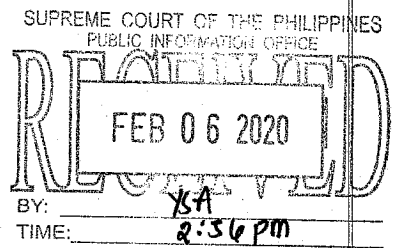


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Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **November 28, 2019** which reads as follows:

**“G.R. No. 244674 - People of the Philippines v. Jojo Rellon y Quinto**

This is an appeal filed by Jojo Rellon (accused-appellant) assailing the Decision<sup>1</sup> dated November 16, 2018 of the Court of Appeals-Cebu City (CA-Cebu) in CA-G.R. CR-HC No. 01515, convicting him of the crime of rape.

Accused-appellant was charged with the crime of rape defined and penalized under paragraph 1 of Article 266-A in relation to paragraph 1 of Article 266-B of the Revised Penal Code in the Information which reads:

That on or about the 17<sup>th</sup> day of October 2007 at around 7:15pm, more or less, at XXX,<sup>2</sup> Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with AAA, by inserting his penis into her vagina without her consent and against the will of the latter.

CONTRARY TO LAW.<sup>3</sup>

A synthesis of the facts shows that AAA (victim) narrated that she was walking on her way home to XXX when she saw the accused-appellant walking towards her direction. When accused-appellant

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<sup>1</sup> Penned by Associate Justice Dorothy P. Montejo-Gonzaga, with Associate Justices Gabriel T. Ingles and Edward B. Contreras, concurring; *rollo*, pp. 4-15.

<sup>2</sup> The real names of persons and places or any other information tending to reveal the identity of the private complainant and her immediate family or household members are withheld in accordance with Republic Act No. 9262.

<sup>3</sup> *Rollo*, p. 5.

passed by her, he suddenly covered her mouth, pulled her to a dark and grassy area, and asked for money. When the victim could not give any, accused-appellant punched her several times. Thereafter, accused-appellant pulled the victim and brought her near a wall where he began to hold her hands tightly and kiss her. When the victim resisted, the accused-appellant punched the left part of her body.<sup>4</sup>

The accused-appellant pulled the undergarments of the victim and he too, pulled his shorts and brief. He positioned himself on top of the victim and succeeded in inserting his penis into her vagina.<sup>5</sup>

After the accused-appellant satisfied his lust, he threatened to kill the victim should she choose to leave. The victim then put on her clothes. After some time, she heard noises and noticed the arrival of police officers. Upon seeing the latter, the victim told them to arrest the accused-appellant as he raped her. Disclaiming the victim's accusation, the accused-appellant stated that the victim is his wife and they were just talking. When the police officers tried to arrest the accused-appellant, he resisted and ran away. Not long enough, the police officers caught the accused-appellant.<sup>6</sup>

The victim's testimony was corroborated by Dr. Dana Marie Maglasang, who issued a certification stating that the victim was subject to sexual abuse or sexual contact.<sup>7</sup>

In his defense, the accused-appellant claimed his innocence and denied the charge against him. He claimed that when he was on his way home, he met the victim who asked him where he is going. After he answered her, he was surprised to see the victim crying and claiming that he raped her.<sup>8</sup>

Discrediting the accused-appellant's defense of denial, the Regional Trial Court (RTC), in a Decision<sup>9</sup> dated September 15, 2011, convicted him of the crime of rape. The *fallo* thereof reads:

WHEREFORE, premises considered, the Court finds the accused JOJO Q. RELLON, guilty beyond reasonable doubt of the crime of RAPE for which he is hereby sentenced to suffer an indeterminate penalty of [*Reclusion Perpetua*]. The accused is further ordered to pay the victim [AAA] civil liability in the sum of

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<sup>4</sup> Id. at 5-6.

<sup>5</sup> Id. at 6.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id. at 7.

<sup>9</sup> Penned by Judge Generosa G. Labra; CA *rollo*, pp. 46-48.

Fifty Thousand (P50,000.00) Pesos and Fifty Thousand (P50,000.00) as moral damages.

SO ORDERED.

On appeal, the CA, in a Decision<sup>10</sup> dated November 16, 2018, affirmed with modification the ruling of the RTC. Thus:

WHEREFORE, the appeal is DENIED. The [Decision] dated 15 September 2011 rendered by the Regional Trial Court of Cebu City, 7<sup>th</sup> Judicial Region, Branch 23, in Criminal Case No. CBU-81438, is AFFIRMED with modification.

As modified, accused-appellant Jojo Rellon y Quinto is ordered to pay the victim AAA the amounts of Php75,000.00 as civil indemnity, Php75,000.00 as moral damages, and Php75,000.00 as exemplary damages. Interest is imposed on all damages awarded at the rate of 6% *per annum* from the date of finality of this [Decision] until fully paid.

SO ORDERED.

Hence, accused-appellant filed an appeal before this Court.

Article 266-A of the Revised Penal Code provides that the crime of rape is committed by a man having carnal knowledge of a woman under any of the following circumstances: (1) through force, threat or intimidation; (2) when the offended party is deprived of reason or otherwise unconscious; (3) by means of fraudulent machination or grave abuse of authority; and (4) when the offended party is under 12 years of age or is demented, even though none of the circumstances mentioned above be present.

In this case, the Court agrees with the findings of the RTC and the CA that the prosecution has proven the commission of the crime by the accused-appellant beyond reasonable doubt. The victim testified in a categorical manner as to how the accused-appellant succumbed to his lustful desire in violating her person by inserting his penis into her vagina against her will and by using force and intimidation. It must be highlighted that the victim narrated that the accused-appellant punched her each time she resisted to his bestial act. Moreover, he threatened to kill the victim after the same.

Accused-appellant contends that there was no force used in consummating the crime as he was not armed with any weapon at the

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<sup>10</sup> Supra note 1.

time of the incident. On this note, the Court stresses that the force employed in rape need not be so great nor of such a character as could not be resisted. It is only that the force used by the accused is sufficient to enable him to consummate his purpose.<sup>11</sup> Truly, the accused-appellant used such degree of force necessary to commit the crime. He need not be armed with a weapon to manifest such force.

Furthermore, the accused-appellant attacks the credibility of the victim as there were inconsistencies in her narration of facts.

As it is oft-repeated, inconsistencies in the testimonies of witnesses, which refer only to minor details and collateral matters, do not affect the veracity and weight of their testimonies where there is consistency in relating the principal occurrence and the positive identification of the accused. Slight contradictions in fact even serve to strengthen the credibility of the witnesses and prove that their testimonies are not rehearsed. Nor are such inconsistencies, and even improbabilities, unusual, for there is no person with perfect faculties or senses.<sup>12</sup>

Lastly, the accused-appellant argues that the victim's behavior after the consummation of the alleged crime belies her claim as she looked for her wallet, which is unnatural and unlikely for a victim of a crime, after the police chased the accused-appellant.

Behavioral psychology teaches us that people react to similar situations dissimilarly. There is no standard form of behavior when one is confronted by a shocking incident as the workings of the human mind when placed under emotional stress are unpredictable.<sup>13</sup> In the case at bar, it is undeniable that the victim immediately sought for help as soon as she was able to find the policemen in the area.

Verily, the accused-appellant's bare denial cannot prevail over the victim's positive identification.

As to penalty, Article 266-A in relation to Article 266-B of the Revised Penal Code is explicit in that the penalty of *reclusion perpetua* shall be imposed when a man shall have carnal knowledge of a woman through force, threat, or intimidation.<sup>14</sup> However, the

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<sup>11</sup> *People v. Amarela*, G.R. Nos. 225642-43, January 17, 2018, 852 SCRA 54, 66.

<sup>12</sup> *People v. Sarcia*, 615 Phil. 97, 115 (2009).

<sup>13</sup> *People v. Patentes*, 726 Phil. 590, 599 (2014).

<sup>14</sup> 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[.]

x x x x



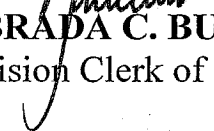
presence of an aggravating circumstance, *i.e.*, use of a deadly weapon qualifies the crime and the penalty imposable is *reclusion perpetua* to death.<sup>15</sup>

In this case, the minimum penalty, *i.e.*, *reclusion perpetua* shall be imposed in accordance with Article 63<sup>16</sup> of the Revised Penal Code as there was neither aggravating nor mitigating circumstance present.

**WHEREFORE**, premises considered, the instant appeal is hereby **DENIED**. Accordingly, the Decision dated November 16, 2018 of the Court of Appeals-Cebu City in CA-G.R. CR-HC No. 01515 is **AFFIRMED in toto**.

**SO ORDERED.**” *Caguioa, J., on official leave. Inting, J., Additional Member per Special Order No. 2726.*

Very truly yours,

  
**LIBRADA C. BUENA**  
Division Clerk of Court <sup>of 015</sup>  
**121-A**

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1229 Makati City

Court of Appeals  
6000 Cebu City  
(CA-G.R. CR HC No. 01515)

The Hon. Presiding Judge  
Regional Trial Court, Branch 23  
6000 Cebu City  
(Crim. Case No. CBU-81438)

- over -

<sup>15</sup> Art. 266-B. *Penalty*. – 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.

x x x x

<sup>16</sup> Art. 63. Rules for the application of indivisible penalties. — In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

x x x x

2. When there are neither mitigating nor aggravating circumstances in the commission of the crime, the lesser penalty shall be applied.

x x x x

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