



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **17 June 2020** which reads as follows:*

“G.R. No. 232237 (*People of the Philippines, plaintiff-appellee, v. Richard Balimbing, accused-appellant*). – The Court NOTES the letter dated December 23, 2019 of JInsp. Morrison D. Imingan, OIC-NBP, East, New Bilibid Prison, Muntinlupa City confirming the confinement of accused-appellant Richard Balimbing (accused-appellant) on July 10, 2018 in the said institution.

After a judicious review of the records, the Court resolves to **DISMISS** the Appeal¹ from the Decision² dated January 10, 2017 of the Court of Appeals (CA) in CA-G.R. CR HC No. 07339 for failure of Richard Balimbing (accused-appellant) to prove that the CA committed reversible error in affirming the Judgment³ dated November 26, 2014 of Branch 37, Regional Trial Court (RTC), Calamba City finding him guilty of the crime of Rape in Criminal Case No. 15358-2007-C.

Both plaintiff-appellee People of the Philippines, through the Office of the Solicitor General,⁴ and accused-appellant⁵ filed their respective Manifestations,⁶ stating that they would no longer file supplemental briefs and instead adopt the briefs⁷ they filed before the CA.

For the Court’s resolution is the issue of whether accused-

¹ *Rollo*, pp. 14-15.

² *Id.* at 2-13; penned by Associate Justice Edwin D. Sorongon with Associate Justices Ricardo R. Rosario and Marie Christine Azcarraga-Jacob, concurring.

³ *CA rollo*, pp. 78-91; Penned by Presiding Judge Caesar C. Buenagua.

⁴ *Rollo*, p. 20.

⁵ *Id.* at 24.

⁶ *Id.* at 20 and 24.

⁷ *CA rollo*, pp. 66-76 and 106-113.

appellant is guilty beyond reasonable doubt of the crime of Rape.

The appeal lacks merit.

First, the Court gives the highest respect to the trial court's factual findings, its assessment of the witnesses' credibility, the probative weight given to them, as well as the conclusions based on these factual findings. As a rule, when affirmed by the CA, the Court will not reexamine them as these matters are best left to trial courts, which had the opportunity to observe the conduct of the witnesses.⁸

Second, in reviewing cases involving sexual transgressions, the Court observes the following principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense. Given these precepts, the Court is convinced that accused-appellant is guilty beyond reasonable doubt of the crime of Rape.⁹

The private complainant categorically narrated in court her harrowing experience in the hands of accused-appellant, to wit:

Q: What happened upon your arrival in that store?

A: He pulled me inside the store, ma[']am.

Q: What happened after you were pulled inside the store?

A: He took off my t-shirt, he removed my t-shirt, ma[']am.

Q: Before you were pulled in the store, did the accused say anything?

A: He told me to be silent, ma[']am.

Q: After the accused removed your t-shirt, what happened next?

A: He mashed my breast, ma[']am.

Q: After the accused mashed your breast, what happened next?

A: He removed my short, ma[']am.

⁸ *People v. Batulan*, G.R. No. 226157, June 19, 2019, citing *People v. Castel*, 593 Phil. 288, 316 (2008).

⁹ *People v. Pajalla*, G.R. No. 221426, March 25, 2019, citing *People v. Salidaga*, 542 Phil. 295, 300 (2007).

Q: After your t-shirt and short were removed, were there other garments left in your body?

A: My underwear, ma[']am.

Q: Did the accused removed your underwear?

A: Yes, sir.

Q: Were you the one who removed your underwear?

A: No, sir, he is the one.

Q: Did you resist?

A: Not anymore, sir.

Q: Why?

A: Because he has a balisong "fan knife" tucked in the waist of his brief, sir.

x x x x

Q: After you were both naked, what happened?

A: He inserted his penis into my vagina, ma[']am.

x x x x

Q: What did you do when the accused inserted his penis inside your vagina?

A: I did not put up a fight, ma[']am.

Q: Why?

A: Because he threatened to kill me if I made a shout, sir.¹⁰
(Emphasis supplied.)

From the foregoing, it is readily apparent that accused-appellant had carnal knowledge of the private complainant. He did so by employing intimidation and threats against the private complainant that he will kill her with his fan knife if she screamed. He also threatened that he will kill her parents if she ever told them what happened.

Third, the sweetheart theory of accused-appellant cannot prosper. As held in many cases, being sweethearts does not negate the commission of Rape because such fact does not give accused-appellant license to have sexual intercourse against the private complainant's will, and will not exonerate him from the criminal charge of Rape. Indeed,

¹⁰ TSN, April 6, 2009, pp. 6-8.

being sweethearts does not prove consent to the sexual act.¹¹ The CA aptly held:

In the same token, accused-appellant's invocation of the sweetheart theory must be discarded.

The Supreme Court has laid down the requirements that before an accused can seek refuge behind the sweetheart theory, such defense must be proven by compelling evidence establishing that: *first*, the accused and the victim were indeed lovers; and that, *second*, she consented to the alleged sexual relations. The Supreme Court reminds us that the second requirement is as important as the first as love is not a license for lust. As has been consistently ruled, "a love affair does not justify rape, for the beloved cannot be sexually violated against her will."

In this case, accused-appellant failed in both aspects.

First, in order to prove that an accused and the victim are indeed sweethearts, the Supreme Court has ruled in a long line of cases that it is incumbent upon the accused to present documentary and/or other evidence of the relationship like mementos, love letters, notes, pictures and the like. In this case, *aside from the self-serving testimony of accused-appellant, the defense failed to present any other documentary evidence of the alleged relationship between private complainant and the accused-appellant.* On the contrary, private complainant clearly and categorically denied having romantic relationship with accused-appellant.

Second, with his admission that he had sexual intercourse with private complainant on that night of January 24, 2007, the burden of evidence has now shifted to the accused-appellant. He should then prove with clear and convincing evidence his affirmative defense that it was a consensual sexual intercourse. However, as aforementioned, *the evidence of the prosecution clearly shows that accused-appellant employed force, threat, or intimidation in order to succeed in having carnal knowledge with private complainant—absolutely negating his self-serving claim that what transpired between him and private complainant was indeed consensual sexual intercourse.*¹² (Emphasis supplied; citations omitted.)

Since accused-appellant is guilty beyond reasonable doubt of the crime of Rape, the Court affirms the imposition by the RTC and the CA of the penalty of *reclusion perpetua*. In line with recent jurisprudence, however, the Court increases the awards for civil indemnity, moral

¹¹ *People v. Gito*, 795 Phil. 211, 225 (2016), citing *People v. Olesco*, 663 Phil. 15, 25 (2011).

¹² *Rollo*, pp. 10-11.

damages, and exemplary damages to ₱75,000.00 each.

All damages awarded shall earn interest at the rate of 6% per *annum* from date of finality of this judgment until fully paid.

The Court likewise affirms the ruling of the CA ordering accused-appellant to provide financial support to the private complainant's offspring pursuant to Article 345 of the Revised Penal Code.¹³

WHEREFORE, the appeal is **DISMISSED**. The Decision dated January 10, 2017 of the Court of Appeals in CA-G.R. CR HC No. 07339, finding accused-appellant Richard Balimbing guilty of the crime of Rape and sentencing him to suffer the penalty of *reclusion perpetua* is **AFFIRMED** with the following modifications:

1. Accused-Appellant Richard Balimbing is ordered to pay the private complainant ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages;
2. All damages awarded shall earn interest at the rate of 6% per *annum* from the date of finality of this Resolution until fully paid; and
3. Accused-appellant Richard Balimbing is further ordered to support the offspring born as a consequence of the rape. The amount of support shall be determined by the Regional Trial Court after due notice and hearing, with support in arrears to be reckoned from the date the appealed decision was promulgated by the Regional Trial Court.

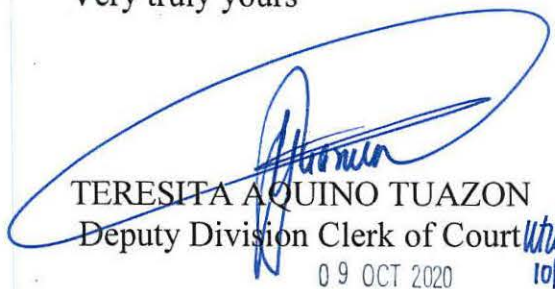
¹³ Article 345. Civil liability of persons guilty of crimes against chastity. — Person guilty of rape, seduction or abduction, shall also be sentenced:

1. To indemnify the offended woman.
2. To acknowledge the offspring, unless the law should prevent him from so doing.
3. In every case to support the offspring.

x x x x.

SO ORDERED.” (GAERLAN, *J.*, designated as additional member, per Special Order No. 2780 dated May 11, 2020).

Very truly yours



TERESITA AQUINO TUAZON
Deputy Division Clerk of Court
09 OCT 2020

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

PUBLIC ATTORNEY’S OFFICE (reg)
Special & Appealed Cases Service
Department of Justice
5th Floor, PAO-DOJ Agencies Building
NIA Road corner East Avenue
Diliman, 1104 Quezon City

RICHARD BALIMBING (reg)
Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (reg)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 37
Calamba City, Laguna
(Crim. Case No. 15358-2007-C)

*JInsp. MORRISON D. IMINGAN (reg)
Officer in Charge, NBP, East
New Bilibid Prison, Muntinlupa City

JUDGMENT DIVISION (x)
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
LIBRARY SERVICES (x)
[For uploading pursuant to A.M. No. 12-7-1-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR HC No. 07339

*For this resolution only
Please notify the Court of any change in your address.
GR232237. 06/17/2020(100)URES(m)