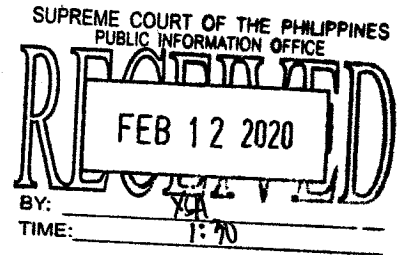




Republic of the Philippines  
Supreme Court  
Manila



THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **January 8, 2020**, which reads as follows:

“G.R No. 219093 (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*, v. XXX, *accused-appellant*). — Unless it overlooked, misunderstood, or misapplied facts or circumstances that would alter its decision or affect the case’s result, a trial court’s factual findings are given great weight and respect. After all, the trial court is in the best position to scrutinize and ascertain a witness’ demeanor. The weight and respect given to its findings are further strengthened when sustained by the Court of Appeals.<sup>1</sup>

For this Court’s resolution is a Notice of Appeal<sup>2</sup> challenging the Decision<sup>3</sup> of the Court of Appeals, which affirmed with modification the Regional Trial Court’s Decision<sup>4</sup> finding XXX guilty beyond reasonable doubt of rape under Article 266-A(1)(a) of the Revised Penal Code, as amended.

An Amended Information was filed against AAA charging him of raping AAA through force and intimidation, the accusatory portion of which read:

The undersigned Asst. Provincial Prosecutor accuses [XXX] of [REDACTED], Sorsogon, of the crime of RAPE, defined and penalized under Article 266-A of the Revised Penal Code, as amended by R.A. 7659 and R.A. 8353, committed as follows, to wit:

That on or about 3:00 o’clock (*sic*) in the afternoon of January 30, 2000, at [REDACTED], Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-

<sup>1</sup> *People v. Aguilar*, 565 Phil. 233, 247–248 (2007) [Per J. Chico-Nazario, Third Division].

<sup>2</sup> *Rollo*, pp. 19–22.

<sup>3</sup> *Id.* at 2–18. The Decision dated July 23, 2014 was penned by Associate Justice Michael P. Elbinias and concurred in by Associate Justices Isaias P. Dicedican and Victoria Isabel A. Paredes of the Eleventh Division, Court of Appeals, Manila.

<sup>4</sup> *CA rollo*, pp. 19–33. The Decision was penned by Judge Adolfo G. Fajardo of Branch 55, Regional Trial Court, Irosin, Sorsogon.

named accused, by means of force and intimidation with the use of a bladed instrument, did then and there, willfully, unlawfully and feloniously, have carnal knowledge with [AAA], a 16-year old lass against her will and without her consent, to her damage and prejudice.

The commission of the crime was attended by the aggravating circumstance that the victim is afflicted with EPILEPSY which effectively diminish (*sic*) her mental capacity and that the accused knew this illness which the victim is suffering, he (*sic*) being a neighbor of the victim.

CONTRARY TO LAW.<sup>5</sup> (Emphasis in the original)

On arraignment, XXX pleaded not guilty to the crime charged. Thereafter, trial on the merits ensued.<sup>6</sup>

The prosecution presented five (5) witnesses, namely: (1) the victim AAA; (2) her mother BBB; (3) Dr. Runnel John Rebutillo (Dr. Rebutillo); (4) Dr. Bernard San Jose (Dr. San Jose); and (5) Dr. Maria Lucila B. Fulo (Dr. Fulo).<sup>7</sup>

AAA recalled that on the afternoon of January 30, 2000, she went to the coconut plantation in their barangay to relieve herself. When she was about to do so, XXX suddenly appeared in front of her and poked a knife at her neck. As he dragged her toward the banana plantation, AAA cried for help and even tried to escape, but nobody heard her; she only sustained injuries in the process.<sup>8</sup>

Upon reaching the banana plantation, XXX removed his and AAA's undergarments, and thereafter had sex with her.<sup>9</sup> XXX made AAA turn with her back facing him, spread her legs, and from behind inserted his penis into her vagina,<sup>10</sup> causing AAA pain in her organ. After the molestation, XXX threatened AAA not to disclose the incident to anyone, lest he kill her.<sup>11</sup>

AAA did not reveal her ordeal to her parents, fearing that it would cause an altercation between her father and XXX. Only later did she tell of the incident to her uncle, who in turn relayed what happened to AAA's father.<sup>12</sup> In her testimony, AAA further testified that this was the second time XXX violated her.<sup>13</sup>

<sup>5</sup> Id. at 19.

<sup>6</sup> Id. at 20.

<sup>7</sup> Rollo, p. 3.

<sup>8</sup> Id. at 3-4.

<sup>9</sup> Id. at 4.

<sup>10</sup> Id. at 9-10.

<sup>11</sup> Id. at 4.

<sup>12</sup> CA rollo, pp. 20-21.

<sup>13</sup> Rollo, p. 4.

BBB, AAA's mother, testified that at nine (9) years old, her daughter was diagnosed with chronic nervous disease or epilepsy. Because of AAA's condition, she would usually pass out and relapse around three (3) times a month. As a result, she would only stay at home and had to be accompanied when she goes outside, except when she would relieve herself.<sup>14</sup>

According to the collective testimonies of Dr. San Jose and Dr. Fulo, they examined AAA in 1992 and 2005, respectively. They recounted that the severity of AAA's condition could not be precisely determined since further extensive laboratory examination was needed. However, both doctors agreed that the mental faculties of persons with epilepsy are not affected or diminished unless their condition is severe in nature. If no epileptic attack occurs, their mental faculties are normal.<sup>15</sup>

On February 4, 2000, AAA was physically examined by Dr. Rebutillo. The examination revealed that AAA had slight hematoma and healed hymenal lacerations at the 3, 9, and 11 o'clock positions.<sup>16</sup>

The defense, on the other hand, presented XXX and his wife, YYY.<sup>17</sup>

The two testified that since 9:00 a.m. on the day of the incident, XXX had been in a drinking spree at the house of AAA's uncle, CCC, with three (3) other men, Noli, Rogelio, and Sorbito Garrido. By around 11:00 a.m., XXX went home to eat lunch, after which he returned to CCC's house, and there slept at around 3:00 p.m. By 6:30 p.m., Noli woke XXX up and told him to go home as it was already dark. XXX did go home and immediately went to sleep.<sup>18</sup>

YYY further alleged that AAA went to their house sometime that day to bring food.<sup>19</sup>

The couple insisted that the complaint was borne out of an existing bad blood between their families involving a land dispute. Supported by a police blotter and medical certificate, they alleged that on September 3, 1979, AAA's father, who was also YYY's nephew, waylaid XXX who was on his way home. XXX and YYY likewise claimed that AAA filed the case due to her family's desire to receive the Department of Social Welfare and Development's financial assistance for rape victims.<sup>20</sup>

<sup>14</sup> Id. at 4 and CA rollo, p. 21.

<sup>15</sup> CA rollo, p. 22.

<sup>16</sup> Id. at 21.

<sup>17</sup> Id. at 23.

<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> Id. at 23-24.

After trial, the Regional Trial Court rendered its October 8, 2007 Decision<sup>21</sup> convicting XXX of rape, thus:

**WHEREFORE**, premises considered, accused [XXX] having been found GUILTY beyond reasonable doubt of **Simple Rape** defined and penalized in **Par. 1(a) of Article 266-A of the Revised Penal Code as amended**, he is hereby sentenced to suffer the **single indivisible penalty of RECLUSION PERPETUA** regardless of the presence of the aggravating circumstance that the **minor victim was afflicted with Epilepsy** (Article 63, RPC as amended). To indemnify the minor victim [AAA] in the amount of Php50,000.00 as civil indemnity, another Php50,000.00 as moral damages and another Php30,000.00 as exemplary damages and to pay the costs.

The number of years of preventive imprisonment already served by the accused shall be credited in the service of his sentence in accordance with the provision of Article 29 of the same Code.

SO ORDERED.<sup>22</sup> (Emphasis in the original)

The Regional Trial Court gave full faith and credence to AAA's testimony, which it found to be candid and straightforward.<sup>23</sup> Conversely, it brushed aside XXX's defense of alibi, as he failed to show that it was "physically impossible for him to have been at the scene of the crime."<sup>24</sup>

The Regional Trial Court further noted that based on the submitted police blotter and AAA's birth certificate, the September 3, 1979 incident was between XXX and a person whose name was different from AAA's father, and whose relation with her is unknown. Thus, it brushed aside the defense's claim of the existing family feud between the families.<sup>25</sup>

Aggrieved, XXX appealed to the Court of Appeals.<sup>26</sup>

In his Appellant's Brief,<sup>27</sup> XXX argued that AAA's narration of the incident was "incredulous and not in accord with human experience."<sup>28</sup> He found it dubious how he could supposedly drag a squirming AAA to the banana plantation without her incurring any injury other than a superficial wound, considering that he was poking a knife at her neck.<sup>29</sup> Similarly, he claimed that AAA's failure to offer any resistance during the sexual assault<sup>30</sup>

<sup>21</sup> Id. at 19-33.

<sup>22</sup> Id. at 33.

<sup>23</sup> Id. at 25.

<sup>24</sup> Id. at 32.

<sup>25</sup> Id.

<sup>26</sup> Id. at 37.

<sup>27</sup> Id. at 51-71.

<sup>28</sup> Id. at 58.

<sup>29</sup> Id.

<sup>30</sup> Id. at 58-59.

and her inconsistent recollection of how he molested her cast doubt on the veracity of her claim.<sup>31</sup>

In any case, XXX denied the charge against him and insisted that he could not have committed the crime since he was sleeping at CCC's house at the time of the alleged incident.<sup>32</sup> In addition, he argued that the Regional Trial Court erred in ruling that no ill motive can be imputed to AAA despite the existing feud between their families.<sup>33</sup>

The Office of the Solicitor General,<sup>34</sup> on behalf of the People of the Philippines, countered that XXX pointed out minor inconsistencies, which enhanced rather than dispute AAA's claim.<sup>35</sup> It likewise contended that the Regional Trial Court correctly rejected XXX's defense of denial and alibi.<sup>36</sup>

In its July 23, 2014 Decision,<sup>37</sup> the Court of Appeals affirmed the Regional Trial Court's Decision, albeit with modification by deleting the award of exemplary damages.<sup>38</sup> It decreed that AAA's condition could not be considered a qualifying circumstance since the prosecution failed to present any evidence showing that XXX knew that she was afflicted with epilepsy.<sup>39</sup>

Dissatisfied with the ruling, XXX filed a Notice of Appeal,<sup>40</sup> which was given due course by the Court of Appeals.<sup>41</sup>

In its August 24, 2015 Resolution,<sup>42</sup> this Court noted the records of this case forwarded by the Court of Appeals and required the parties to file their supplemental briefs.

On December 2, 2015, this Court noted the separate Manifestations filed by the Office of the Solicitor General<sup>43</sup> and accused-appellant,<sup>44</sup> stating that they would no longer file supplemental briefs.<sup>45</sup>

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<sup>31</sup> Id. at 64.  
<sup>32</sup> Id. at 66.  
<sup>33</sup> Id. at 66-68.  
<sup>34</sup> Id. at 94-110.  
<sup>35</sup> Id. at 103.  
<sup>36</sup> Id. at 105.  
<sup>37</sup> *Rollo*, pp. 2-18.  
<sup>38</sup> Id. at 18.  
<sup>39</sup> Id. at 16-17.  
<sup>40</sup> Id. at 19-22.  
<sup>41</sup> Id. at 23.  
<sup>42</sup> Id. at 25-26.  
<sup>43</sup> Id. at 27-30.  
<sup>44</sup> Id. at 31-35.  
<sup>45</sup> Id. at 36-37.

The sole issue for this Court's resolution is whether or not the Court of Appeals correctly upheld the conviction of accused-appellant XXX of the crime of rape.

The appeal has no merit.

## I

Settled is the rule that the matter of assigning values to the testimony and declarations of the witnesses is a function best performed by trial court judges. Their unique opportunity to observe the witnesses' deportment during trial puts them in the best position to ascertain the sincerity and truthfulness of their testimonies. As such, this Court will not disturb, much less overturn, the trial courts' factual findings and assessment of witnesses' credibility, absent any showing that facts and circumstances of weight and substance were overlooked or misapplied.<sup>46</sup> As held in *People v. Aguilar*:<sup>47</sup>

Accordingly, the primordial consideration in a determination concerning the crime of rape is the credibility of complainant's testimony. Time and again, we have held that when it comes to the issue of credibility of the victim or the prosecution witnesses, the findings of the trial courts carry great weight and respect and, generally, the appellate courts will not overturn the said findings unless the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which will alter the assailed decision or affect the result of the case. This is so because trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying, their demeanor and behavior in court. Trial judges enjoy the advantage of observing the witness' deportment and manner of testifying, her "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath" — all of which are useful aids for an accurate determination of a witness' honesty and sincerity. Trial judges, therefore, can better determine if such witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies. Again, unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case, its assessment must be respected, for it had the opportunity to observe the conduct and demeanor of the witnesses while testifying and detect if they were lying. The rule finds an even more stringent application where the said findings are sustained by the Court of Appeals.<sup>48</sup> (Citations omitted)

Here, contrary to accused-appellant's arguments, AAA's narration of facts was neither inconsistent nor contrary to human experience.

<sup>46</sup> *People v. Aguilar*, 565 Phil. 233, 247 (2007) [Per J. Chico-Nazario, Third Division].

<sup>47</sup> 565 Phil. 233 (2007) [Per J. Chico-Nazario, Third Division].

<sup>48</sup> *Id.* at 247-248.

As the Regional Trial Court correctly found, AAA candidly and straightforwardly recounted the ordeal she suffered in accused-appellant's hands. She testified as to how accused-appellant dragged her at knifepoint from the coconut plantation to the banana plantation, where he sexually molested her—removing her undergarments, making her bend over, and inserting his penis into her vagina.<sup>49</sup>

As regards AAA's failure to offer any resistance to the assault, this Court has time and again held that physical resistance is not an essential element of rape. The prosecution is not duty bound to prove that the victim resisted the cruel act of the offender.<sup>50</sup>

Rape is not a normal experience. Rape victims cannot be expected to follow any standard behavior.<sup>51</sup> “[P]eople react to similar situations differently, and there is no standard form of human behavioral response when one is confronted with a startling or frightful experience.”<sup>52</sup>

Furthermore, when intimidation is employed upon the victim, physical resistance no longer needs to be established. In *People v. Ilagan*:<sup>53</sup>

Physical resistance need not be established in rape when intimidation is exercised upon the victim herself. As held in *People v. Las Piñas, Jr.* the test is whether the intimidation produces a reasonable fear in the mind of the victim that if she resists or does not yield to the desires of the accused, the threat would be carried out. When resistance would be futile, offering none at all does not amount to consent to sexual assault. The law does not impose upon a rape victim the burden of proving resistance.<sup>54</sup> (Emphasis in the original, citation omitted)

Similarly, it must be stressed that:

A victim should never be faulted for her lack of resistance to any forms of crime particularly as grievous as rape. Failure to shout or offer tenacious resistance does not make voluntary the victim's submission to the perpetrator's lust. Besides, physical resistance is not the sole test to determine whether a woman involuntarily succumbed to the lust of an accused; it is not an essential element of rape. Rape victims react differently when confronted with sexual abuse. Thus, the law does not impose upon the private complainant the burden of proving resistance.<sup>55</sup> (Citation omitted)

<sup>49</sup> CA rollo, pp. 25–26.

<sup>50</sup> *People v. Barberan*, 788 Phil. 103, 111 (2016) [Per J. Perez, Third Division].

<sup>51</sup> Id. at 112.

<sup>52</sup> *People v. Barceña*, 734 Phil. 332, 344 (2014) [Per J. Mendoza, Third Division].

<sup>53</sup> 455 Phil. 891 (2003) [Per J. Ynares-Santiago, En Banc].

<sup>54</sup> Id. at 902.

<sup>55</sup> *People v. Barberan*, 788 Phil. 103, 111–112 (2016) [Per J. Perez, Third Division].

## II

In a further attempt to exculpate himself from liability, accused-appellant denies raping AAA, insisting that he was sleeping at CCC's house at the time of the incident.

This Court is not persuaded.

Alibi has been consistently held as among the weakest forms of defense. Not only is it unreliable, but it can also be easily fabricated.<sup>56</sup> For this defense to prosper, it is imperative for the accused to prove that he "was somewhere else when the crime was committed . . . [and] that it was physically impossible for him to have been at the scene of the crime at the time of its commission."<sup>57</sup>

In this case, the Court of Appeals correctly found:

Here, accused-appellant did not deny that he was near the vicinity of the crime on January 30, 2000, when private complainant AAA was raped. Accused-appellant even stated that private complainant AAA was his neighbor, and that his house was more or less only fifteen (15) meters from private complainant AAA's house. Accused-appellant further admitted that the house of [CCC], where accused-appellant claimed to have been present at the time of the commission of Rape, was only twenty (20) meters away from his house. Thus, accused-appellant's defense of alibi is not worthy of any credit for the reason.<sup>58</sup> (Citations omitted)

Furthermore, it must be stressed that while accused-appellant testified that he was in a drinking spree with his neighbors at the time of the incident, not a single one of his companions was presented to corroborate his version of the incident. Thus, his alibi fails. As this Court has held, and now reiterate: "[u]nless substantiated by clear and convincing proof, such defense is negative, self-serving, and undeserving of any weight in law."<sup>59</sup>

Neither can this Court be swayed by accused-appellant's imputation of ill motive on the part of AAA. The Regional Trial Court correctly found that accused-appellant failed to present sufficient evidence in support of his claim of existing family dispute. Moreover, "[t]he purported family feud is too flimsy a reason"<sup>60</sup> for AAA's family to subject her to the trauma and humiliation associated with a rape trial solely just to exact vengeance against accused-appellant.

<sup>56</sup> *People v. Taganna*, 413 Phil. 147, 157 (2001) [Per J. Bellosillo, En Banc].

<sup>57</sup> *People v. Barde*, 645 Phil. 434, 457 (2010) [Per J. Perez, First Division].

<sup>58</sup> *Rollo*, p. 11.

<sup>59</sup> *People v. Barde*, 645 Phil. 434, 457 (2010) [Per J. Perez, First Division].

<sup>60</sup> *People v. Garcia*, 695 Phil. 576, 590 (2012) [Per J. Reyes, First Division].



## III

Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353, or the Anti-Rape Law of 1997, provides:

Article 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;

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.

The penalty imposed by law for rape committed under any of these circumstances is *reclusion perpetua*. However, when the offender rapes a victim knowing that that victim has a mental disability, the crime is qualified and the penalty imposed is aggravated to death.<sup>61</sup>

Here, although the Information stated that “[t]he commission of the crime was attended by the aggravating circumstance that the victim is afflicted with EPILEPSY”<sup>62</sup> and that accused-appellant had known this, the Court of Appeals found that the prosecution failed to present any evidence showing that accused-appellant indeed knew of AAA’s condition.<sup>63</sup> Consequently, the Regional Trial Court, as affirmed by the Court of Appeals, correctly convicted accused-appellant for the crime of simple rape and imposed upon him the penalty of *reclusion perpetua*.

Nevertheless, in line with current jurisprudence,<sup>64</sup> this Court deems it proper to increase the award of civil indemnity and moral damages to ₱75,000.00 each.

<sup>61</sup> REV. PEN. CODE, art. 266-B(10) states:

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

.....  
10) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

<sup>62</sup> *Rollo*, p. 3.

<sup>63</sup> *Id.* at 16.

<sup>64</sup> See *People v. Jugueta*, 783 Phil. 806 (2016) [Per J. Peralta, En Banc].

Finally, by reason of accused-appellant's "highly reprehensible [and] outrageous conduct[,]"<sup>65</sup> this Court directs him to pay the victim exemplary damages in the amount of ₱75,000.00.

**WHEREFORE**, the appeal is **DISMISSED**. The Court of Appeals' July 23, 2014 Decision in CA-G.R. CR.-H.C. No. 04566 is **AFFIRMED with MODIFICATIONS**. Accused-appellant XXX is found **GUILTY** beyond reasonable doubt of rape under Article 266-A of the Revised Penal Code, as amended, and is sentenced to suffer the penalty of *reclusion perpetua*. He is also **DIRECTED** to pay the victim moral damages, civil indemnity, and exemplary damages worth ₱75,000.00 each.

In line with current jurisprudence,<sup>66</sup> all damages awarded shall be subject to interest at the rate of six percent (6%) per annum from the finality of this Resolution until their full satisfaction.

**SO ORDERED."**

Very truly yours,

*Misael DC Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
*Deputy Division Clerk of Court*

The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 55, Irosin  
4707 Sorsogon  
(Criminal Case No. 1419)

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<sup>65</sup> Id. at 832.

<sup>66</sup> See *Nacar v. Gallery Frames*, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].