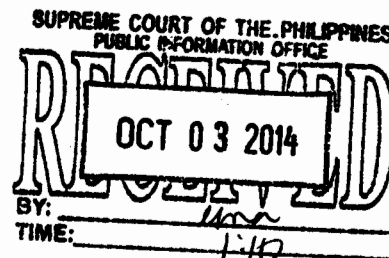




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated August 18, 2014 which reads as follows:

“G.R. No. 188122 – PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. ROLLY M. ALIBO, Accused-Appellant.

The accused seeks the reversal of the decision promulgated on January 13, 2009,¹ whereby the Court of Appeals (CA) affirmed his conviction for rape in a decision rendered by the Regional Trial Court, Branch 61, in Kabankalan City, Negros Occidental (RTC).² The victim was AAA,³ his younger sister. He denied the charges, claiming that he did not know that he had raped his own sister. By such claim, he relied on insanity as his defense.

The Prosecution called as witnesses AAA herself; BBB, AAA’s younger brother; Renie Estaniel (a neighbor of AAA’s family); and Dr. Evangelina Guanco, the examining physician.

According to AAA, she was walking home with BBB on a pathway at around 10 o’clock in the evening of September 12, 2003 when the accused, her older brother, met them, and said to her: *This is now the right time that I would get you because you’re so beautiful.*⁴ Out of fear, she ran towards the house of Nomer, their uncle, but the accused outran and caught up with her at a grassy portion near the pathway. He straddled her body, and punched her in the mouth and stomach. He started kissing her and later

¹ Rollo, pp. 2-16; penned by Executive Justice Antonio L. Villamor (retired), with Associate Justice Florito S. Macalino and Associate Justice Stephen C. Cruz concurring.

² CA rollo, pp. 26-32.

³ Pursuant to Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004, and its implementing rules, the real names of the victims, as well as those of their immediate family or household members, are withheld and fictitious initial instead are used to represent them, to protect their privacy. See *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, 422.

⁴ CA rollo, p. 28.

on inserted his finger in her vagina. He mounted her and succeeded in having sexual intercourse with her. After raping her, he uttered: *Thanks God... it's really tasty to have a virgin.*⁵ He then ordered BBB to run home while he carried AAA on his shoulders. He dropped her to ground before reaching their house.

BBB corroborated the testimony of AAA in its material parts.

Estaniel remembered that BBB hurriedly went to his house gasping for breath, and reported that her sister had been raped.⁶ He rushed to the scene with BBB, and saw the accused there with no underwear, with his penis and body showing bloodstains, carrying AAA whose face and breasts were swollen.⁷

Dr. Guanco conducted the physical examination on AAA. Her findings included the following, to wit: (1) abrasion and lacerated wounds on her upper and lower lips, with inner aspect infected; (2) multiple abrasions on the forehead and left side of the face; (3) swelling with ecchymosis on both jaws and the neck; (4) pain and tenderness on her anterior chest wall; (5) fresh hymenal lacerations with bleeding at 3:00 o'clock and 7:00 o'clock positions; (6) her vagina admitted one finger with pain; and (7) vaginal smear to demonstrate dead spermatozoa was not done due to severe pain upon attempt to insert vaginal speculum. Dr. Guanco opined that AAA had suffered sexual violence.⁸

In contrast, the accused – the sole witness for the Defense – denied knowing what he had done. He insisted that he loved AAA as his sister; that he could not explain why AAA had charged him with rape; that he could not remember where he had been in the morning of September 12, 2003, but could only recall the time when he realized that he was already in jail; that he did not know the cause for his incarceration, but soon learned from his co-detainees that he had been charged with rape; and that he wanted to be released because it was shameful for him to be charged with raping his own sister.⁹

As mentioned, the RTC convicted the accused of rape as charged through the decision rendered on September 23, 2004, viz:

⁵ Id.

⁶ Id. at 29.

⁷ Id.

⁸ Id. at 30.

⁹ Id. at 27-28.

It is indeed abundantly clear that the accused raped the victim by means of force and violence and taking advantage of his being her elder brother. It is another loathsome example of a man's lechery so depraved, it exposes him to be nothing more than a ravenous beast masquerading as a man. The sexual violence inflicted upon the victim is particularly appalling outrage.

WHEREFORE, the Court finds accused Rolly M. Alibo guilty beyond reasonable doubt of the crime of rape as charged and hereby sentences him to a penalty of imprisonment of reclusion perpetua and to pay the victim ₱50,000.00 by way of indemnity and the costs.

It is ordered that accused be immediately remitted to the National Penitentiary.

SO ORDERED.¹⁰

On appeal, the CA promulgated its decision on January 13, 2009 affirming the conviction, with modification of the civil liability,¹¹ to wit:

Accordingly, Moral damages and exemplary damages must be awarded. Moral damages in the amount of ₱50,000.00 is automatically awarded in rape cases without need of proof. Exemplary damages in the amount of ₱25,000.00 as part of civil liability is also proper since the crime was committed with one aggravating circumstance.

WHEREFORE, premises considered, the Decision of the Regional Trial Court, 6th Judicial Region, Branch 61, Kabankalan City, finding appellant Rolly M. Alibo guilty beyond reasonable doubt of the crime of RAPE and sentencing him to Reclusion Perpetua and to pay the victim ₱50,000.00 by way of indemnity and costs, is **AFFIRMED with MODIFICATION** in that, in addition appellant is likewise ordered to pay ₱50,000.00 as moral damages, and ₱25,000.00 as exemplary damages.

SO ORDERED.

Hence, this appeal, with the accused still protesting his innocence, and denying awareness of committing the rape against his own sister.

We affirm the decision of the CA subject to the further modification of the civil liabilities.

First of all, his insanity at the time of the commission of the rape was the ostensible defense of the accused. The exempting circumstance of insanity is governed by Article 12(1) of the *Revised Penal Code*, viz:

¹⁰ Id. at 31-32.

¹¹ Supra note 1.

Article 12. *Circumstances which exempt from criminal liability.*
— the following are exempt from criminal liability:

1. An imbecile or an insane person, unless the latter has acted during a lucid interval.

X X X X

Insanity as an exempting circumstance is discussed in *People v. Austria*¹² in the following manner:

For a person to be adjudged insane under Art. 12 of the *Revised Penal Code*, he must be deprived completely of reason or discernment and freedom of the will at the time of committing the crime.¹³

On various occasions, this Court has also declared that “**insanity exists when there is complete deprivation of intelligence in committing the act, that is, the accused is deprived of reason, he acts without the least discernment because there is complete absence of the power to discern, or that there is total deprivation of freedom of the will. Mere abnormality of the mental faculties will not exclude imputability.**”¹⁴
(Emphasis supplied)

Insanity presupposes, therefore, that the accused was completely deprived of reason or discernment and freedom of will at the time of the commission of the crime.¹⁵ Being that the law presumed every person to be sane,¹⁶ it becomes the burden of the accused who pleads insanity to overcome the presumption of sanity before he could be entitled to the exempting circumstance.

Given the legal presumption, the accused ought to have known all along that his mere insistence on having no recollection of his crime, or having no motive to commit the rape against his own sister would not be enough. Yet, he did not at all try to credibly establish his mental condition at the time of the commission of the crime, like submitting a psychiatric evaluation report, or presenting an expert witness on his supposed mental condition. Clearly, he did not discharge his burden of proof, warranting the rejection of his insanity defense.

¹² G.R. Nos. 111517-19, July 31, 1996, 260 SCRA 106, 115.

¹³ Id., citing *People v. Formigones*, 87 Phil. 658, 660 (1950).

¹⁴ Id., citing *People v. Ambal*, G.R. No. 52688, October 17, 1980, 100 SCRA 325, 339; *People v. Renegado*, No. L-27031, May 31, 1974, 57 SCRA 275, 286; *People v. Cruz*, 109 Phil. 288 (1960).

¹⁵ *People v. Tibon*, G.R. No. 188320, June 29, 2010, 622 SCRA 510, 519; *People v. Legaspi*, G.R. No. 136164-65, April 20, 2001, 357 SCRA 234, 243; *People v. Cañeta*, G.R. No. 110855-56, June 28, 1999, 309 SCRA 199, 207-208; *People v. Danao*, G.R. No. 96832, November 19, 1992, 215 SCRA 795, 801.

¹⁶ Article 800, *Civil Code*; *People v. Condino*, G.R. No. 130945, November 19, 2001, 369 SCRA 325, 332; *People v. Mengote*, G.R. No. 130491, March 25, 1999, 305 SCRA 380, 389; *People v. Tabugoca*, G.R. No. 125334, January 28, 1998, 285 SCRA 312, 324.

The un rebutted presumption of sanity was not the only reason for rejecting the accused's defense. More than that, the State established beyond all reasonable doubt that he had raped AAA with the fullest discernment of the gross nature of his evil deed. Several circumstances manifesting his discernment existed in the records, the following among them, to wit: (1) he chased AAA in order to seize her; (2) as a manifestation of his lust towards her, he uttered: *This is now the right time that I would get you because you're beautiful*; (3) after gratifying his lust off her, he remarked: *Thanks God... it's really tasty to have a virgin*; (4) he ordered BBB to run home; and (5) he carried AAA on his shoulders and dropped her to the ground before reaching their house. His voluntary utterances and acts demonstrated the possession of his cognitive faculties and his awareness of the consequences of his crime.

Anent the civil liability of the accused, the CA correctly added moral damages of ₱50,000.00 and exemplary damages of ₱30,000.00 to the civil indemnity of ₱50,000.00. Civil indemnity and moral damages were distinct and separate liabilities of the offender under the law. The former was in the nature of actual damages to indemnify AAA as the victim of the rape for the actual sufferings she endured during the commission of the crime. The latter were the means of assuaging her moral sufferings, and were designed to restore her to her moral *status quo ante*. The fact alone of the commission of the rapes sufficed to establish her entitlement to both awards even without allegation and proof. She was further entitled to recover exemplary damages because of the attendance of the aggravating circumstance of relationship within the third civil degree. Under Article 2230 of the *Civil Code*, exemplary damages are granted to the victim in crimes when at least one aggravating circumstance was attendant, regardless of whether the aggravating circumstance was attendant, qualifying or generic.¹⁷

Finally, the Court imposes legal interest of 6% *per annum* on each of the amounts of the civil liabilities, reckoned from the finality of this judgment until full payment.¹⁸

WHEREFORE, the Court **AFFIRMS** the decision promulgated by the Court of Appeals on January 13, 2009, subject to the **MODIFICATION** that the civil liabilities shall consist in ₱50,000.00 as

¹⁷ *People v. Catubig*, G.R. No. 137842, August 23, 2001, 363 SCRA 621, 635.

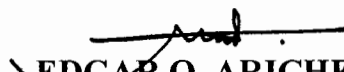
¹⁸ *Sison v. People*, G.R. No. 187229, February 22, 2012, 666 SCRA 645, 667.

civil indemnity; ₱50,000.00 as moral damages; and ₱30,000.00 as exemplary damages, plus legal interest of 6% *per annum* on each item of civil liability from the date of finality of this judgment until fully paid.

The accused shall pay the costs of suit.

SO ORDERED.” VILLARAMA, JR, J., on leave; **PERALTA, J.**, acting member per S.O. No. 1750 dated August 11, 2014.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court *pk alen*
88

The Solicitor General (x)
Makati City

Court of Appeals
6000 Cebu City
(CA-G.R. CEB CR-HC No. 00051)

The Director
Bureau of Corrections
1770 Muntinlupa City

The Hon. Presiding Judge
Regional Trial Court, Br. 61
6111 Kabankalan City, Negros
Occidental
(Crim. Case No. 2003-3293)

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M.
No. 12-7-1-SC)

PUBLIC ATTORNEY’S OFFICE
Counsel for Accused-Appellant
Regional Special and Appealed
Cases Unit
Hall of Justice
6000 Cebu City

Judgment Division (x)
Supreme Court

Mr. Rolly M. Alibo
Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

SR

