIED**. The Decision dated July 29, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 01734 is **AFFIRMED**. In Criminal Case No. 06-63115 and Criminal Case No. 06-63116, appellant **Ben Suwalat** is found **GUILTY** of **SIMPLE RAPE** under Article 266-A, paragraph 1 (a), in relation to Article 266-B of the Revised Penal Code, and sentenced to **RECLUSION PERPETUA** in each case.

He is further ordered to **PAY** complainant **CCC** for each count of **SIMPLE RAPE** P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages. All monetary awards are subject to six percent (6%) interest *per annum* from finality of this decision until fully paid.

SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

⁵⁰ *Id.* at 79.

⁵¹ *People v. Nepomuceno, Jr.*, G.R. No. 227092 (Notice), February 5, 2020; *People v. Jugueta*, 783 Phil. 806, 848-849 (2016).

"II. For Simple Rape/Qualified Rape:

x x x

x x x

x x x

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

a. Civil indemnity — P75,000.00

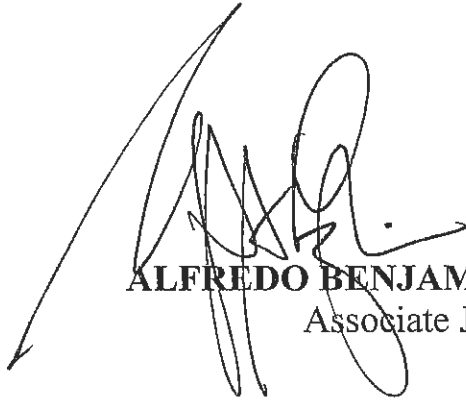
b. Moral damages — P75,000.00

c. Exemplary damages — P75,000.00;

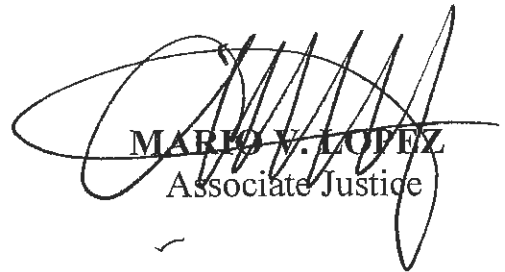
WE CONCUR:



DIOSDADO M. PERALTA
Chief Justice
Chairperson – First Division



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



MARIO V. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VII of the Constitution, 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

