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Wilfredo V. Lapitan
WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

Republic of the Philippines
Supreme Court
 Manila

AUG 22 2017

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff -Appellee,

G.R. No. 223678

Present:

VELASCO, JR., J.,
Chairperson,
 BERSAMIN,
 REYES,
 JARDELEZA, and
 TIJAM, JJ.

- versus -

ALFREDO GUNSAY y
TOLENTINO,
 Defendant -Appellant.

Promulgated:

July 5, 2017

Wilfredo V. Lapitan

X-----X

DECISION

TIJAM, J.:

Accused-appellant Alfredo Gunsay y Tolentino assails the Decision¹ dated May 20, 2015 of the Court of Appeals (CA) in CA-G.R. CR-HC. No. 06325, which affirmed with modification the Judgment dated April 18, 2013 of the Regional Trial Court (RTC) of Urdaneta City, Pangasinan, Branch 49, in Criminal Case No. 13643. Accused-appellant was convicted of Rape and sentenced to suffer the penalty of *reclusion perpetua*. The CA ordered him to pay the private offended party the amounts of PhP 75,000 as civil indemnity, PhP 75,000 as moral damages, and P30,000.00 as exemplary damages. Accused-appellant was also ordered to pay legal interest on all damages awarded at the rate of six percent (6%) *per annum* from the date of finality of the decision until the same shall have been fully paid.

¹ Penned by Associate Justice Isaias P. Dicedican, concurred in by Associate Justices Elihu A. Ybañez and Victoria Isabel A. Paredes; *rollo*, pp. 2-12.

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The Facts

The Information charging accused-appellant is cited herein, to wit:

That on or about 8:00 o'clock in the morning of March 21, 2005 at Brgy. Santiago, Binalonan, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence and intimidation, did then and there, willfully, unlawfully and feloniously have sexual intercourse with AAA,² minor, 17 years old, against her will and consent, to her damage and prejudice.

CONTRARY to Art. 266-A, par. 1, in rel. to Art. 266-B, 1st par., as amended by R.A. 8353.³

Accused-appellant pleaded not guilty when arraigned. A pre-trial was conducted, and thereafter, trial on the merits ensued.


The prosecution adduced the testimonies of the following: (1) AAA, the private complainant herein; (2) Dr. Brenda M. Tumacder (Dr. Tumacder), the physician from the Department of Pediatrics at the Region 1 Medical Center, Dagupan, Pangasinan, who examined AAA and issued a medico-legal certificate thereto; (3) BBB, the mother of AAA; and (4) PO3 Luzviminda Publico (PO3 Publico), a member of the Philippine National Police (PNP) assigned at PNP-Binalonan Police Station, who is the custodian of PNP-Binalonan.

The corroborative testimonies of the prosecution witnesses showed that, on March 21, 2005, at around 8:00 a.m., AAA, who was then 17 years old, together with her neighbor CCC, went to the field in Barangay Santiago, Binalonan, Pangasinan to get "*saluyot*." On their way home, the two girls met the accused-appellant, who punched AAA on her abdomen and put grass in her mouth, then dragged her to the corn plantation. Accused-appellant held a knife to AAA as he removed her pants and panties, then he inserted his penis into her vagina. Accused-appellant threatened AAA that he will kill her if she will report the incident to anyone. Thereafter, AAA went home and, despite accused-appellant's threat on her, she told the incident to her mother, BBB.

BBB testified that, on March 21, 2005, at around 9:00 a.m., she saw her daughter crying as she was surrounded by a number of people. When she confronted her, AAA confessed that she was forced by a man from Barangay Santiago, Binalonan, Pangasinan to have sexual intercourse with him. BBB reported the incident to Barangay *Kagawad* Mauricio Dispo, who

² The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family or household members, shall not be disclosed to protect her privacy and fictitious initials shall, instead, be used, in accordance with *People v. Cabalquinto* (533 Phil. 703 [2006]), and A.M. No. 04-11-09-SC dated September 19, 2006.

³ *Rollo*, p. 3.



accompanied her and AAA to the Police Station in Binalonan, Pangasinan, where the incident was entered in the police blotter. BBB further testified that she brought AAA to Dr. Tumacder of the Medical Center for physical examination.

Dr. Tumacder testified that AAA sustained fresh hymenal lacerations at 3 o'clock and 6 o'clock positions, hematoma measuring 3x2 centimeters at the right anterior area, abrasion over the urethra and periurethral area, and erythema over the labia minor, right inner area.

The testimony of SPO1 Cipriano Culiao, Jr. (SPO1 Culiao), who investigated the incident was dispensed with upon stipulation by the parties.

PO3 Pablico identified the white face towel, *maong* pants, and blue shirt, which were submitted by AAA to SPO1 Culiao when the rape incident was first reported to him.

For his part, accused-appellant denied having raped AAA on the date, time, and place indicated. According to him, the police officers who testified in court were the ones who came over to his place at Camangaan, Binalonan, Pangasinan and invited him to the police station for questioning with respect to a rape incident. He said he did not know of any reason for AAA to fabricate a story against him as he never had any prior misunderstanding with her or her family.⁴

After trial, the trial court found the accused-appellant guilty beyond reasonable doubt of the crime of Rape, thus:

WHEREFORE, the Court finds the accused **ALFREDO GUNSAY y TOLENTINO, GUILTY** beyond reasonable doubt of the crime of Rape.

Accordingly, he is sentenced to suffer the penalty of Reclusion Perpetua. All the time during which he is under preventive imprisonment shall be credited in his favor.

Accused is ordered to pay the offended party civil indemnity of Fifty Thousand Pesos (PhP50,000.00) and moral damages of Fifty Thousand Pesos (PhP50,000.00).

Without unnecessary delay, the accused is ordered committed to the Bureau of Corrections, Muntinlupa City for the service of his sentence.

SO ORDERED.⁵

⁴ Id. at 6.

⁵ CA rollo, p. 109.

On appeal, the CA affirmed accused-appellant's conviction and penalty of imprisonment of *reclusion perpetua*. The appellate court, however, modified the award of damages against accused-appellant:

WHEREFORE, in view of the foregoing premises, the instant appeal is hereby ordered **DENIED** and, consequently, **DISMISSED**. The appealed Decision rendered by Branch 49 of the Regional Trial Court of the First Judicial Region in Urdaneta City, Pangasinan in Criminal Case No. 13643 which was dated April 18, 2013 is hereby **AFFIRMED** with the **MODIFICATION** that the accused-appellant Alfredo Gunsay y Tolentino is ordered to pay the private offended party "AAA" the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P30,000.00 as exemplary damages. He is further ordered to pay legal interest on all damages awarded in this case at the rate of six percent (6%) per annum from the date of finality of this decision until the same shall have been fully paid.

SO ORDERED.⁶

Accused-appellant now filed this instant appeal to this Court.

The Issue

Whether or not the guilt of accused-appellant for the crime charged has been proven beyond reasonable doubt.

The Court's Ruling

The appeal lacks merit.

In *People v. Navarro, et al.*,⁷ the Court held that:

The gravamen of the offense of rape is sexual intercourse with a woman against her will or without her consent. Thus, the prosecution must prove that (1) the offender had carnal knowledge of a woman; and (2) such act was accomplished through the use of force or intimidation; or when the victim is deprived of reason or otherwise unconscious; or when the victim is under twelve (12) years of age, or is demented.⁸

By AAA's own testimony, accused-appellant punched her on the abdomen, pulled her to the cornfield, and placed grass in her mouth. Holding a knife and pointing it to AAA, accused-appellant removed her pants and panty, and succeeded in having sexual intercourse with her. He also threatened AAA not to report to anyone that she was raped.

⁶ *Rollo*, p. 11.

⁷ G.R. No. 137597, October 24, 2003.

⁸ *Id.*



The Court believes in the testimony of AAA, which was corroborated by the result of the medical examination. As observed by the trial court, "[t]he physician who attended to her found the following injuries, thus: (+) abrasion over urethra and periurethral area; (+) erythema over perihymenal area; (+) erythema over labia minor, right inner area; (+) fresh laceration at 3:00 o'clock position, transaction at 6:00 o'clock position. These injuries are consistent with the commission of rape on the person of the victim."⁹

AAA's credibility is further strengthened by her prompt report of the incident to her mother and authorities, despite the threats made against her life by the accused-appellant. It shows that she did not have the luxury of time to fabricate a rape story.

The defense attempted to discredit AAA's testimony against accused-appellant claiming solely that it was inconsistent with human experience. "Accused-appellant could not have been so daring to just pull and rape her considering that she had companions, who could easily seek help from their neighbors who live nearby."¹⁰ The Court, however, is not impressed by his defense. It has time and again been said that rape is no respecter of time or place as it can be committed in small, confined places or in places which many would consider as unlikely and inappropriate, or even in the presence of other family members.¹¹

As We have held, when at issue is the credibility of the victim, We give great weight to the trial court's assessment. In fact, the trial court's finding of facts is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. Our reason is that the trial court had the full opportunity to observe directly the witnesses' deportment and manner of testifying. It is in a better position to properly evaluate testimonial evidence.¹²

The trial court, as affirmed by the CA, correctly pointed out that:

Jurisprudence teaches that between categorical testimonies that ring of truth, on one hand, and a bare denial, on the other, the Court has strongly ruled that the former must prevail. Indeed, positive identification of the accused, when categorical and consistent, and without any ill motive on the part of the eyewitness testifying on the matter, prevails, over alibi and denial.¹³

⁹ CA rollo, p. 107.

¹⁰ Id. at 98.

¹¹ *People v. Gopio*, G.R. No. 133925, November 29, 2000.

¹² *People v. Caiñgat*, G.R. No. 137963, February 6, 2002.

¹³ *People v. Tejaro*, G.R. No. 187744, June 20, 2012.



After going over the evidence presented by the prosecution and the defense in this case, the Court finds no reason to overturn the judgment of conviction rendered by the trial court, as affirmed by the CA, as the prosecution sufficiently proved accused-appellant's guilt beyond reasonable doubt. Particularly, the trial court correctly stated, *viz.*:

Unfortunately, for the prosecution witnesses, the use of any bladed weapon was not specifically alleged in the information and to consider such fact as an aggravating circumstance would violate the right of the accused to be informed of the the nature and cause of accusation against him. **For such reason, the accused may be convicted of simple rape only under Article 266-A, paragraph 1, in relation to Article 266-B, paragraph 1 of Republic Act No. 8353.**

x x x x

The penalty for the crime of rape under Article 266-A in relation to Article 266-B is *reclusion perpetua*. x x x.¹⁴ (Emphasis ours)

The order of the CA to pay AAA civil indemnity in the modified amount of PhP 75,000.00 and moral damages in the amount of PhP 75,000.00 is in order, thus, it is affirmed, except for the amount of exemplary damages in the amount of PhP 30,000.00. Said amount is increased pursuant to the guidelines laid down in *People v. Jugueta*,¹⁵ to wit:

II. For Simple Rape/Qualified Rape:

x x x x

2.1 Where the penalty imposed is *reclusion perpetua*, other than the above mentioned:

- a. Civil indemnity – P75,000.00
- b. Moral damages – P75,000.00
- c. Exemplary damages – P75,000.00

Accordingly, accused-appellant shall pay exemplary damages to AAA in the increased amount of PhP 75,000.

The award of interest on damages in this case is proper and allowed under Article 2211 of the Civil Code, which states that in crimes and quasi-delicts, interest as a part of the damages may, in proper case, be adjudicated in the discretion of the court.¹⁶

¹⁴ CA *rollo*, p. 108.

¹⁵ G.R. No. 202124, April 5, 2016.

¹⁶ *People v. Magallones*, G.R. No. 171731, August 11, 2006.


WHEREFORE, the instant appeal is **DISMISSED**. The Decision of the Court of Appeals in CA-G.R. CR-HC No. 06325 dated May 20, 2015, finding accused-appellant Alfredo Gunsay y Tolentino **GUILTY** of the crime of Rape is **AFFIRMED with MODIFICATION** in that the amount of exemplary damages is increased from PhP 30,000 to PhP 75,000. The rest of the assailed CA Decision **STANDS**.

SO ORDERED.

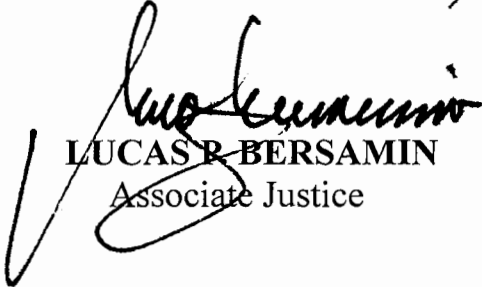


NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:




PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS R. BERSAMIN
Associate Justice



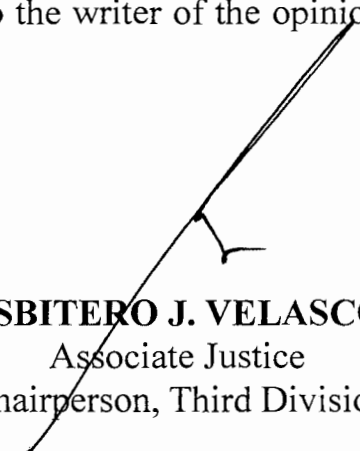
BIENVENIDO L. REYES
Associate Justice



FRANCIS H. JARDELEZA
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.



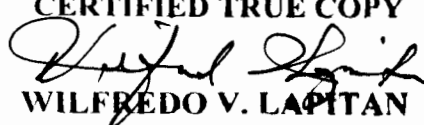
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

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. LAPITAN
Division Clerk of Court
Third Division

AUG 22 2017