



Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE

RECEIVED
 AUG 19 2015
 BY: *[Signature]*
 TIME: *9:11:30*

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 29, 2015 which reads as follows:

“G.R. No. 190615(People of the Philippines, Plaintiff-Appellee, v. Edgar Dumagsa y Baclohan, Accused-Appellant). - For review is the conviction of accused-appellant Edgar Dumagsa y Baclohan (Dumagsa) finding him guilty beyond reasonable doubt of the crime of rape, as defined in Article 266-A and penalized under Article 266-B of the Revised Penal Code (RPC), as amended, of AAA.¹ In CA-G.R. CR.-H.C. No. 03292, the Court of Appeals² affirmed the Decision of the Regional Trial Court (RTC) of the National Capital Judicial Region, Branch 47-Manila, in Criminal Case No. 05-239318.³

The Information

That on or about August 25, 2005, in the City of Manila, Philippines, the said accused, conspiring and confederating with others whose true names, real identities and present whereabouts are still unknown and helping one another, did then and there willfully, unlawfully and feloniously[,] with lewd design and by means of force, violence, and intimidation[,] have carnal knowledge with said AAA, by then and there suddenly entering her rented room, holding her by the neck while pointing a kitchen knife at her and dragging her out of her room, then loading her in a waiting passenger jeep and bringing her in a room, where she was forced to sniff shabu at knifepoint, then forcing her to undress and thereafter inserting their penis, one after the other, into her vagina, against her will and consent.

Contrary to law.⁴

¹ Pursuant to Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act and its Implementing Rules, Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act of 2004 and its Implementing Rules, and Supreme Court Resolution dated 19 October 2004 in A.M. No. 04-10-11-SC or the Rule on Violence Against Women and Their Children.

² Penned by Associate Justice Andres B. Reyes, Jr., with Associate Justices Vicente S.E. Veloso and Marlene Gonzales-Sison concurring; *rollo*, pp. 2-18.

³ Penned by Presiding Judge Augusto T. Gutierrez; *CA rollo*, pp. 14-24.

⁴ *Id.* at 9. (Emphasis supplied.)

Upon arraignment, Dumagsa pleaded not guilty to the crime charged. Thereafter, trial on the merits ensued.

The Prosecution's Evidence

The prosecution presented AAA as its sole witness as the testimony of Dr. Arleyn Cuaresma,⁵ the physician who conducted the medical examination on AAA, was dispensed with upon stipulation on the medical examination which concluded that AAA was sexually abused.


On 25 August 2005, at around 2:00 a.m., while sleeping in her rented room, one Jun alias "Undo," AAA's former live-in partner, arrived and invited her to go with him to show her a house. Because AAA refused, Jun angrily poked a knife at her neck and forcibly took her to a passenger jeep parked outside her room, where two of Jun's unnamed companions were already waiting for them. They stopped at Chesa Radial Road 10, a compound located at Pier 14, North Harbor, Manila, and went inside a "*barong-barong*" (houses made of light materials built on top of each other or "*patong-patong*").

They went to a room on the third floor of the *barong-barong*, where a person, who was later identified as Dumagsa, was already waiting inside. Inside the room, AAA was told to sit down in a corner and they were later joined by Jun's cousin. Thereafter, Jun opened a pack of *shabu* and the group had a *shabu* session. Jun and his two companions left, leaving Dumagsa and AAA alone in the room. Dumagsa then removed his clothes and told AAA to do the same. Despite her refusal, she later acceded to Dumagsa's threats, afraid that Dumagsa would harm her using the knife lying on the floor. Dumagsa then inserted his penis into her vagina and after some push and pull movements, he ejaculated. Dumagsa then went out of the room.

After Dumagsa left, Jun went inside and took his turn in raping AAA. After inserting his penis inside her vagina, Jun asked AAA to lick his penis. AAA at first refused, but due to her fear, she later succumbed to Jun's demands. Not satisfied, Jun tried inserting his penis inside her anus. Due to several failed attempts, Jun inserted his penis back into her vagina and after some push and pull movements, he ejaculated and left the room.

- over -

⁵ RTC Decision; id. at 15.



After Jun left, Jun's cousin, whose name is still unknown, went inside the room and removed his shorts. AAA then pleaded, "*tama na kuya*." While AAA was still lying on the floor, Jun's cousin embraced her, separated her legs, and then inserted his penis into her vagina. After a while, he pulled it out and asked her to lick his penis. After complying, Jun's cousin again inserted his penis into her vagina and after some push and pull movements, he ejaculated. Unsatisfied, Jun's cousin raped AAA four more times, and finally, he went out of the room.

While holding her clothes, preparing to escape, Jun's other companion went inside the room. He took her clothes from her hands and threw them away. He then removed his shorts and inserted his penis into AAA's vagina. During this time, AAA complained of pain in her vagina because it was already swollen. But the man continued to rape her. It was already around 5:00 a.m. when the man finished. As it was no longer dark, and Jun, together with his companions, was already gone, AAA was finally able to escape.

AAA went home and then proceeded to the house of her cousin who accompanied her to Police Precinct No. 1 in Tondo, Manila to report her harrowing experience. She was also medically examined at the Philippine General Hospital.

The Defense's Evidence

Dumagsa denied AAA's accusations. According to Dumagsa, he could not have raped AAA because besides not knowing her, he was not at the place of the incident as he was driving his *pedicab* at the time of the crime. In detail, Dumagsa alleged that as a *pedicab* driver, his driving hours were from 8:00 p.m. to 6:00 a.m. Dumagsa faulted the prosecution's evidence on the ground that because the arresting officers failed to find Jun, the real perpetrator of the crime, the arresting officers merely induced AAA to name him as one of the perpetrators.

Ruling of the RTC

After trial, the RTC found Dumagsa guilty of the crime of rape. The dispositive portion of the RTC Decision reads:

- over -

WHEREFORE, premises considered, this Court finds the accused Edgar Dumagsa y Baclohan guilty beyond reasonable doubt of the crime of Rape defined under Article 266-A and penalized under Article 266-B of the Revised Penal Code, as amended, and imposes upon him the penalty of RECLUSION PERPETUA with accessory penalties provided by law; to indemnify the private complainant AAA the sum of ₱50,000.00; to pay the said AAA the sum of ₱75,000.00 as moral damages, and to pay the costs.

SO ORDERED.⁶

Dumagsa insisted that he was merely framed-up as his identity was not even known to AAA. According to Dumagsa, AAA's allegation must be dismissed because based on AAA's testimony, she never resisted from the alleged sexual assault against her. AAA's testimony was inconsistent on the "use of violence, threat, force or intimidation"⁷ due to AAA's unusual reaction. Dumagsa pointed out that AAA never offered to resist rape, and she failed to escape and seek for help despite the fact that she could easily make a scene in a densely populated place.

Ruling of the Court of Appeals

On appeal, the Court of Appeals affirmed the Decision of the RTC and found Dumagsa guilty. Finding no cogent reason to depart from the findings of the RTC, the Court of Appeals affirmed that AAA's credibility as a witness remains. In the words of the Court Appeals, "not only did AAA positively and categorically assert that herein accused-appellant ravished her, which assertion cannot be simply overthrown by the accused-appellant's mere denial and alibi, but her testimony was, in fact, distinctively clear, frank and definite without any pretention or hint of a concocted story, contrary to what the accused-appellant claims."⁸

Our Ruling

We affirm Dumagsa's conviction.

The prosecution has duly established the presence of the following elements of the crime of rape, as provided under Article 266-A of the RPC:

1. the accused had carnal knowledge of the victim; and

- over -

⁶ Id. at 24.

⁷ CA Decision; *rollo*, p. 8.

⁸ Id. at 15.

2. said act was accomplished (a) **through the use of force or intimidation**, (b) when the victim is deprived of reason or otherwise unconscious, or (c) when the victim is under 12 years of age or is demented.

AAA positively identified Dumagsa as one of the persons who had sexual intercourse with her through the use of force and intimidation.

Reiterating the words of the Court of Appeals, “[j]urisprudence has it that when a woman says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed. For a woman would think twice before she concocts a story of rape that could sully her reputation and bring undue embarrassment and shame to herself and expose her family to all sorts of public aspersions if it is not the truth.”⁹ In the case at bar, knowing the social stigma she may face, AAA revealed her harrowing experience to the public.

Further, Dumagsa’s alibi that he could not have committed the crime because he was driving his *pedicab* somewhere else must fail. As correctly held by the Court of Appeals, for his alibi to merit credence, in addition to the fact that he must prove that he was not at the scene of the crime, he must prove that it was physically impossible for him to be present at the crime scene or its immediate vicinity at the time of the commission of the crime. Clearly, Dumagsa failed to prove such fact.

With regard to Dumagsa’s claim that AAA’s failure to show any resistance to defend her honor and virtue belies his guilt, we affirm the Court of Appeals’ finding. The Court of Appeals, citing *People v. Umayam*,¹⁰ succinctly described the unpredictability of human reactions, “‘the workings of a human mind placed under emotional stress are unpredictable and people react differently – some may shout, some may faint, and some may be shocked into insensibility while others may openly welcome the intrusion.’ Yet, it can never be argued that the ones who apparently welcome it are sexual victims any less than the others.”¹¹


Hence, neither AAA’s resistance to defend her honor and virtue or the lack thereof, nor the fact that the rape was committed in a densely populated place belies the fact of Dumagsa’s criminal act of raping AAA,

- over -

⁹ Id. at 15-16.

¹⁰ 450 Phil. 543 (2003).

¹¹ Id. at 564.



July 29, 2015

as duly proven by the prosecution. "Rape has been committed in places where people congregate, in parks, along roadsides, in school premises, in a house where there are other occupants, and even in places which to many would appear unlikely and high-risk venues for its commission."¹²

WHEREFORE, the Decision of the Court of Appeals promulgated on 28 August 2009 in CA-G.R. CR.-H.C. No. 03292, finding accused-appellant Edgar Dumagsa y Baclohan guilty beyond reasonable doubt of rape, is **AFFIRMED** with modifications as to the amount of award of damages.


Accused-appellant Edgar Dumagsa y Baclohan is ordered to pay AAA the following amounts:

1. ₱50,000.00 as civil indemnity;
2. ₱50,000.00 as moral damages; and
3. ₱30,000.00 as exemplary damages.

All monetary awards shall earn interest at the rate of 6% per annum from the date of finality until fully paid.

SO ORDERED." **SERENO, C.J.**, on official leave; **PERALTA, J.**, acting member per S.O. No. 2103 dated July 13, 2015.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court
6284

The Solicitor General (x)
Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR H.C. No. 03292)

The Hon. Presiding Judge
Regional Trial Court, Br. 47
1000 Manila
(Crim. Case No. 05-239318)

- over -

¹² CA Decision (*rolló*, p. 17), citing *People v. Agbayani*, 348 Phil. 341, 365 (1998).

PUBLIC ATTORNEY'S OFFICE
Counsel for Accused-Appellant
DOJ Agencies Bldg.
Diliman 1128 Quezon City

Mr. Edgar B. Dumagsa
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

The Director General
Bureau of Corrections
1770 Muntinlupa City

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

Judgment Division (x)
Supreme Court

284

SR

file