

Republic of the Philippines
SUPREME COURT
Manila

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SOLICITOR GENERAL
Department of Justice
Third Division

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 224583

- versus -

Present:

VELASCO, JR., *J.*, Chairperson,
CARPIO,*
BERSAMIN,
REYES, and
CAGUIOA,** *JJ.*

MICHAEL PALANAY y
MINISTER,
Accused-Appellant.

Promulgated:

February 1, 2017

X-----*[Signature]*-----X

DECISION

VELASCO, JR., *J.*:

Nature of the Case

For review is the Decision¹ dated October 20, 2015 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01140-MIN affirming the Decision² dated February 22, 2013 of the Regional Trial Court (RTC) of Cagayan de Oro City, Branch 19, in Criminal Case No. 2010-343, finding accused-appellant Michael Palanay y Minister guilty of qualified rape under Article 266-A in relation to Article 266-B of the Revised Penal Code (RPC), as amended by Republic Act No. 8353.³

In line with our ruling in *People v. Cabalquinto*,⁴ the real name of the victim, as well as any information which tends to establish or compromise her identity, shall be withheld. The initials “AAA” shall be used instead to represent her.

* Designated as Fifth Member of the Third Division relative to G.R. No. 224583 per Special Order No. 2417-C dated January 4, 2017.

** Designated as additional member per Raffle dated June 15, 2016.

¹ *Rollo*, pp. 3-9. Penned by Associate Justice Oscar V. Badelles and concurred in by Associate Justices Romulo V. Borja and Pablito A. Perez.

² *CA rollo*, pp. 23-30.

³ Otherwise known as the “Anti-Rape Law of 1997.”

⁴ G.R. No. 167693, September 19, 2006, 502 SCRA 419.

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Factual Antecedents

On September 3, 2010, accused-appellant was charged with the crime of rape in an Information,⁵ the accusatory portion of which reads:

That on August 31, 2010 at around 1:00 o'clock in the morning, at _____ Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, did then and there willfully, unlawfully, and feloniously have carnal knowledge with his niece, who is a minor offended party, AAA, 16 years old (Date of birth: _____) against her will and consent, to her damage and prejudice.

Contrary to and in violation of Art. 266-A, in relation to Art. 266-B of the Revised Penal Code, as amended by Republic Act 8353, and with the aggravating circumstance that AAA is a relative by consanguinity within the third civil degree and is below 18 years of age.

The facts, culled from the records, are as follows:

Version of the Prosecution

On the evening of August 30, 2010, AAA was sleeping in her room when she was suddenly awakened by someone removing her short pants and panty. She awoke to find accused Palanay, her uncle and brother of her mother, lying beside her and removing his own short pants. Thereafter, he kissed AAA's lips, touched her breasts, and inserted his penis into her vagina. After satisfying his bestial desires, Palanay slept by AAA's side. AAA put her clothes on, went to the comfort room, and cried in silence. By early morning, AAA went to the house of her elder sister, BBB, and narrated her tragic experience. Upon learning of the incident, BBB went to her elder sister, CCC, to relay what happened to AAA.⁶

BBB corroborated the testimony of AAA. She narrated that, on August 31, 2010 at around 7:00 a.m., she found AAA outside her door sobbing. When asked what caused her troubles, AAA recounted that she was raped by Palanay. Aghast, BBB went to the house of CCC to inform her about what happened to AAA and to plan their next step. CCC blottered the incident and filed a complaint against Palanay for the rape of AAA.⁷

Version of the Defense

Palanay testified that, in the evening of August 31, 2010, he was at his friend's house drinking until 3:00 a.m. the following morning. At around 7:00 a.m., he went to the house of his brother to ask the latter to help him cultivate a land.⁸ Palanay testified that the house of AAA is adjacent to the house of his brother, but he did not notice her.

⁵ Records, p. 4.

⁶ Rollo, p. 4.

⁷ Id.

⁸ TSN, July 2, 2012, p. 42.

Palanay contended that the charge against him was motivated by the quarrel he had with the mother of AAA.

Ruling of the RTC

After trial, the RTC rendered a Decision finding Palanay guilty beyond reasonable doubt as charged. The dispositive portion of the Decision reads:

ALL THE FOREGOING CONSIDERED, the Court finds accused [Palanay] GUILTY beyond reasonable doubt of the crime of rape, as charged and for which the court hereby imposes upon him the penalty of reclusion perpetua. He is further adjudged to pay "AAA" civil indemnity in the sum of Seventy Five (P75,000.00) Pesos without need of proof and moral damages in the sum of Thirty Thousand (P30,000.00) Pesos only. With costs.

SO ORDERED.

In convicting Palanay of the crime charged, the RTC gave more weight and credence to the prosecution's evidence. The trial court observed that AAA was able to positively identify Palanay as the perpetrator of the crime. The commission of the rape was further bolstered by the medical findings of AAA after the rape was committed.⁹

On appeal to the CA, Palanay asserted that AAA's failure to offer serious resistance against his sexual advances cast doubt on his guilt for the crime charged.

Ruling of the Court of Appeals

The CA affirmed the RTC's Decision *in toto*. The *fallo* of the CA's Decision reads:


WHEREFORE, premises considered, the instant appeal is DENIED. The February 22, 2013 Decision of the Regional Trial Court, Branch 19, Cagayan de Oro City, in Criminal Case No. 2010-343, finding [Palanay] guilty beyond reasonable doubt for the crime of Rape under Article 266-A in relation to Article 266-B of the Revised Penal Code is hereby AFFIRMED.

SO ORDERED.

Aggrieved, Palanay filed the instant appeal.

The sole issue for the resolution of this Court is whether the prosecution has proven the guilt of Palanay for the rape of AAA beyond reasonable doubt.

⁹ Records, p. 275.



Our Ruling

We affirm the conviction of Palanay for rape under Article 266-A qualified by relationship in relation to Article 266-B of the RPC, which respectively provide:

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;**

b) When the offended party is deprived of reason or is otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority;

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. x x x (Emphasis supplied)

x x x x

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

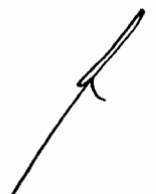
x x x x

The 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, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

Hence, 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 years of age at the time of the rape; and (5) the offender is a parent, ascendant, stepparent, 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.

In the present case, all the foregoing elements of qualified rape are present.



AAA categorically asserted that Palanay, her uncle, had carnal knowledge of her. She was steadfast in her testimony that, in the early morning of August 31, 2010, Palanay undressed her and touched her breast against her will. He then forced himself on her and inserted his penis into her vagina. At the time of the incident, AAA was just sixteen (16) years old.

The findings in the medical examination of AAA taken after the rape support this allegation.¹⁰ While a medical examination of the victim is not indispensable in the prosecution of a rape case, and no law requires a medical examination for the successful prosecution of the case, the medical examination conducted and the medical certificate issued are veritable corroborative pieces of evidence, which strongly bolster the victim's testimony.¹¹ In addition, as found by the trial court, AAA's recollection of what happened after her harrowing experience was sufficiently corroborated by BBB.

To discredit AAA, Palanay makes much of her failure to offer resistance to his advances to discount the occurrence of rape.

Suffice to state this assertion is utterly trivial in nature and does not affect the merits of the case. It bears to stress that in rape cases, the law does not impose a burden on the rape victim to prove resistance because it is not an element of rape.¹² Thus, the failure to shout or offer tenacious resistance does not make voluntary the victim's submission to the criminal act of the offender.¹³

In any event, the failure of AAA to resist Palanay's sexual advances due to the amount of intimidation exerted on her was sufficiently explained. In her testimony before the trial court, she recalled:

PROS. VALCONCHA:

Q You said earlier you did not shout at that time, why is that?

A Because I was afraid.

Q Why were you afraid of the accused?

A Because he is tough.

Q When you said he is tough what do you mean by that?

A He even kicked me.¹⁴ (Emphasis supplied)


¹⁰ *Rollo*, p. 9; *CA rollo*, p. 63.

¹¹ *People v. Alfredo*, G.R. No. 188560, December 15, 2010, citing *People v. Ferrer*, G.R. No. 142662, August 14, 2001, 362 SCRA 778.

¹² *People v. Bacatan*, G.R. No. 203315, September 18, 2013, citing *People v. Baldo*, G.R. No. 175238, February 24, 2009, 580 SCRA 225, 223.

¹³ *People v. Dadulla*, G.R. No. 175946, March 23, 2007, 519 SCRA 48, citing *People v. Glodo*, G.R. No. 136085, July 7, 2004, 433 SCRA 535, 543.

¹⁴ TSN, August 5, 2011, p. 18.



COURT:

Some clarificatory questions from the court.

(To the witness)

x x x x

Q You said you are afraid of Ompoc and Michael, you are afraid of them even before this incident on August 31?

A Yes, Your Honor.

Q Why, would they bully you? What would they do that to make you afraid?

A They used to scold me.

Q Always?

A Michael Palanay used to scold me.

Q He only scolded you but he has not beaten you or physically assaulted you?

A Sometimes he kicked me.

Q Whey they started to scold you when you were still at tender age?

A When I am already grown up.

Q So, you were intimidated by Ompoc Palanay, how about Michael?

A Yes, Your Honor.¹⁵ (Emphasis and underscoring supplied)

By the distinctive nature of rape cases, conviction usually rests solely on the basis of the testimony of the victim, provided that such testimony is credible, natural, convincing, and consistent with human nature and the normal course of things.¹⁶ Thus, the victim's credibility becomes the primordial consideration in the resolution of rape cases.¹⁷ The evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court given its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct, and attitude under grilling examination.¹⁸ In this regard, factual findings of the trial court, its calibration of the testimonies of the witnesses, and its conclusions anchored on its findings are accorded by the appellate court high respect, if not conclusive effect, more so when affirmed by the CA.¹⁹


¹⁵ Id. at 20.

¹⁶ *People v. Ayade*, G.R. No. 188561, January 15, 2010, 610 SCRA 246, citing *People v. Achas*, G.R. No. 185712, August 4, 2009.

¹⁷ *People v. Ocdol*, G.R. No. 200645, August 20, 2014, 733 SCRA 561.

¹⁸ *People v. Abat*, G.R. No. 202704, April 2, 2014, 720 SCRA 557.

¹⁹ *People v. Iroy*, G.R. No. 187743, March 3, 2010, 614 SCRA 245.



Applied in this case, the ruling of the trial court as regards the credibility of the prosecution witnesses, and affirmed by the court *a quo*, must be given weight by this Court. The Court does not see any reason to disturb the RTC and the CA's appreciation of AAA's testimony and find that the prosecution satisfactorily established all the elements of qualified rape.

Rape victims react differently. Some may offer strong resistance while others may be too intimidated to offer any resistance at all.²⁰ There is no standard form of reaction for a woman when facing a shocking and horrifying experience such as a sexual assault. The workings of the human mind placed under emotional stress are unpredictable, and people react differently some may shout, some may faint, and some may be shocked into insensibility, while others may openly welcome the intrusion. However, any of these conducts does not impair the credibility of a rape victim.²¹

In AAA's case, it is evident that she feared Palanay, her uncle, who can be reasonably expected to exercise moral authority over her, even prior to the rape incident. This fear caused her to be immobilized and unable to offer physical resistance to Palanay's advances. The failure to physically resist the attack, however, does not detract from the established fact that a reprehensible act was done to a child-woman by no less than a member of her family. In cases of qualified rape, moral ascendancy or influence supplants the element of violence or intimidation.²² Physical resistance need not be established when intimidation is brought to bear on the victim and the latter submits herself out of fear. As this Court held in *People v. Lomaque*,²³ the failure to shout or offer tenuous resistance does not make voluntary the victim's submission to the criminal acts of the accused.

Anent Palanay's defenses of denial and alibi, the same deserve scant consideration. It is a time-honored principle in jurisprudence that positive identification prevails over alibi since the latter can easily be fabricated and is inherently unreliable.²⁴ For the defense of alibi to prosper, the accused must prove that he was somewhere else when the offense was committed and that he was so far away that it was not possible for him to have been physically present at the place of the crime or at its immediate vicinity at the time of its commission.²⁵

The trial court correctly observed that Palanay only testified as to his whereabouts *after* the commission of the rape; he utterly failed to account for his whereabouts on the wee hours of August 31, 2010 when the rape took

²⁰ *People v. Penilla*, G.R. No. 189324, March 20, 2013, 694 SCRA 141, citing *People v. Madeo*, G.R. No. 176070, 2 October 2009, 602 SCRA 425.

²¹ *People v. Ortoa*, G.R. No. 174484, February 23, 2009. (Citations omitted)

²² *People v. Buclao*, G.R. No. 208173, June 11, 2014.

²³ G.R. No. 189297, June 5, 2013, 697 SCRA 383, citing *People v. Achas*, G.R. No. 185712, August 4, 2009, 595 SCRA 341, 351-352.

²⁴ *People v. Dadao*, G.R. No. 201860, January 22, 2014, 714 SCRA 524, citing *People v. Ramos*, G.R. No. 190340, July 24, 2013.

²⁵ *People v. Piosang*, G.R. No. 200329, June 5, 2013, 697 SCRA 587.

place. In stark contrast, AAA was able to positively identify Palanay as the person who ravished her. Palanay's alibi and bare denial cannot outweigh AAA's affirmative testimony.

Moreover, Palanay's allegation that the accusation against him was ill-motivated due to a misunderstanding that he had with AAA's mother is useless. In *People v. Arthur Mendoza and Dave Mendoza*,²⁶ the Court reiterated that it is unlikely for a young girl—or for her family—to impute the crime of rape to no less than a relative and to face social humiliation, if not to vindicate her honor.²⁷

As to relationship of the parties, there is no dispute that Palanay, being the uncle of AAA, is the latter's relative by third degree of consanguinity, as this was also among the admitted facts contained in the Pre-Trial Order.²⁸

All told, Palanay's conviction for the rape of AAA under Article 266-A stands. In accordance with Article 266-B, the rape is qualified by the relationship of the parties and calls for the application of the death penalty, Palanay being a relative within the third degree of consanguinity of AAA. In view, however, of the passage of Republic Act No. 9346 which suspends the imposition of the death penalty, Palanay shall suffer the penalty of *reclusion perpetua* without eligibility for parole.

To conform to Our pronouncement in *People v. Jugueta*,²⁹ the civil indemnity and moral damages awarded must be increased from Seventy-Five Thousand Pesos (₱75,000.00) and Thirty Thousand Pesos (₱30,000.00), respectively, to One Hundred Thousand Pesos (₱100,000.00) each. We further order the payment of exemplary damages of One Hundred Thousand Pesos (₱100,000.00) in accordance with Article 2230³⁰ of the Civil Code, in view of the qualifying circumstance of relationship, as well as Palanay's moral corruption, perversity, and wickedness in ravishing his own niece. The imposition of exemplary damages is further warranted to deter others from committing similar acts or for correction for the public good.³¹ Finally, interest at the rate of 6% per annum is imposed on all damages awarded from the date of finality of judgment until fully paid.³²

²⁶ G.R. No. 145339-42, November 26, 2002.

²⁷ *Id.*


²⁸ Records, pp. 31-33.

²⁹ G.R. No. 202124, April 5, 2016.

³⁰ Article 2230. In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.

³¹ *People v. Alfredo*, G.R. No. 188560, December 25, 2010, 638 SCRA 749.


³² *People v. Pamintuan*, G.R. No. 192239, June 5, 2013, 697 SCRA 470.



WHEREFORE, the appeal is **DISMISSED**. The Decision dated October 20, 2015 of the Court of Appeals in CA-G.R. CR-H.C. No. 01140-MIN is hereby **AFFIRMED** with further **MODIFICATION**. As modified, the judgment shall read, as follows:

WHEREFORE, premises considered, the instant appeal is **DENIED**. The February 22, 2013 Decision of the Regional Trial Court, Branch 19, Cagayan de Oro City, in Criminal Case No. 2010-343, finding [Palanay] guilty beyond reasonable doubt for the crime of Rape under Article 266-A in relation to Article 266-B of the Revised Penal Code is hereby **AFFIRMED** with **MODIFICATIONS**. The civil indemnity and moral damages awarded are increased to One Hundred Thousand Pesos (P100,000.00) each. In addition, Palanay is further ordered to pay AAA exemplary damages in the amount of One Hundred Thousand Pesos (P100,000.00). All damages awarded shall earn interest at six percent (6%) per annum from the date of finality of this judgment until fully paid.

SO ORDERED.

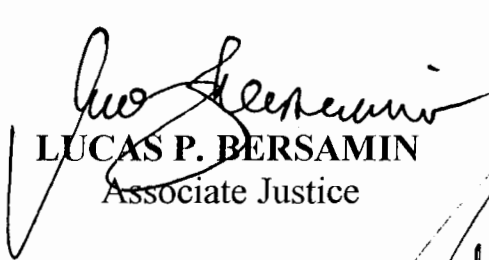


PRESBITERO J. VELASCO, JR.
Associate Justice

WE CONCUR:



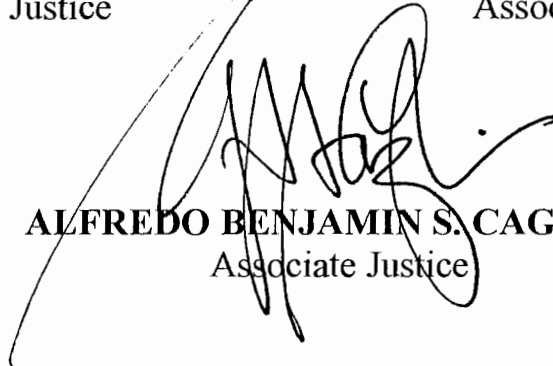
ANTONIO T. CARPIO
Associate Justice



LUCAS P. BERSAMIN
Associate Justice




BIENVENIDO L. REYES
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ATTESTATION

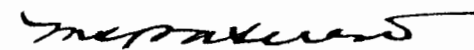
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



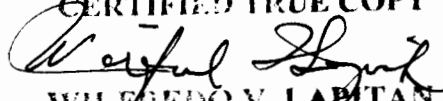
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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
Chief Justice

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WILFREDO V. LABITAN
Division Clerk of Court
Third Division

FEB 15 2017