



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **October 8, 2014**, which reads as follows:*

“G.R. No. 194291 – PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. EDGAR BATANG-AY, Accused-Appellant.

The accused appeals by notice of appeal the decision promulgated on May 20, 2010,¹ whereby the Court of Appeals (CA) affirmed his conviction for rape of AAA,² allegedly his niece, handed down by the Regional Trial Court (RTC), Branch 25, in Tabuk, Kalinga.³

Antecedents

On January 16, 2006, the Office of the Provincial Prosecutor of Kalinga filed the following information in the RTC to charge the accused with rape, to wit:

That on or about January 11, 2006 at Nambaran, Tabuk, Kalinga and within the jurisdiction of this Honorable Court, the accused, did then and there willfully, unlawfully and feloniously and by means of force and intimidation have carnal knowledge of a certain fourteen-year old minor AAA against her will. The crime is further aggravated by the relationship

¹ *Rollo*, pp. 2-16; penned by Associate Justice Sesinando E. Villon, with Associate Justice Isaias P. Diccican and Associate Justice Amy C. Lazaro-Javier concurring.

² Pursuant to Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004), and its implementing rules, the real names of the victim and her immediate family or household members are withheld, and instead fictitious names or initials are used to represent them, to protect their privacy. See *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

³ *CA rollo*, pp. 73-81.

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of the accused and victim, the accused being the uncle of said victim

CONTRARY TO LAW.⁴

The CA summed up the versions of the parties in its assailed decision, as follows:

On January 11, 2006 at around 2:00 or 3:00 o'clock in the afternoon, AAA went to her uncle's house, herein appellant, to get some water to drink. After drinking, AAA was about to leave the house when appellant grabbed her by the hand, pulled her inside the house, carried her towards the bedroom and laid her on the bed. Appellant began removing AAA's maong pants, long t-shirt and underwear. Afterwards, he undressed himself, moved the bed to block the door and turned on the radio at full volume. He then pulled out a *bolo* and pointed the same on AAA's neck. He mounted AAA and started kissing and touching her all over her body.

AAA tried to fight off appellant's advances but her resistance was no match to appellant's strength as he poked his *bolo* at her neck. Appellant succeeded in sexually molesting AAA who inserted his penis into her vagina.

In the meantime, BBB, AAA's father, was on his way home when he passed by appellant's house and heard the sound of a radio at full volume. From the slit between the boards of the wall, he saw appellant lying on top of his daughter AAA. BBB forcibly pushed open the door of appellant's room. When he entered the room, appellant was already putting on his pants while his daughter suddenly ran away. BBB ran after AAA and kept calling her name but AAA did not heed his call. When BBB noticed that AAA was running towards the house of her other uncle, CCC, about five hundred (500) meters away, BBB stopped his pursuit and decided to go home and relayed the incident to his wife DDD.

When AAA arrived at CCC's house, two persons, namely EEE and FFF were there. She did not say anything to them but she instructed them not to tell anybody that she was there.

Around 8:00 o'clock in the evening of that fateful day, AAA's mother DDD arrived at their house from the fields. She was immediately met by her husband BBB who related what he saw at appellant's house. BBB likewise told DDD that their daughter ran towards CCC's house. DDD lost no time and hurriedly went to see her daughter. Upon arriving at CCC's house, she was met by AAA. Soon, the latter disclosed how she was raped by appellant.

On January 13, 2006, DDD together with AAA went to the Bulanao Police Station and reported the rape incident. She also executed a sworn statement in relation to her complaint. On the same day, AAA was brought to the Municipal Health Office where she was physically examined by Dr. Henrietta Bagayao. Dr. Bagayao reduced her findings

⁴ Records, p. 1.

into writing and concluded that there were no evident signs of extragenital physical injury on the body of the victim at the time of the examination and she found the presence of "healed hymenal lacerations with non-coaptible borders." Dr. Bagayao explained that the hymen was already lacerated at the time of the examination, i.e., there was already a tear on the victim's hymen. Dr. Bagayao likewise pointed out that the laceration found on the victim's hymen might have been inflicted more than a month earlier. However, the doctor explained that it is also possible that penetration of the vagina occurred three (3) days before the actual examination even if there was no sign of physical laceration on the hymen.

Professing innocence, appellant testified that on January 11, 2006, between 1:00 o'clock and 3:00 o'clock in the afternoon, he was at their house watching over his daughter as she was going to sleep. At that time, he was listening to a radio drama program while in a lying position beside his daughter. Thereafter, AAA entered the house, drank water and sat beside his child. She used to baby sit his children.

At around 3:00 o'clock in the afternoon, BBB called for AAA at appellant's house. BBB stayed inside his house for a while and saw him lying and embracing his daughter while AAA was seating and listening to a radio drama program. Thereafter, BBB went outside of the house followed by his daughter AAA.

On January 13, 2006, at about 12:00 o'clock noon, the police officers arrested appellant. He was told by the police officers that he was the suspect in the complaint for rape filed by AAA. He denied the accusation. While at the police station, appellant heard AAA's mother DDD telling the police officers that he ran after AAA with a *bolo*. He alleged that AAA's parents just made up the story of rape because they were so mad at him and they wanted him and his live-in partner GGG, sister of DDD, to separate considering that GGG was the one giving educational support to HHH, brother of GGG and DDD.⁵

On July 31, 2007, the RTC rendered its judgment convicting the accused of rape, decreeing:

WHEREFORE, in the light of the foregoing, judgment is hereby rendered finding the accused Edgar Batang-ay guilty beyond reasonable doubt of the crime of Rape under Article 335 of the Revised Penal Code, sentencing him to suffer the penalty of Reclusion Perpetua and to indemnify the victim AAA in the amount of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages.

SO ORDERED.⁶

On appeal, the accused sought the review and reversal of the conviction because:

⁵ Supra note 1, at 3-6.

⁶ CA *rollo*, p. 81.

THE COURT *A QUO* GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.⁷

On May 20, 2010,⁸ the CA rendered its assailed judgment finding the appeal to be bereft of merit, and affirmed the decision of the RTC.

Issues

The accused is now before the Court arguing that the CA erred in affirming his conviction by the RTC. He insists that the decision was contrary to the facts, the law and the applicable jurisprudence.

Ruling

The appeal has no merit.

To start with, both the RTC and the CA rightly rejected the accused's denial of raping AAA in the face of her positive testimony incriminating him for the rape. Denial, the usual refuge of the guilty, is an inherently weak defense, and must be corroborated by persuasive evidence of non-culpability for it to merit credence.⁹ Without corroboration, it is nothing but self-serving negative evidence that should not be accorded greater evidentiary weight than the declarations of credible witnesses who testify on affirmative matters.¹⁰

Secondly, the accused attacked the credibility of the State's witnesses by pointing to the weaknesses of their evidence against him, to wit: (1) the physical impossibility for him to do multiple acts simultaneously, like pointing the bolo at AAA's neck, pushing the bed to block the door, and undressing himself; (2) her stating that the rape had been consummated in a few minutes, but still claiming that the kissing and actual penetration had occurred in one hour; (3) her claiming that the accused had been already dressed up when her father had called to her, but her father contradicted her by saying that the accused was then still putting his pants on; (4) her failure to immediately report the rape, and her seeking refuge in her uncle's house, which were contrary to human behaviour and experience; (5) her father's explanation of his inaction as due to his fear of the accused despite having witnessed the accused on top of his own daughter was improbable; (6) the findings by the medical officer on the absence of any signs of violence in

⁷ Id. at 63.

⁸ Supra note 1.

⁹ *People v. Asilan*, G.R. No. 188322, April 11, 2012, 669 SCRA 405, 419.

¹⁰ *People v. Pansacala*, G.R. No. 194255, June 13, 2012, 672 SCRA 549, 559.

AAA's pubic region; and (7) BBB's harboring of ill feelings towards the accused to the extent that he wanted him put behind bars.¹¹

However, the weaknesses were not enough to destroy the credibility of the State's evidence against the accused. For one, it was not unnatural to find minor discrepancies in the testimony of the rape victim because she was not expected to remember every minute detail of her ordeal.¹² Moreover, inconsistencies upon minor or collateral matters did not adversely affect the substance of the witness' declaration, veracity, or weight of testimony.¹³

Thirdly, the accused contended that the actions of AAA of running away and seeking refuge in the house of another relative, and refusing to go home for several days until her mother herself had fetched her there, and her father's doing nothing despite seeing the accused on top of his daughter were contrary to ordinary human experience. But such actions were of no moment. As the Court has properly observed,¹⁴ different people react differently to a given situation involving a startling occurrence. Hence, not everyone could be expected to act in a manner that conformed to ordinary human experience especially when subjected to harrowing events like rape. Indeed, people react differently and uniquely in extraordinary circumstances.

Fourthly, the accused imputed ill motive to the parents and other relatives of AAA by claiming that they had him charged with her rape because they had wanted him and his wife GGG to separate. The imputation was rightfully disregarded by the Court. Unless substantiated and corroborated by trustworthy evidence, the imputation of ill-motive is nothing but a desperate attempt to inject reasonable doubt. Besides, the CA correctly pointed out that it would be unnatural for any parent to use her child as an instrument of malice if the child would thereby be subjected to embarrassment or stigma.¹⁵

It has also not escaped the Court's attention that although the rape charged had been committed in 2006, the RTC stated in its decision, as follows:

The penalty for rape under article 335 of the Revised Penal Code is death after considering that the victim is a minor 14 years old and the offender is an uncle, within the third civil degree. But pursuant to Republic Act No. 9346 which ended the imposition of the death penalty in the Philippines, the penalty for rape is Reclusion Perpetua.¹⁶

¹¹ *Rollo*, p. 7.

¹² *People v. Alcoreza*, G.R. Nos. 135452-53, October 5, 2001, 366 SCRA 655, 664.

¹³ *People v. Castro*, G.R. No. 172370, October 6, 2008, 567 SCRA 586, 595.

¹⁴ *People v. Gonzales*, G.R. No. 141599, June 29, 2004, 433 SCRA 102, 115.

¹⁵ *Rollo*, p. 15.

¹⁶ *Supra* note 3, at 80.

The RTC's citation of Article 335 of the *Revised Penal Code* as the applicable provision was mistaken. Article 335 was repealed by Republic Act No. 8353 (*Anti-Rape of Law of 1997*) effective on October 22, 1997. On its part, the CA uncharacteristically overlooked the mistake of the RTC, and, worse, even affirmed it. It then becomes our duty and responsibility to rectify the mistake. To do so, we clarify that the applicable law on rape was found in Article 266-A and Article 266-B of the *Revised Penal Code*, to wit:

Article 266-A. *Rape; When And How Committed.* - Rape is committed –

1) By a man who have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat or intimidation;

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.

x x x x

Article 266-B. *Penalties.* - Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.

When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be *reclusion perpetua* to death.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be *reclusion perpetua* to death.

When the rape is attempted and a homicide is committed by reason or on the occasion thereof, the penalty shall be *reclusion perpetua* to death.

When by reason or on the occasion of the rape, homicide is committed, the penalty shall be death.

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;

x x x x

The mistake and oversight of the lower courts notwithstanding, the accused was properly convicted of simple rape, and *reclusion perpetua* was the correct penalty. The victim's minority under 18 years and her relationship by affinity with the accused within the third civil degree were required to be specifically alleged in the information.¹⁷ Although the information herein averred that AAA was a minor of 14 years at the time of the commission of the rape, and the State duly established such minority through her birth certificate that indicated her being born in 1991, it did not specify the degree of her relationship with him in the information. Stating that he was her uncle was not enough.¹⁸ The omission of the degree of the relationship rendered the allegation of his being her uncle insufficient to qualify the rape as to raise the penalty to death.¹⁹

As to the civil liability of the accused, the CA and the RTC awarded civil indemnity and moral damages each in the amount of ₱75,000.00. The awards accorded with current jurisprudence.²⁰ However, the exemplary damages are raised from ₱25,000.00 to ₱30,000.00.²¹ In that regard, Article 2230 of the *Civil Code* authorizes the grant of exemplary damages if at least one aggravating circumstance attended the commission of the crime. Although minority and relationship were not to be regarded as qualifying circumstances to raise the criminal penalty, they should still justify the granting of exemplary damages because their attendance in the commission of the rape was established during the trial.²² Finally, the accused should pay interest of 6% *per annum* imposed on all the damages awarded from the date of finality of this judgment until fully paid.

WHEREFORE, the Court **AFFIRMS** the decision of the Court of Appeals promulgated on May 20, 2010, subject to the **MODIFICATIONS** that: (a) the accused is guilty of rape as defined and penalized in Article 266-A, in conjunction with Article 266-B, both of the *Revised Penal Code*, as amended; and, accordingly, he shall suffer *reclusion perpetua*; (b) he shall pay to AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages, plus interest of

¹⁷ See *People v. Valez*, G.R. No. 136738, 354 SCRA 225.

¹⁸ *People v. Velasquez*, G.R. No. 142561-62, February 15, 2002, 377 SCRA 214, 221.

¹⁹ *People v. Estrada*, G.R. No. 178318, January 15, 2010, 610 SCRA 222, 234.

²⁰ See *People v. Bacatan*, G.R. No. 203315, September 18, 2013, 706 SCRA 170; *People v. Monticalvo*, G.R. No. 193507, January 30, 2013, 689 SCRA 715; and *People v. Cabungan*, G.R. No. 189355, January 23, 2013, 689 SCRA 236.

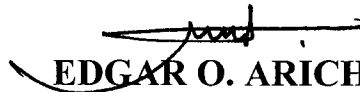
²¹ *People v. Tejero*, G.R. No. 187744, June 20, 2012, 674 SCRA 244, 260.

²² *People v. Catupbig*, G.R. No. 137842, August 23, 2001, 363 SCRA 621, 635.

six percent (6%) *per annum* on all such damages reckoned from the date of finality of this judgment until fully paid; and (c) he shall further pay the costs of suit.

SO ORDERED.”

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court *off 10/8/14*
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The Solicitor General (x)
Makati City

Hon. Presiding Judge
Regional Trial Court, Br. 25
Bulanao, Tabuk
3800 Kalinga
(Crim. Case No. 3-2006)

PUBLIC ATTORNEY’S OFFICE
Counsel for Accused-Appellant
5/F DOJ Agencies Building
NIA Road cor. East Avenue
Diliman, 1104 Quezon City

Court of Appeals (x)
Manila
(CA-G.R. CR H.C. No. 03069)

The Director
Bureau of Corrections
1770 Muntinlupa City

Mr. Edgar Batang-Ay
Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

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