



Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
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SPECIAL THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **December 9, 2020**, which reads as follows:

**“G.R. No. 218272 (People of the Philippines v. Eleseo Lastrollo y Advincula).** – Before the Court is a Motion for Reconsideration<sup>1</sup> dated November 7, 2017 (Motion) filed by accused-appellant Eleseo Lastrollo y Advincula (Lastrollo), seeking the reversal and setting aside of the Resolution<sup>2</sup> dated July 10, 2017 (Assailed Resolution) of the Court, which affirmed with modification the Decision<sup>3</sup> dated September 30, 2014 of the Court of Appeals (CA) in CA-G.R. CR.-HC No. 06352, finding Lastrollo guilty of the crime of Qualified Rape, and accordingly, sentenced him to suffer the penalty of *reclusion perpetua*,<sup>4</sup> without eligibility for parole,<sup>5</sup> and ordered him to pay AAA<sup>6</sup> the following amounts: (a) ₱100,000.00 as civil indemnity; (b) ₱100,000.00 as moral damages; and (c) ₱100,000.00 as exemplary damages, with legal interest at the rate of six percent (6%) per annum on all monetary awards from the date of finality of judgment until full payment.<sup>7</sup>

<sup>1</sup> Rollo, pp. 44-49.

<sup>2</sup> Id. at 37-43. Signed by Division Clerk of Court Wilfredo V. Lapitan.

<sup>3</sup> Id. at 2-15. Penned by Associate Justice Elihu A. Ybañez with Associate Justices Priscilla J. Baltazar-Padilla (retired member of this Court) and Carmelita S. Manahan, concurring.

<sup>4</sup> See Section 2 of Republic Act No. (RA) 9346 entitled “AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES,” approved on June 24, 2006.

<sup>5</sup> See A.M. No. 15-08-02-SC entitled “GUIDELINES FOR THE PROPER USE OF THE PHRASE ‘WITHOUT ELIGIBILITY FOR PAROLE’ IN INDIVISIBLE PENALTIES,” dated August 4, 2015.

<sup>6</sup> The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, entitled “AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES,” approved on June 17, 1992; RA 9262, entitled “AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES,” approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the “RULE ON VIOLENCE AGAINST WOMEN AND THEIR CHILDREN” (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. See also Amended Administrative Circular No. 83-2015, entitled “PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES,” dated September 5, 2017.) See further *People v. Ejercito*, G.R. No. 229861, July 2, 2018. To note, the unmodified CA Decision was not attached to the records to verify the real name of the victim.

<sup>7</sup> Id. at 42.

After a judicious study of the Motion, the Court finds that the arguments raised herein are but mere reiterations of the grounds already evaluated and passed upon in the Assailed Resolution. Lastrollo avers that AAA's testimony was unworthy of any probative value, as it was incredible and contrary to human nature and experience. Thus, he claims that his defense of denial should not have been readily dismissed, considering that in certain cases, if the accused is innocent, he has no other defense but denial and alibi.<sup>8</sup>

It is settled that denial and alibi, which are self-serving negative evidence and easily fabricated, cannot be accorded greater evidentiary weight than the positive testimony of a credible witness.<sup>9</sup> Here, as ruled in the Assailed Resolution, AAA's positive identification and straight narrative prevails over Lastrollo's defense of denial and alibi. Hence, as correctly held by the CA, the finding of Lastrollo's guilt beyond reasonable doubt was sufficiently established through the victim's credible testimony. Thus, the Court finds no reason to deviate from the factual findings of the trial court, as affirmed by the CA, as there is no indication that it overlooked, misunderstood or misapplied the surrounding facts and circumstances of the case. In fact, the trial court was in the best position to assess and determine the credibility of the witnesses presented by both parties, and hence, due deference should be accorded to the same,<sup>10</sup> as in this case.

However, the Court deems it proper to modify the designation of the crime committed. Under Article 266-B of the Revised Penal Code (RPC), as amended, '[t]he 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[.]'<sup>11</sup> Thus, in a conviction for Qualified Rape, the prosecution must prove all the elements thereof, which are: (1) sexual congress (2) with a woman; (3) done by force, threat, or intimidation without consent; (4) the victim is under eighteen (18) years of age at the time of the rape; and (5) **the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree of the victim**, or the common-law spouse of the parent of the victim.<sup>12</sup> Here, Lastrollo is the brother of DDD, who is AAA's grandmother. Therefore, Lastrollo is AAA's relative in the fourth degree.

Thus, Lastrollo should be found guilty of the crime of Simple Rape, defined and penalized under Article 266-A of the RPC, with a prescribed penalty of *reclusion perpetua*.<sup>13</sup> Accordingly, pursuant to *People v. Jugueta*,<sup>14</sup>

<sup>8</sup> See id. at 45-47.

<sup>9</sup> *People v. GGG*, G.R. No. 224595, September 18, 2019.

<sup>10</sup> *Peralta v. People*, 817 Phil. 554-568 (2017).

<sup>11</sup> See paragraph 1, Article 266-B of the RPC.

<sup>12</sup> *People v. Palanay*, 805 Phil. 116-130(2017).

<sup>13</sup> See Article 266-B of the RPC.

<sup>14</sup> *People v. Jugueta*, 783 Phil. 806, 849 (2016).

he should be ordered to pay AAA the following amounts: (a) P75,000.00 as civil indemnity; (b) P75,000.00 as moral damages; and (c) P75,000.00 as exemplary damages, with legal interest at the rate of six percent (6%) per annum on all amounts due from the date of finality of this Resolution until full payment.

**SO ORDERED.** (Rosario, J., designated Additional Member per Special Order No. 2797 dated November 5, 2020.)”

By authority of the Court:

*Mis PDC Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court*  
GER  
1/21/21

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