



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE

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FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 211082

Present:

- versus -

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
PERALTA,*
DEL CASTILLO, and
TIJAM, JJ.

ANTHONY VILLANUEVA,
MELVIN TUPAZ and RUEL
REGNER,

Accused,

Promulgated:

ANTHONY VILLANUEVA,
 Accused-Appellant.

DEC 13 2017

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DECISION

TIJAM, J.:

This is an appeal¹ from the Decision² dated July 31, 2013 of the Court of Appeals (CA) in CA-G.R. CEB CR-HC No. 01296 affirming with modification the Decision³ dated May 27, 2008 of the Regional Trial Court (RTC) of Tacloban City, Branch 6, in Criminal Cases Nos. 97-01-63/97-01-64/97-01-66, which found Anthony Villanueva (accused-appellant) guilty beyond reasonable doubt of the crime of rape under Article 266-A of the Revised Penal Code (RPC).

* Designated additional Member per Raffle dated October 18, 2017 *vice* Associate Justice Francis H. Jardeleza.

¹ *Rollo*, pp. 16-17.

² Penned by Associate Justice Edgardo L. Delos Santos and concurred in by Associate Justices Pamela Ann Abella Maxino and Maria Elisa Sempio Diy; *id.* at 3-15.

³ Penned by Judge Santos T. Gil; *CA rollo*, pp. 32-44.

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The Antecedents

In three separate Informations, accused-appellant, and his co-accused Melvin Tupaz (Melvin), Ruel Regner (Regner), were charged with three counts of rape, the accusatory portions of which read:

Criminal Case No. 97-01-63:

That on or about the 3rd day of November 1996, in the City of Tacloban, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping each other, by means of violence and intimidation, did, then and there willfully, unlawfully and feloniously have carnal knowledge with one AAA,⁴ against her will and consent.

CONTRARY TO LAW.

Criminal Case No. 97-01-64:

That on or about the 3rd day of November 1996, in the City of Tacloban, Philippines, within the jurisdiction of this Honorable Court, the above[-]named accused, conspiring, confederating and helping each other, by means of violence and intimidation, did, then and there willfully, unlawfully, and feloniously have carnal knowledge with one AAA, against her will and consent.

CONTRARY TO LAW.

Criminal Case No. 97-01-66:

That on or about the 3rd day of November 1996, in the City of Tacloban, Philippines, within the jurisdiction of this Honorable Court, the above[-]named accused, conspiring, confederating and helping each other, by means of violence and intimidation, did, then and there willfully, unlawfully and feloniously have carnal knowledge with one AAA, against her will and consent.

CONTRARY TO LAW.⁵

During the arraignment, only accused-appellant appeared and pleaded not guilty while the two other accused, Melvin and Regner, remained at large.⁶

⁴ Under Republic Act No. 9262 also known as "Anti-Violence Against Women and Their Children Act of 2004" and its implementing rules, the real name of the victim and those of her immediate family members are withheld and fictitious initials are instead used to protect the victim's privacy.

⁵ *Rollo*, pp. 4-5.

⁶ *Id.* at 5.

The prosecution presented as witnesses the private complainant AAA and the examining physicians, Dr. Delsergs Jose M. Abit (Dr. Abit) and Dr. Jennylind Solite-Lesiguez (Dr. Solite-Lesiguez).⁷

The testimonies of the witnesses for the prosecution tend to establish the following facts:

AAA was a boarder in the boarding house located at Zamora St., Tacloban City owned by John Hanopol and managed by his daughter Jennylyn Hanopol (Jennylyn). AAA used to rent a room across Jennylyn's but later on shared a common room with the latter. When semestral break came, AAA went home to Jaro, Leyte while Jennylyn also went home to Cariga, Leyte.⁸

On November 3, 1996, AAA went back to the boarding house in preparation for the start of the second semester. Jennylyn, however, was not yet there.⁹

When nighttime came, AAA slept alone in the room she shares with Jennylyn. She was awakened and found three men inside the room who she recognized as Melvin, Regner and accused-appellant.¹⁰

Thereat, Regner approached her and covered her mouth with his palm. Meanwhile, accused-appellant poked the right side of her body with a short *bolo* or *pisao*. While being pinned at this position, Melvin undressed AAA and began kissing her. Melvin then undressed himself and inserted his penis into her vagina.¹¹

After Melvin satisfied his lust, accused-appellant took his turn. Accused-appellant kicked AAA in the stomach several times and then inserted his penis into her vagina. Thereafter, AAA became unconscious.¹²

AAA was awakened when she felt accused-appellant bit her arm. It was then that Regner took his turn raping her. When Regner was finished, Melvin allowed AAA to urinate in a pail. Thereafter, the three men left AAA in the room with a warning that she would be killed should she tell anyone what happened.¹³

⁷ Id.

⁸ Id. at 5-6.

⁹ Id. at 6.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id.



The next day, or on November 4, 1996, Jennylyn arrived and was told by AAA of the harrowing incident she underwent. Upon Jennylyn's advise, AAA reported the incident to the Acting Barangay Chairman Joel Tupaz (Acting Barangay Chairman) who happens to be accused Melvin's brother.¹⁴

During the confrontation at the barangay, accused-appellant, Melvin and Regner asked AAA to forgive them. Acting Barangay Chairman suggested that AAA just slap the three men. When asked how they were able to get inside the room, Melvin divulged that there was a secret window going to the room that he knew of being the boyfriend of Jennylyn.¹⁵

When AAA went home to Jaro, Leyte on November 5, 1996, she confided the incident to her grandmother who then accompanied her to the Tacloban City Police Station. On November 6, 1996, AAA submitted herself for medical examination at the Eastern Visayas Regional Medical Center (EVRMC) under the care of Dr. Abit and Dr. Solite-Lesiguez.¹⁶ The physical examination on AAA showed that she sustained contusions on her arm and forearm while her genital examination revealed complete fresh hymenal laceration at 6:00 o'clock position and incomplete fresh hymenal laceration at 10:00 o'clock position. Further, AAA's vaginal smear showed the presence of spermatozoa.¹⁷

For the defense, the testimonies of accused-appellant, accused-appellant's friends Michael Ecleo (Ecleo) and Anivic Opomin (Opomin), and the barangay secretary Henedina Magdan (Magdan) were presented.

Accused-appellant testified that from 10:00 p.m. until 11:00 p.m. of November 3, 1996 he was watching television in the house of a certain Baby Castillo. After which, he went to the boarding house since his cousin Jennylyn requested him to sleep there. He saw AAA wearing an inverted dress and when he reprimanded AAA, the latter got irritated. He then walked home to eat his supper. On his way, he met Regner holding a mosquito coil which AAA allegedly asked him to bring.¹⁸

Ecleo and Opomin testified that from 9:00 p.m. of November 3, 1996 until 1:00 a.m. of the next day, they were drinking with accused Melvin and AAA. After which, they left behind Melvin and AAA in the boarding house.¹⁹

¹⁴ Id. at 6-7.

¹⁵ Id. at 7.

¹⁶ Id.

¹⁷ *CA rollo*, pp. 38-39.

¹⁸ *Rollo*, p. 8.

¹⁹ Id.

Finally, Magdan confirmed that AAA went to the barangay to complain about the incident and that the three men and AAA had a confrontation before the Acting Barangay Chairman.²⁰

On May 27, 2008, the RTC rendered its Decision²¹ finding accused-appellant guilty of rape. The RTC observed that AAA's account was straightforward and candid and corroborated by the medical findings of the examining physicians. The RTC also observed that AAA immediately reported the incident to the Acting Barangay Chairman and that during the confrontation, the three men asked AAA for forgiveness. According to the RTC, the fact that the three men asked for forgiveness is a strong indication that rape was committed. On the other hand, the RTC observed that accused-appellant's defense of denial and *alibi* are weak and deserve no weight especially in light of AAA's positive declarations.²²

In disposal, the RTC stated:

In view of the foregoing, **WHEREFORE**, the Court finds [accused-appellant] **guilty** beyond reasonable doubt with the crime of simple rape and with the Indeterminate Sentence Law inapplicable, absent of any mitigating or aggravating circumstances, sentences [accused-appellant] to suffer imprisonment of *reclusion perpetua* and to pay the private offended party moral damages of **FIFTY THOUSAND PESOS** (P50,000.00) and civil indemnity of **FIFTY THOUSAND PESOS** (P50,000.00).

SO ORDERED.²³

Accused-appellant turned to the CA and sought reversal of his conviction on the ground that the prosecution failed to prove his guilt beyond reasonable doubt considering that the element of force, intimidation or threat as would characterize the sexual intercourse as rape was not shown and that AAA's testimony is replete with inconsistencies.

The Ruling of the CA

The CA denied accused-appellant's appeal. The CA held that contrary to accused-appellant's claim, the prosecution established that accused-appellant, together with his co-accused, employed force and intimidation in satisfying their bestial desire.²⁴ The CA disregarded accused-appellant's contention that the absence of physical marks negates the employment of force since the acts of kicking and biting may not necessarily leave physical

²⁰ Id.

²¹ CA rollo, pp. 32-44.

²² Id. at 43.

²³ Id. at 44.

²⁴ Rollo, p. 10.

marks on the victim.²⁵ Likewise, the CA held that the inconsistencies pointed out by accused-appellant on AAA's testimony were minor and do not negate rape.²⁶

Thus, the CA in its Decision²⁷ dated July 31, 2013, affirmed the RTC's finding that accused-appellant is guilty of rape. Additionally, the CA imposed a six percent (6%) interest on the award of damages and civil indemnity and accordingly disposed:

WHEREFORE, premises considered and after a judicious perusal of the evidence on record, the instant appeal is DENIED. The trial court *a quo's* decision dated 27 May 2008 is hereby AFFIRMED with MODIFICATION. Accused-appellant is hereby found guilty beyond reasonable doubt with the crime of simple rape and is sentenced to suffer imprisonment of *reclusion perpetua* and to pay the private complainant moral damages of FIFTY THOUSAND PESOS (P50,000.00) and civil indemnity of FIFTY THOUSAND PESOS (P50,000.00) with an interest of six percent (6%) *per annum* on all awards from the date of finality of judgment until fully paid.

SO ORDERED.²⁸

Hence, the present recourse. Both plaintiff-appellee, through the Office of the Solicitor General, and accused-appellant, through the Public Attorney's Office, manifested that they would no longer be filing their respective supplemental briefs.

The Issue

The issue to be resolved is whether or not the guilt of the accused-appellant of the crime of rape was proven beyond reasonable doubt.

The Ruling of the Court

We dismiss the appeal.

Once again, the Court is tasked to weigh between two conflicting versions proposed by one claiming to be the rape victim and the other, professing innocence of the act charged. Thus, in reviewing rape cases, the Court is guided by the following principles: (1) to accuse a man of rape is easy, but to disprove the accusation is difficult, though the accused may be innocent; (2) inasmuch as 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 merit and should not be allowed to draw strength from the weakness of

²⁵ Id.

²⁶ Id. at 11.

²⁷ Id. at 3-15.

²⁸ Id. at 14.

the evidence for the defense.²⁹ If private complainant's testimony successfully meets the test of credibility, then the accused may be convicted on the basis thereof.³⁰

As correctly observed by the RTC and affirmed by the CA, AAA's testimony credibly established that accused-appellant, together with his co-accused Regner and Melvin, acting in concert with one another, succeeded in having carnal knowledge of her against her will. Thus, AAA categorically testified that Regner moved towards her feet and covered her mouth with his palm while accused-appellant poked her right side with a *bolo* as Melvin undressed her and inserted his penis into her vagina. Thereafter, the two other accused took turns in raping her.

The inconsistencies which accused-appellant cite, *i.e.*, that AAA could not determine if she was raped in Jennylyn's room; that AAA was asked by Jennylyn to return on November 3, 1996; that she could not remember if there was another couple occupying the room beside Jennylyn's at the night of the incident; and that AAA could not account for the details of the incident due to a supposed mental black out,³¹ refer only to minor and collateral details which do not detract from the fact that rape was committed by the three accused.

The elements necessary to sustain a conviction for rape are: (1) the accused had carnal knowledge of the victim; and (2) said act was accomplished (a) through the use of force or intimidation, or (b) when the victim is deprived of reason or otherwise unconscious, or (c) when the victim is under 12 years of age or is demented.³² In this case, accused-appellant denies having carnal knowledge of AAA, offering in defense his supposed presence at another place when the alleged incident took place. Accused-appellant likewise argues that the element of force or intimidation was not proven.

Accused-appellant's defense is based mainly on denial and *alibi*. However, "[n]othing is more settled in criminal law jurisprudence than that denial and *alibi* cannot prevail over the positive and categorical testimony of the witness."³³

In *People v. Mateo*,³⁴ the Court pronounced:

Accused-appellant's bare-faced defense of denial cannot surmount the positive and affirmative testimony offered by the prosecution. x x x. A defense of denial which is unsupported and unsubstantiated by clear and

²⁹ *People v. Marquez*, 400 Phil. 1313, 1323 (2000).

³⁰ *Id.*

³¹ *CA rollo*, p. 28.

³² *People v. Quintal, et al.*, 656 Phil. 513, 522 (2011).

³³ *People v. Bulasag*, 582 Phil. 243, 251 (2008).

³⁴ 582 Phil. 369 (2008).

convincing evidence becomes negative and self-serving, deserving no weight in law, and cannot be given greater evidentiary value over convincing, straightforward and probable testimony on affirmative matters. x x x.³⁵ (Citations omitted)

Indeed, denial and *alibi* are intrinsically weak defense which must be buttressed with strong evidence of non-culpability to merit credibility. Emphatically, for the defense of *alibi* to prosper, accused-appellant must prove not only that he was at some other place when the crime was committed but that it was physically impossible for him to be at the *locus criminis* at the time of its commission.³⁶ Here, accused-appellant admits having been at the boarding house at about the same time when the alleged incident took place, *i.e.*, around 11:00 p.m. of November 3, 1996. Accused-appellant likewise professes having seen AAA at the boarding house at that time. His excuse of having gone home to eat supper cannot exculpate him from liability as it was not shown that it was actually physically impossible for him to return back to the boarding house.

As regards accused-appellant's contention that no force or intimidation was proven to have been employed against AAA in the absence of external signs of trauma, suffice to state that the extragenital examination conducted on AAA reveal contusions on her arm and forearm consistent with her testimony that accused-appellant bit her on said body part. The fact that there was no external manifestation of injury on the abdomen does not negate that accused-appellant kicked AAA on the stomach several times. Indeed, the Court in *People v. Paringit*³⁷ has declared that “[n]ot all blows leave marks.”³⁸

Succinctly, the Court in *People v. Napud, Jr.*,³⁹ ruled:

[T]he absence of external injuries does not negate rape. This is because in rape, the important consideration is not the presence of injuries on the victim's body, but penile contact with the female genitalia without the woman's consent.⁴⁰ (Citation omitted)

While the Court affirms the RTC's and the CA's finding that accused-appellant is guilty of rape, We note that accused-appellant was in fact charged under three separate Informations for three counts of rape, specifically stating therein that the accused-appellant, together with his co-accused, conspired, confederated and helped each other in committing the crime. While it is true that the RTC and the CA only found accused-appellant guilty of one count of rape, when he appealed from the decision of

³⁵ Id. at 384.

³⁶ *People v. Fernandez*, 434 Phil. 224 (2002).

³⁷ 267 Phil. 497 (1990).

³⁸ Id. at 508.

³⁹ 418 Phil. 268 (2001).

⁴⁰ Id. at 279-280.

the RTC and later on, the CA, he waived the constitutional safeguard against double jeopardy and threw the whole case open to the review of the appellate court, which is then called upon to render such judgment as law and justice dictate, whether favorable or unfavorable to the accused-appellant.⁴¹

In *People v. Peralta, et al.*,⁴² the Court ruled:

[T]o establish conspiracy, “it is not essential that there be proof as to previous agreement to commit a crime, it being sufficient that the malefactors shall have acted in concert pursuant to the same objective.” Hence, conspiracy is proved if there is convincing evidence to sustain a finding that the malefactors committed an offense in furtherance of a common objective pursued in concert.⁴³ (Citation omitted)

Proof of conspiracy need not even rest on direct evidence, as the same may be inferred from the collective conduct of the parties before, during or after the commission of the crime indicating a common understanding among them with respect to the commission of the offense.⁴⁴

Here, the evidence presented by the prosecution fully support the charge that accused-appellant, together with his co-accused, conspired to rape AAA. The act of Regner in approaching and covering AAA's mouth, the act of accused-appellant in poking a *bolo* at her side, the act of Melvin in having sexual intercourse with AAA and then later on followed by Regner and accused-appellant, all point to their unified and conscious design to sexually violate AAA. Accordingly, accused-appellant should be held liable not only for the act of rape he perpetuated against AAA, but also for the rape committed by his co-accused Regner and Melvin, or for three counts of rape in all, conspiracy being extant among the three of them during the commission of each of the three violations.

Thus, in the absence of an aggravating or mitigating circumstance, the penalty to be imposed is *reclusion perpetua*⁴⁵ in each case.

Additionally, exemplary damages should be awarded for the inherent bestiality of the act committed even if no aggravating circumstance attended the commission of the crime. Thus, in accordance with recent jurisprudence,⁴⁶ the proper amounts awarded should be ₱75,000 as civil indemnity, ₱75,000 as moral damages and ₱75,000 as exemplary damages.

⁴¹ *People v. Mirandilla, Jr.*, 670 Phil. 397, 415 (2011).

⁴² 134 Phil. 703 (1968).

⁴³ *Id.* at 722-723.

⁴⁴ *People v. Gambao, et al.*, 718 Phil. 507, 525 (2013).

⁴⁵ REVISED PENAL CODE, Article 266-B.

⁴⁶ *People v. Jugueta*, G.R. No. 202124, April 5, 2016, 788 SCRA 331.

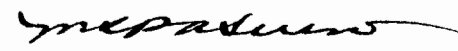
WHEREFORE, the instant appeal is **DISMISSED**. The Decision dated July 31, 2013 of the Court of Appeals in CA-G.R. CEB CR-HC No. 01296 is **AFFIRMED** with **MODIFICATION**. The Court finds accused-appellant Anthony Villanueva **GUILTY** beyond reasonable doubt of three (3) counts of the crime of rape under Article 266-A of the Revised Penal Code, as amended and hereby sentences him to suffer the penalty of *reclusion perpetua* in each case. Accused-appellant is **ORDERED** to **PAY** private complainant the following amounts: ₱75,000 as civil indemnity, ₱75,000 as moral damages, and ₱75,000 as exemplary damages, for each of the three (3) counts of rape.

Accused-appellant Anthony Villanueva is also **ORDERED** to **PAY** interest at the rate of six percent (6%) *per annum* from the finality of this Decision until fully paid, to be imposed on the civil indemnity, moral damages, and exemplary damages.

SO ORDERED.


NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Diosdado M. Peralta
DIOSDADO M. PERALTA
Associate Justice

Mariano C. Del Castillo
MARIANO C. DEL CASTILLO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice