



Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 209584

Present:

- versus -

JUDITO CORITANA and JOHN DOE,
Accused,

PERALTA, J.,
 CAGUIOA,
 CARANDANG,
 ZALAMEDA, and
 GAERLAN, JJ.

JUDITO CORITANA,
Accused-Appellant.

Promulgated:

MAR 03 2021 *withhold*

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DECISION

GAERLAN, J.:

Before this Court is an Appeal¹ filed by accused-appellant Judito Coritana (accused-appellant) from the Decision² of the Court of Appeals (CA) in CA-G.R. CEB CR HC No. 01206 dated July 24, 2013. The assailed Decision dismissed the appeal and affirmed the Decision dated January 17, 2008 of the Regional Trial Court (RTC) of Tacloban City, Branch 6, finding the accused-appellant guilty beyond reasonable doubt of the crime of robbery with rape.

The accused-appellant and one John Doe were charged with the crime of robbery with rape allegedly committed as follows:

That at 5:00 A.M. in the morning of March 2, 2001, at Tacloban City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating and mutually helping each other did then and there, willfully, unlawfully and feloniously by means of violence and intimidation against persons and with intent to gain and without the consent of the owner, take, steal, rob and carry away cash money belonging to [AAA]³ and [REDACTED], to the damage and prejudice

¹ *Rollo*, p. 99.

² *Id.* at 3-15; penned by Associate Justice Ma. Luisa C. Quijano-Padilla, with Associate Justices Ramon Paul L. Hernando (now a Member of this Court) and Carmelita Salandanan-Manahan, concurring.

³ Pursuant to Supreme Court Amended Administrative Circular No. 83-2015, the personal circumstances and other information which tend to establish or compromise the identity of the victim, including the names of her family members or relatives, and the *barangay* and town where the incidents occurred, are withheld. The names of the victim and her family members or relatives are replaced with fictitious initials. Likewise, the real name of the accused-appellant is replaced with fictitious initials by reason of his relationship to the minor victim.

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of the offended party; that by reason and [on the] occasion of the robbery both accused by means of force and intimidation, willfully, unlawfully and feloniously, tie and succeeded in having carnal knowledge of said [AAA].

CONTRARY TO LAW.⁴

The accused-appellant was arraigned on September 4, 2001, and assisted by counsel, entered a plea of not guilty.⁵ Thereafter, trial proceeded only against the accused-appellant as his co-accused remained to be at large and unidentified.⁶

The evidence for the prosecution tend to establish the following facts:

The victim, AAA, is 24 years old, single. She works as a cashier at [REDACTED] (eatery), located at [REDACTED], Tacloban City since March 2001. Her regular work schedule is from 7:00 p.m. to 9:00 a.m. the following day.⁷

At around 5:00 a.m. of March 3, 2001, the victim ordered her co-worker, Teresita Madrigal (Teresita) to go to the market, leaving the former alone to tend to the eatery. Subsequently, two men arrived and ordered two special *La Paz Batchoy*. The victim identified one of the men as the accused-appellant, whom she knew as a resident of the sitio adjacent to the eatery, Sitio Barcelona. The victim is however unfamiliar with the accused-appellant's companion, whom she merely described as an (old man) armed with a short bolo.⁸

While the victim was preparing the *batchoy* near the cashier's booth, the old man approached her, poked a knife at the right side of her waist, and threatened her not to shout if she does not want to get hurt. The accused-appellant closed the main door of the eatery, then proceeded to the drawer and took the ₱1,100.00 therein. The old man directed the victim to go to the bathroom. Cramped inside the bathroom which measures only ½ by 2 meters, the old man took a piece of cloth and tore it into three pieces— using a part to tie the victim's hands behind her back, another to tie the lower part of her ankles, and the last to blindfold her. The old man then ordered the victim to bend over forming an angle of about 80 degrees, with her head almost touching the toilet bowl and her back towards the old man. Then, the old man pulled down her pants and panty, inserted his penis into her vagina, and made pumping motions for about five minutes.⁹

⁴ CA rollo, p. 10.

⁵ Id. at 44.

⁶ Rollo, p. 4.

⁷ CA rollo, p. 44.

⁸ Rollo, p. 5, CA rollo, p. 44.

⁹ Id., id. at 44-45.

Thereafter, the old man called on the accused-appellant, who then lavished the victim in the same way the old man did. All throughout the ordeal, the victim remained silent as she was threatened by the accused-appellant with the use of a knife.¹⁰

The accused-appellant and the old man then left the victim in the comfort room, still tied and blindfolded. On their way out, they took the plastic pail, along with the victim's bag with ₱200.00 inside, and Teresita's bag which contains money in the amount of ₱1,800.00.¹¹

Teresita arrived from the market at around 6:00 a.m. After learning of the incident, the owner of the eatery, accompanied the victim to the Tacloban Police Station where the latter executed her sworn statement. The victim was then brought to the Eastern Visayas Regional and Medical Center (EVRMC) for her to be examined and medically treated.¹²

The victim was examined by Dr. Karen Palencia, Obstetrician-Gynecologist of the EVRMC at around 10:00 a.m. of March 3, 2001. Her findings showed the following injuries sustained by the victim's genitalia:

(+) complete fresh laceration of the hymen at 6'o clock position extending to the posterior fourchette.

(+) complete laceration of the hymen, fresh at 3 o'clock and 6 o'clock position

S/E – cervix pinkish, small, smooth, (+) scanty blood discharge

I/E – cervix firm, closed, nontender on wriggling

U= small

A= no mass tender

D= scanty bloody

A= alleged rape

LABORATORY RESULT:

For UCG Result: Negative for UCG

Vaginal smear for presence of spermatozoa=Positive for spermatozoa.¹³

The police, headed by SPO4 Benigno Santa Romana Liemes, responded to the incident at the morning of the same day. When the police arrived at the scene, they met the victim and her cousin BBB. When questioned, the victim identified the accused-appellant, residing in Brgy. 54, Magallanes District,

¹⁰ Id.

¹¹ Id.

¹² Id., *CA rollo*, p. 45.

¹³ *CA rollo*, pp. 45-46.

Tacloban City as the perpetrator of the crime. Proceeding to the place stated, the police was informed that the accused-appellant was at Sitio Barcelona, Brgy. Aslum, Sta. Rita, Samar.¹⁴

Eventually, on March 10, 2001 at 5:00 a.m., the accused-appellant was arrested and brought to the Tacloban Police Station.¹⁵

To refute the allegations, the defense presented the accused-appellant as witness.

The accused-appellant declared that he works as a pedicab driver plying the route from the Shed area, Pericohon Pampango District and vice versa from 6:00 a.m. to 7:00 p.m. Mondays thru Saturday and half day during Sunday. On March 2, 2001, he was at the house of his brother at Brgy. 54, Magallanes District, Tacloban City. As his usual routine, after taking a bath, he went to the house of one Antonio Cornillos (Cornillos), the owner of the pedicab he was driving. At the end of the day, he goes back to return the pedicab to Cornillos before going home to the house of his brother. Accused-appellant averred that after dinner, he watched T.V., and then went to sleep at around 10:00 p.m. According to the accused-appellant, he followed the same routine on March 3, 2001. The following day, which falls on a Sunday, the accused-appellant went to the house of his parents at Sitio Barcelona, Brgy. Aslum, Sta. Rita, Samar. While therein, he was awakened with the arrival of the police and an unidentified woman. The police told him that the pedicab he was driving was missing. When the accused-appellant declined to go with the police, he was forced to go down the house, was dragged down the road, and then brought to the Tacloban City Police Station.¹⁶

Rose Coritana, the accused-appellant's sister-in-law, corroborated the latter's testimony. She affirmed that the accused-appellant was driving the pedicab from 6:00 a.m. to 7:00 p.m., and was staying at their house from March 1-3, 2001. On March 4, 2001, the accused-appellant went home to Brgy. Aslum at noontime.¹⁷

On January 17, 2008, the RTC of Tacloban City, Branch 6, rendered its Decision,¹⁸ the dispositive portion of which reads:

IN VIEW, of the foregoing, WHEREFORE, the Court finds accused Judito Coritana guilty beyond reasonable doubt with the Special Complex

¹⁴ Id. at 46-47.

¹⁵ Id. at 47.

¹⁶ Id. at 47-48

¹⁷ Id. at 48.

¹⁸ Id. at 35-40.

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Crime of Robbery with Rape, sentencing him to suffer imprisonment of **reclusion perpetua and to pay the victim civil indemnity of Fifty Thousand (P50,000.00) pesos and moral damages of Fifty Thousand (P50,000.00) pesos.**

SO ORDERED.¹⁹ (Emphasis in the original)

Notably, the RTC did not awarded actual damages for the amount taken by the accused-appellant and his companion, the old man. It offered no explanation as to the cash which belongs to the eatery; with respect to that taken from the bags of the victim and Teresita, the RTC opined:

Leaving then the victim at the toilet tied and blindfolded, accused and his companion while on their way out, took the plastic pail, the bag of the victim containing money worth P200.00 and also the bag of Teresita Madrigal containing money worth P1,800.00. This time the accused took the plastic pail, bags and the money of Teresita Madrigal without the employ anymore of violence and intimidation. But absence of force notwithstanding, there was still an offense committed. The offense committed is simple theft. However, the crime of theft, not having been alleged in the information so even if prove [sic], pursuant to the rule, accused cannot be sentenced by the court guilty. For the Court to pronounce judgment, the complaint must contain a specific allegation of every fact and circumstance necessary to constitute the crime charged. There is none alleged in the information of this kind.²⁰

On appeal, the CA affirmed with modification the Decision of the RTC, in its herein assailed Decision,²¹ viz.:

WHEREFORE, in light of the foregoing, the appeal is DENIED. The Decision dated January 17, 2008 of the Regional Trial Court, Branch 6, 8th Judicial Region, Tacloban City, in Criminal Case No. 2001-06-415, is hereby AFFIRMED with the following MODIFICATIONS: As to the civil liability, the accused-appellant is ORDERED to pay complainant [AAA] P75,000.00 as civil indemnity, P75,000.00 as moral damages and P30,000 as exemplary damages, plus interest on all damages awarded at the legal rate of 6% per annum from the date of finality of this Decision.

SO ORDERED.²²

Thus, this appeal.

Both parties manifested that they are no longer filing supplemental briefs considering that they have already exhausted the discussion of the issues in

¹⁹ CA rollo, p. 18.

²⁰ Id. at 16.

²¹ Rollo, pp. 3-15.

²² CA rollo, p. 97.

their respective briefs before the CA, which they manifest to adopt and reiterate in this appeal.²³

Accused-appellant argues that the prosecution failed to positively identify him and to prove concretely his involvement in the commission of the crime of rape. The accused-appellant argues that on the basis of the victim's testimony, as she remained to be tied with her back away from the person who ravished her, it is unlikely that she could have identified the accused-appellant through the latter's voice.²⁴ This is particularly true where in this case, "the prosecution failed to present concrete proof with regard to AAA's familiarity with the voice of accused-appellant, enough to distinguish his voice from the other culprit, and to guarantee that the voice indeed came from the accused-appellant."²⁵ As the evidence for the prosecution is weak, the accused-appellant suggests that the inference which yields to the presumption of innocence prevails.²⁶

The appeal is *not* meritorious.

The crime of robbery with rape is a special complex crime penalized by Article 294 of the Revised Penal Code (RPC), as amended by Section 9 of Republic Act No. 7659. As defined, it requires for its existence the following elements: a) the taking of personal property is committed with violence or intimidation against persons; b) the property taken belongs to another; c) the taking is done with intent to gain or *animus lucrandi*; and d) the robbery is accompanied by rape.²⁷

The crime of rape is deemed complexed with robbery and is treated not as an independent crime when the true intent of the accused is to take with intent to gain the property of another; and rape is committed only as an accompanying crime. It is irrelevant when rape is committed for as long as it is contemporaneous with the commission of robbery, the crimes are merged and integrated into a single and indivisible felony of robbery with rape.²⁸

Herein, the attendant facts clearly establish that the primary objective of the accused-appellant and his companion was to rob the eatery, which they accomplished through violence and intimidation, that is, with the use of a knife to threaten the victim. This is evident from the fact that the first thing the accused-appellant did after closing the door of the eatery, was to proceed to the

²³ *Rollo*, pp. 24-26, 28-29.

²⁴ *CA rollo*, p. 38-40.

²⁵ *Id.* at 40.

²⁶ *Id.*

²⁷ *People v. Romobio*, 820 Phil. 168, 183-184 (2017).

²⁸ *Id.* at 184.

drawer and took the money therein. As aptly put by the trial court, rape herein was a mere afterthought and seemingly, was the initiative of the old man alone.²⁹

Furthermore, contrary to the accused-appellant's submission, his identity was adequately established by the testimony of the victim. This testimony was found credible and trustworthy by both the RTC and the CA, and the Court finds no cogent reason to deviate from the aforesaid findings. A review of the victim's testimony shows certainty as to the identity of the accused as one of the perpetrators of the crime. In fact, immediately after the crime was committed, the victim was able to identify the accused by his name and residence, affirming that she is familiar with him as he would usually attend their barangay's fiesta.

At any rate, whether the accused-appellant sexually assaulted the victim is irrelevant. The accused-appellant may still be convicted of the special complex crime of robbery with rape as conspiracy to commit the crime exists in this case.

Jurisprudence instructs that when two or more persons are charged as co-conspirators in the crime of robbery with rape, it is irrelevant whether one or all of them committed the rape. For as long as conspiracy to rob is proven, all will be treated as principals in the crime of robbery with rape. Succinctly, whenever rape is committed as a consequence, or on the occasion of the robbery, all who took part therein are liable as principals in the special complex crime of robbery with rape, although not all of them took part in the rape. For one to be convicted solely of robbery and not rape, the co-conspirator must prove not only that he himself did not sexually abuse the victim but that he tried to prevent it.³⁰

Consequently, it is irrelevant in this case whether the accused-appellant himself participated in raping the victim. It being indubitably established by the testimony of the victim as well as the result of the medical examination that the victim was raped, it is of no moment who perpetrated the same. The accused-appellant and his companion, acting in conspiracy is equally guilty of the special complex crime of robbery with rape. Absent any allegation, much more proof that the accused-appellant tried to prevent the rape, as a co-conspirator, he should also be held liable as a principal.

As well, in contrast to the conclusion reached by the RTC, the act of taking from the victim and Teresita do not constitute a separate crime of simple

²⁹ CA rollo, p. 16.

³⁰ *People v. Mendoza*, 354 Phil. 177, 192-193 (1998).

theft. Rather, they are but constituent acts which form part of the special complex crime of robbery with rape, as they are borne from one criminal resolution, that is, to rob. The crime of robbery with rape is a continuing crime, thus, although there is a series of acts, there is but one crime committed.³¹ Herein, the accused-appellant and his companion, intended to rob only the eatery; that in the process they likewise took the personal belongings of its employees- that of the victim and Teresita, is only a consequence of their original and single impulse and therefore cannot be taken as separate and distinct offenses.

Now, proceeding with the penalty, under Article 294 of the RPC, as amended, the special complex crime of robbery with rape is penalized by *reclusion perpetua* to death. Pursuant to Article 63 of the same Code, the lesser penalty of *reclusion perpetua* shall be applied when there are no mitigating or aggravating circumstance, as in the case at bar.

With respect to the civil liability, the Court agrees with the RTC that no amount of actual damages may be awarded. Simply, restitution is not supported by the evidence on record.

Foremost, it bears to state that the absence of a specific allegation in the Information as to the amount taken is not an obstacle for the accused-appellant's conviction of the special complex crime of robbery with rape. An information need only state the ultimate facts constituting the offense. It need not state the finer details of why and how the crime was committed.³² The gravamen of the offense of robbery is not the amount or value of the thing taken. Rather, it is the taking with intent to gain of the property of another with the use of violence or intimidation against persons. Moreover, unlike in the case of theft, the penalty for robbery, in general, does not depend upon the value of the thing stolen.³³ Rather than the amount, the law provides for the penalty depending upon the attendance of other circumstances, such as, physical injuries, homicide. Thus, the crime can be proven absent a specific allegation as to value in the Information, especially where what is stolen is money, in which value is implied.³⁴ The prosecution need not prove the actual value of the property stolen or amount stolen from the victim, as the motive for robbery can exist regardless of the exact amount or value involved.³⁵

³¹ Cf. *People v. De Leon*, 608 Phil. 701, 721 (2009).

³² Cf. *People v. Sandiganbayan (Fourth Division), et al.*, 769 Phil. 378, 390-391 (2015).

³³ See *Viray v. People*, 720 Phil. 841, 850-851 (2013), where the Court convicted the petitioner of the crime of Theft despite the absence of an independent and reliable estimate of the amount of the property taken. In determining the penalty, the Court held that it may either fix the value of the property taken based on the attendant circumstances of the case, or impose the minimum penalty under Article 309 of the Revised Penal Code.

³⁴ Cf. *People v. Gavina*, 332 Phil. 488, 493-494 (1996).

³⁵ *People v. De Leon*, supra note 30 at 717.

Nonetheless, while the exact amount need not be stated with specificity in the Information, it is pertinent for the prosecution to prove in the course of trial, that the accused has taken a thing of value belonging to another. This, alongside with proof of motive, are crucial in establishing the existence of *animus lucrandi* or intent to gain, particularly where the evidence is circumstantial.³⁶ However, when unlawful taking is proved, intent to gain is presumed.³⁷

Likewise, the allegation and proof of the value of the thing taken is necessary to justify an award for actual damages.³⁸ As a general rule, a person “is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved.”³⁹ In criminal cases, to warrant the award of actual or compensatory damages, the offended party must present competent proof of the amount of the loss, such as receipts, description, or exchange rate.⁴⁰

In this case, other than the victim’s testimony, there is no other independent and reliable evidence for the Court to determine the value of the money stolen. Thus, the victim is not entitled to reparation.⁴¹

Finally, in accordance with the Court’s ruling in *People v. Jugueta*,⁴² there is a need to modify the award of damages. Considering that the penalty imposable in this case is *reclusion perpetua*, the accused-appellant is liable as well, to pay the victim the amount of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages.

WHEREFORE, in view of the foregoing, the appeal is **DISMISSED**. The Decision dated July 24, 2013 of the Court of Appeals in CA-G.R. CEB CR HC No. 01206 convicting the accused-appellant Judito Coritana of the special complex crime of robbery with rape as defined and penalized under Article 249(1) is hereby **AFFIRMED with MODIFICATION**. Accused-appellant is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. In addition, in accordance with recent jurisprudence,⁴³ he is ordered to pay the private complainant AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. All of which shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.⁴⁴

³⁶ Cf. *Beltran, Jr., et al. v. The Hon. Court of Appeals, et al.*, 662 Phil. 296, 313-314 (2011).

³⁷ *People v. Reyes*, 447 Phil. 668, 676 (2003).

³⁸ *Beltran, Jr., et al. v. The Hon. Court of Appeals, et al.*, supra.

³⁹ CIVIL CODE, Article 2199.

⁴⁰ *Beltran, Jr., et al. v. The Hon. Court of Appeals, et al.*, supra.


⁴¹ *People v. Mejares*, 823 Phil. 459, 474-475 (2018), citing *Viray v. People*, supra note 32 at 855.

⁴² 783 Phil. 806 (2016).


⁴³ Id.

⁴⁴ *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

SO ORDERED.



SAMUEL H. GAERLAN
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Chief Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ROSMARIE D. CARANDANG
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII 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