



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 12, 2021** which reads as follows:*

**“G.R. No. 228824 – (PEOPLE OF THE PHILIPPINES, plaintiff-appellee v. EDMER CABANSAG y AREVALO, accused-appellant).** – This is an ordinary appeal<sup>1</sup> under Rule 122 of the Rules of Court, seeking to reverse and set aside the Decision<sup>2</sup> dated March 29, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07163. The said issuance affirmed the Judgment<sup>3</sup> dated November 24, 2014 of Branch 106 of the Regional Trial Court (RTC) of Quezon City in Criminal Case No. Q-10-167690 which, in turn, found Edmer Cabansag y Arevalo (appellant) guilty beyond reasonable doubt of the crime of rape as defined and penalized by Article 266-A, paragraph (1)(a) of the Revised Penal Code.

**Antecedents**

Appellant was indicted of the crime charged by virtue of an Information<sup>4</sup> dated November 23, 2010, the accusatory portion of which reads as follows:

That on or about the 21<sup>st</sup> day of November, 2010, in Quezon City, Philippines, the above-named accused, did, then and there willfully, unlawfully, and feloniously have sexual intercourse with AAA, 15 yrs. of age, a minor, in the residence of the accused located at No. 33 Bernardo Compound, Brgy. Pasong Tamo, this City, against her will and without her consent.

CONTRARY TO LAW.<sup>5</sup>

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<sup>1</sup> *Rollo*, pp. 24-26.

<sup>2</sup> *Id.* at 2-23; penned by Associate Justice Amy C. Lazaro-Javier (now a Member of this Court) with Associate Justices Celia C. Librea-Leagogo and Melchor Q.C. Sadang, concurring.

<sup>3</sup> *CA rollo*, pp. 15-34; penned by Judge Angelene Mary W. Quimpo-Sale.

<sup>4</sup> Records, pp. 1-2.

<sup>5</sup> *Id.* at 2.

On March 11, 2011, appellant assisted by Atty. Ginalyn Ramos of the Public Attorney's Office was arraigned and he pleaded not guilty.<sup>6</sup>

The prosecution presented: (1) AAA;<sup>7</sup> (2) CCC, the aunt of AAA; (3) Police Chief Inspector Shanne Lore A. Dettaballi (PCI Dettaballi), the Medico Legal Officer; (4) SPO3 Rosemarie Sy, the police investigating officer; and (5) Barangay Protection and Security Officer Nestor Del Rosario (BPSO Del Rosario), the apprehending officer, as witnesses.<sup>8</sup>

Prosecution established that on November 21, 2010, AAA, who was then 15 years of age as testified by her Aunt, CCC and further proved by her birth certificate<sup>9</sup> on record, was with five other people, namely Armie, Shiela, Macky, Dodong and herein appellant, having a drinking session in a small *sari-sari* store in Pasong Tamo, Quezon City. The drinking session ended around 7 o'clock in the evening, AAA stayed by the store to wait for her friend Armie who will accompany her going home. While waiting, appellant approached her and invited her to have coffee in his house. AAA agreed since Dodong will be coming along with them.<sup>10</sup>

Upon arriving at the appellant's house, AAA was immediately pushed to the bed by appellant and then ordered Dodong to lock the door of the house and stand guard. Appellant told Dodong that after he finished raping AAA, he will have his turn with her. Appellant went on top of AAA and forcibly took off her shorts and panty. Thereafter, appellant removed his shorts and brief. AAA struggled and kicked appellant, but appellant did not stop. Instead, appellant kissed AAA's lips, neck and mashed her breast. Appellant tried to force open AAA's thighs but because her shorts and underwear were about at her knees, appellant failed. Appellant then put his hands on AAA's shoulders and tried to push his penis into her vagina. During all these, complainant continued to slap, struggle, and shout at the appellant. In return, appellant ordered her to stop resisting otherwise he would kill her. Suddenly, Armie arrived, kicked and forcibly

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<sup>6</sup> Id. at 30.

<sup>7</sup> Pursuant to Supreme Court Amended Administrative Circular No. 83-2015, the personal circumstances and other information which tend to establish or compromise the identity of the victim, including the names of her family members or relatives, and the *barangay* and town where the incidents occurred, are withheld. The names of the victim and her family members or relatives are replaced with fictitious initials.

<sup>8</sup> CA rollo, p. 16.

<sup>9</sup> Records, p. 11.

<sup>10</sup> CA rollo, p. 16.

opened the door. Appellant then panicked and stopped what he was doing. Appellant stood up and got dressed while Armie helped complainant get dressed.<sup>11</sup> Armie and AAA thereafter left the house and met with their friends in the basketball court and then head to AAA's home.<sup>12</sup> AAA's Ate Jessica then took AAA to ask help from her *Tau Gamma* friends to arrest appellant. They rode an L-300 van and went to the house of the appellant.<sup>13</sup> Upon arriving, they found Armie and Dodong outside the house while appellant suddenly run inside. A certain Jeff run after him and eventually caught appellant. BPSO Del Rosario and Lauro Placiente was with them and after introducing themselves as BPSO, arrested appellant. Appellant was boarded to a motorcycle and brought to the barangay. Both of them were detained in the barangay hall.<sup>14</sup>

On November 23, 2020, AAA was subjected to a medical examination which was performed by PCI Shanne Lore Dettaballi, medico-legal officer of the PNP Crime Laboratory. The Medico-Legal Report<sup>15</sup> shows the following findings:

**GENERAL AND ESTRAGENITAL:**

**Physical Built:** medium  
**Mental Status:** coherent, female child subject  
**Breast:** conical, pinkish brown  
**Abdomen:** soft/flat  
**Physical injuries:** no injuries noted

**Genital:**

**Pubic Hair:** scanty growth  
**Labia Majora:** coaptated, congested  
**Labia Minora:** light brown  
**Hymen:** fimbriated type; **no lacerations.**  
**The fossa navicularis is abraded with minimal bleeding.**  
**Negative for spermatozoa on direct microscopy.**  
**Posterior Fourchette:** sharp  
**External Vaginal Orifice:** not assessed  
**Vaginal Canal:** not assessed  
**Cervix:** not assessed  
**Periurethral and vagina smears:** negative for spermatozoa  
**Anus:** Unremarkable

**Conclusion:** Finding shows evidence of sexual contact or abuse.

**Remarks:** **Positive for acid phosphatase.**<sup>16</sup>

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<sup>11</sup> Id. at 16-17.

<sup>12</sup> *Rollo*, p. 5.

<sup>13</sup> Id. at 6.

<sup>14</sup> Id.

<sup>15</sup> Records, p. 145.

<sup>16</sup> Id. Emphasis and underscoring supplied.

During PCI Dettaballi testimony, she testified that there was an abrasion with minimal bleeding, particularly beneath the posterior part of the complainant's hymen at 6 o'clock. She concluded that there was sexual contact because of the presence of seminal fluids in the vagina which means that penetration was established.<sup>17</sup>

Appellant vehemently denies committing the alleged rape. In his defense, appellant averred that on November 21, 2010, he was visiting his brother Edrian at his house in Area 1-B Barangay Pasong Tamo, Quezon City. When he arrived, his brother and his family had to go somewhere thereby leaving him alone at the house. At around 11 o'clock in the morning, appellant stepped out of the house and went to the sari-sari store to buy some cigarette. There, he saw Armie, Dodong, and another guy whose name he did not know who were having a drinking spree.<sup>18</sup>

It was said to be Armie's birthday and he was invited to have a drink. He partook of three rounds and then excused himself to go back to his brother's house as no one was there and he left his cellphone charging. By 1 o'clock, appellant went back to the store and there were already two girls, one was AAA, which joined the group. He then also joined the drinking spree. Around 3 o'clock in the afternoon, AAA's companion wanted to go home but AAA insisted to stay. Armie then took the other girl home while AAA stayed with him, Dodong and another guy companion. Appellant noticed that AAA was vomiting and Dodong was rubbing her back. Appellant then suggested for Dodong to take AAA home while they would wait for Armie. The other guy asked AAA where she lives but AAA did not answer instead asked for coffee. Since appellant's brother's house is near, he suggested for Dodong to go there and get some coffee before his brother came back.<sup>19</sup>

Appellant was then left with the other male companion. Thereafter, Armie arrived and asked where the AAA was. Appellant replied that AAA went with Dodong to their house. Since it has been a while since AAA and Dodong left and he was worried that his brother might be coming home already, appellant asked Armie to come with him to fetch Dodong and AAA however Armie has to go to the restroom first thus, appellant went ahead. When the appellant got to the house, the door was unlocked and the light was turned on, however, Dodong and complainant was nowhere in sight. He heard

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<sup>17</sup> *Rollo*, pp. 6-7.

<sup>18</sup> *Id.* at 8.

<sup>19</sup> *Id.* at 9.

noise from a room so he went near the door and knocked. Dodong came out of the door, sweating. Appellant then cursed at Dodong and tried to hit him but the latter ran away. He went inside the room and saw AAA sitting on the bed and covering her face. Appellant uttered: "*Putang ina nyo, baboy kayo... hindi dalahan ng pokpok ang bahay ng kapatid ko.*" AAA got mad at him as he dragged her out of the house. Appellant is afraid that his brother might think that he brought a prostitute to his house.<sup>20</sup>

AAA then asked where Armie was and appellant told her that Armie is coming. AAA then asked appellant to hide her, but he refused because he does not want to get involved with what they have done. Armie then arrived and saw AAA fixing herself. Armie thus, assumed that appellant and AAA had sex. Appellant then told Armie that it was Dodong and AAA who did it and AAA then started to cry. Armie and AAA then left the house.<sup>21</sup>

At around 6 o'clock in the evening, appellant was arrested by the *tanods* and he was brought to the barangay. There appellant learned that AAA is accusing him of raping her. He denied the allegations, but the authorities did not listen to him. Appellant was later on detained with Dodong whom he wanted to beat up. When the case was filed to the courts, he was surprised that it was only him that was charged with rape.<sup>22</sup>

On November 24, 2014, the trial court found herein appellant guilty of simple rape. The dispositive part of which reads as follows:

IN VIEW WHEREOF, accused EDMER CABANSAG Y AREVALO is found guilty of the crime of rape and is sentenced to suffer the penalty of reclusion perpetua. The accused is further ordered to pay private complainant the amount of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P30,000.00 as exemplary damages.

The period of the accused's preventive detention shall be considered in the service of his sentence.

SO ORDERED.<sup>23</sup>

Appellant appealed<sup>24</sup> to the CA and argues that the trial court erred in finding him guilty of rape. Appellant argues that AAA was

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<sup>20</sup> Id. at 10.

<sup>21</sup> Id. at 10-11.

<sup>22</sup> Id. at 11.

<sup>23</sup> CA *rollo*, p. 34.

<sup>24</sup> Id. at 35.

not a credible witness as her testimony is not in accord to human knowledge, observation and common experience of man. AAA claimed that she shouted and asked for help. According to AAA, Dodong was there with them and did not help her. Yet she did not file a case against Dodong. Appellant also averred that he did not flee as a guilty person would. There was also no proof that his penis had touched complainant's vagina.<sup>25</sup>

The CA was not convinced with appellant's claims. It dismissed appellant's argument regarding Dodong, ruling that people react differently when confronted with frightful occurrence, such as the present case. Appellant was positively identified by AAA; thus, his denial would not hold as a defense. At the same time, his defense of non-flight cannot be given weight as non-flight does not automatically mean innocence. Thus, CA denied the appeal and affirmed *in toto* the Judgment of the trial court. Hence, the present review.<sup>26</sup>

Both parties dispensed with the filing of their supplemental briefs, instead manifested that their briefs submitted in the appellate court would suffice.

### Issue

In the main, appellant assails the judgment of conviction on the ground that his guilt has not been proven beyond reasonable doubt. Appellant claims that the courts heavily relied on the prosecution's witnesses despite their inconclusiveness. Further, appellant claims that not all the elements of the crime were present.

### Court's Ruling

The appeal is not meritorious.

According to Art 266-A of the RPC, rape is committed as follows:

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;

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<sup>25</sup> Id. at 67-74.

<sup>26</sup> Id. at 18-20.

b. When the offended party is deprived of reason or is 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.

2. By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

In the present case, the trial court did not err in ruling that the prosecution has sufficiently established all the elements of rape. It was clear in the testimony of complainant that appellant used forced and intimidation in order to have carnal knowledge with her against her will. Appellant has consummated his crime as shown in the Medico Legal Report and testified by PCI Dettaballi who conducted the examination. We find no reason to depart from these findings. The Court accords upon such findings utmost respect and finality, there being no showing that significant facts have been overlooked or disregarded, which could have otherwise affected the outcome of the case.<sup>27</sup>

In his appeal, Appellant wants to discredit the testimony of AAA by arguing that Dodong's reaction while witnessing the alleged rape and complainant's action of not filing a case against Dodong is not an ordinary human reaction.

We are not persuaded.

We cannot base complainant's credibility on Dodong's reaction or in this case non-reaction. Witnessing a crime is an unusual and no less frightening experience which elicits different reactions from the witnesses. Thus, the Court ruled that there is no standard form of behavior when one is confronted with a shocking incident. Likewise, it is not uncommon for a witness to a crime to show some reluctance about getting involved in a criminal case, as in fact the natural reticence of most people to get involved is of judicial notice. Significantly, the Court has also ruled that the fear of an eyewitness

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<sup>27</sup> *People v. Banzuela*, 723 Phil. 797, 814 (2013).

when townmates are involved in the commission of a crime is understandable for they may provoke reprisals from the accused.<sup>28</sup>

What is clear in the instant case was that AAA positively identified the accused. Both the RTC and CA found that AAA was able to relay what happened to her in a straightforward, spontaneous and convincing manner. It must be noted that in rape cases, when a woman says that she had been raped, she says in effect all that is necessary to show that she had been raped, and if her testimony meets the test of credibility, the accused may be convicted on the basis of the victim's testimony. A rape victim would not publicly disclose that she had been raped and undergo the troubles and humiliation of a public trial if her motive was not to bring to justice the person who abused her.<sup>29</sup>

Time and again, the Court has held that when the issues involve matters of credibility of witnesses, the findings of the trial court, its calibration of the testimonies, and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings, are accorded high respect, if not conclusive effect. This is so because the trial court has the unique opportunity to observe the demeanor of witnesses and is in the best position to discern whether they are telling the truth.<sup>30</sup> Moreover, the CA, performing its sworn duty to re-examine the trial records as thoroughly as it could in order to uncover any fact or circumstances that could impact the verdict in favor of the appellant, is presumed to have uncovered none sufficient to undo or reverse the conviction.<sup>31</sup> Thus, it bears to reiterate that in the review of a case, the Court is guided by the long-standing principle that factual findings of the trial court, especially when affirmed by the CA, deserve great weight and respect.<sup>32</sup>

Anent the penalty, Article 266-B in relation to Article 266-A (1)(a) of the RPC provides that the penalty for simple rape is *reclusion perpetua*. There being no qualifying or aggravating circumstances, the CA is correct in imposing the said penalty. However, in line with the pronouncement in *People v. Jugueta*,<sup>33</sup> the civil indemnity, moral damages and exemplary damages are in the amount of ₱75,000.00 each.

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<sup>28</sup> *People v. Catubig*, 282 Phil. 665, 679 (1992).

<sup>29</sup> *People v. Ilagan*, 455 Phil. 891, 899 (2003).

<sup>30</sup> *People v. Dayaday*, 803 Phil. 363, 370-371 (2017).

<sup>31</sup> *People v. Sota*, 821 Phil. 887, 900 (2017).

<sup>32</sup> *People v. Racal*, 817 Phil. 665, 676 (2017).

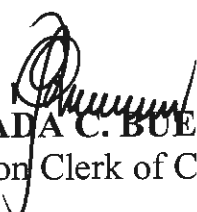
<sup>33</sup> 783 Phil. 806, 848 (2016).



**WHEREFORE**, in view of the foregoing, the appeal is hereby **DISMISSED**. Accordingly, the Decision dated March 29, 2016, of the Court of Appeals in CA-G.R. CR-HC No. 07163 convicting accused-appellant Edmer Cabansag *y* Arevalo of the crime of rape under Article 266-A in relation to Article 266-B of the Revised Penal Code is hereby **AFFIRMED with MODIFICATION**. The accused-appellant is hereby sentenced to suffer the penalty of *reclusion perpetua*. In accordance with recent jurisprudence, the accused-appellant is further ordered to pay private complainant, AAA, the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. All damages awarded shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until fully paid.<sup>34</sup>

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**225-B**

The Solicitor General  
134 Amorsolo Street, Legaspi Village  
1229 Makati City

Court of Appeals (x)  
Manila  
(CA-G.R. CR HC No. 07163)

The Hon. Presiding Judge  
Regional Trial Court, Branch 106  
1100 Quezon City  
(Crim. Case No. Q-10-167690)

The Director General  
Bureau of Corrections  
1770 Muntinlupa City

**PUBLIC ATTORNEY'S OFFICE**  
Special and Appealed Cases Service  
Counsel for Accused-Appellant  
DOJ Agencies Building  
Diliman, 1101 Quezon City

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Mr. Edmer A. Cabansag  
Accused-Appellant  
c/o The Director General  
Bureau of Corrections  
1770 Muntinlupa City

Judgment Division (x)  
Supreme Court

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<sup>34</sup> *Nacar v. Gallery Frames*, 716 Phil. 267, 283 (2013).

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