



Republic of the Philippines  
**Supreme Court**  
 Manila

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
 Plaintiff-Appellee,

**G.R. No. 224295**

Present:

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

- versus -

**ARIEL S. MENDOZA,**  
 Accused-Appellant.

Promulgated:

March 22, 2017

*[Handwritten Signature]*

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**RESOLUTION**

**REYES, J.:**

This is an appeal from the Decision<sup>1</sup> dated March 13, 2015 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04919, which affirmed with modification the Decision<sup>2</sup> dated December 9, 2010 of the Regional Trial Court (RTC) of Iba, Zambales, Branch 69, in Criminal Case No. RTC 5785-I finding Ariel S. Mendoza (accused-appellant) guilty beyond reasonable doubt of Qualified Rape.

\* Additional Member per Raffle dated March 20, 2017 *vice* Associate Justice Noel G. Tijam.

\*\* Additional Member per Raffle dated March 15, 2017 *vice* Associate Justice Francis H. Jardeleza.

<sup>1</sup> Penned by Associate Justice Myra V. Garcia-Fernandez, with Associate Justices Noel G. Tijam (now a Member of this Court) and Mario V. Lopez concurring; *CA rollô*, pp. 70-80.

<sup>2</sup> Rendered by Judge Josefina D. Farrales; *id.* at 10-15.

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### Factual Antecedents

On February 10, 2010,<sup>3</sup> the accused-appellant was charged with the crime of Rape, as defined and penalized under Article 266-A and 266-B of the Revised Penal Code (RPC), in an Information, the accusatory portion of which reads as follows:

That sometime in between 2008 and 2009, in Brgy. Luna, Municipality of San Antonio, Province of Zambales, Philippines and within the jurisdiction of this Honorable Court, the [accused-appellant], with lewd design, through intimidation, did then and there willfully, unlawfully and feloniously inserted his penis into the vagina and buttocks of his own daughter, five (5) year old [AAA],<sup>4</sup> against her will and consent, and which degraded and demeaned the latter of her intrinsic worth and dignity, to the damage and prejudice of said minor [AAA].

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

Upon arraignment on April 13, 2010, the accused-appellant pleaded not guilty to the charge. During the preliminary conference held on May 5, 2010, he admitted that AAA is his daughter, as well as the existence and due execution of AAA's certificate of live birth.<sup>6</sup>

During the trial, AAA recalled that the incident transpired at her grandfather's house, around the same time when their own house was being demolished. She claimed that while her grandfather was away, the accused-appellant stripped her naked and asked her to lie facing downwards. The accused-appellant then inserted his penis into her vagina and anus. The harrowing incident was interrupted by the arrival of her grandfather, after which she dressed up, went out of the house and played with her dog, while the accused-appellant stayed inside the house.<sup>7</sup>

AAA's testimony during the trial was a reiteration of her narration of the incident in her sworn statement executed on April 16, 2009 which reads as follows:

TANONG - AAA, marunong ka bang magsalita at bumasa ng salita o wikang Tagalog?

SAGOT - Marunong lang pong magsalita ng Tagalog.

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<sup>3</sup> Id. at 71.

<sup>4</sup> 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.

<sup>5</sup> CA rollo, p. 10.

<sup>6</sup> Id. at 71.

<sup>7</sup> Id. at 13.

- T - AAA, bakit nandito kayo ni mama mo sa opisina ng pulis?  
S - Isusumbong ko po si Ninong Rolex at Papa ko.
- T - Bakit mo isusumbong si Papa mo?  
S - Kasi pinasok po niya yong 'TOTOY' niya sa 'PEPE' ko at saka sa 'PUWET' ko.
- T - Papaano ipinasok ng PAPA mo ang 'TOTOY' niya sa pepe mo?  
S - Diba ito yong 'TOTOY' niya, ito yung 'PEPE' ko, yun ipinasok nya? (Victim demonstrate thru her hands how [her] father sexually abused her)
- T - Maalala mo ba kong ano ang itsura ng 'TOTOY' ni PAPA mo?  
S - May balbas saka medyo mahaba.
- T - Anung kulay ng balbas ng 'TOTOY' ni PAPA mo?  
S - Kulay itim, katulad ng buhok. (Victim hold her hair)
- T - Anung naramdaman mo noong pinasok ni PAPA mo ang 'TOTOY' niya sa pepe mo?  
S - Masakit po at saka mahapdi.
- T - Pagkatapos ipinasok ng PAPA mo ang 'TOTOY' niya sa 'PEPE' mo, anung ginawa mo?  
S - Nagsumbong po ako kay BBB, ninang at tita.
- T - Maalala mo ba kung kailan ipinasok ni PAPA mo ang kanyang 'TOTOY' sa 'PEPE' mo?  
S - Noong giniba yong bahay namin, umaga po sa loob ng bahay ni Lolo [DDD].
- T - Alam mo ba kung anung pangalan ni PAPA?  
S - Opo, ARIEL MENDOZA, pero ang palayaw po niya ay "DAGA"[.]
- T - Maari mo bang ikuwento sa amin kong anu ang ginawa ni PAPA mo sa iyo?  
S - Hinubad po ni PAPA ko ang short ko at panty ko at saka damit ko, tapos pinadapa niya ako, tapos ipinasok nila ang 'TOTOY' niya sa 'PEPE' at saka sa 'PUWET' ko tapos po dumating si LOLO ko, nagbihis na po ako tapos lumabas na po ako, at si papa ay naiwan sa loob ng bahay ni LOLO, tapos naglaro po ako kasama ko ang aso ko po.<sup>8</sup> (Citation omitted)

EEE, the mother of AAA and live-in partner of the accused-appellant, testified that she was in Meycauayan, Bulacan when the incident happened. She claimed that she had a fight with the accused-appellant which prompted her to leave their place for a while but she left her children under the care of their grandfather and not with the accused-appellant.<sup>9</sup>

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<sup>8</sup> Id. at 72-73.

<sup>9</sup> Id. at 11.

To further establish its case, the prosecution presented the following evidence: (1) *Sinumpaang Salaysay* of AAA; (2) *Sinumpaang Salaysay* of EEE; (3) Joint Affidavit of Arrest of Police Officer (PO) 1 Walter Primero and PO3 John Lazaro; (4) Certificate of live birth of AAA; and (5) Initial Medico-Legal Report.<sup>10</sup>

For his defense, the accused-appellant claimed innocence and denied the charge. He testified that it was his *compadre* Rolex Labre who committed the crime when the latter was still living with them in 2008. He asseverated that the filing of the case against him was instigated by his live-in partner, EEE, who wanted him jailed so that she could freely cohabitate with her new flame who lives in Bulacan.<sup>11</sup>

On December 9, 2010, the RTC rendered a Decision,<sup>12</sup> finding the accused-appellant guilty beyond reasonable doubt of the crime charged, the dispositive portion of which reads as follows:

IN VIEW THEREOF, [the accused-appellant] is found GUILTY beyond reasonable doubt of the crime of qualified incestuous rape and is hereby sentenced to suffer the penalty of *reclusion perpetua* without eligibility of parole pursuant to R.A. [No.] 9346. [The accused-appellant] is likewise ordered to pay [AAA] the amount of ₱75,000.00 as civil indemnity, ₱75,000.00 as and by way of moral damages and ₱25,000.00 as exemplary damages.<sup>13</sup>

The RTC held that it is fully convinced that the crime was committed and that the accused-appellant was responsible for the same. It found the testimony of AAA clear and straightforward and gave credence to the categorical identification of AAA of her own father as the author of the crime.<sup>14</sup>

On appeal, the CA affirmed with modification the decision of the RTC in its Decision<sup>15</sup> dated March 13, 2015, the dispositive portion of which reads as follows:

**WHEREFORE**, the appeal is DENIED. The decision dated December 9, 2010 issued by the [RTC] of Iba, Zambales[,] Branch 69, finding [the accused-appellant] guilty of qualified rape under Articles 266-A and 266-B of the [RPC] in further relation of [sic] Art. III, Section 5(B) of Republic Act [No.] 7610 with [sic] AFFIRMED with MODIFICATION. The award of civil indemnity of P75,000[.00] and

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<sup>10</sup> Id.  
<sup>11</sup> Id.  
<sup>12</sup> Id. at 10-15.  
<sup>13</sup> Id. at 15.  
<sup>14</sup> Id. at 14.  
<sup>15</sup> Id. at 70-80.

moral damages of P75,000[.00] is AFFIRMED. The award for exemplary damages is increased to P30,000.00. All damages awarded by this Court shall earn legal interest at the rate of 6% per annum from the date of finality of this decision until fully paid.

**SO ORDERED.**<sup>16</sup>

The CA found no reason to doubt AAA's credibility and accorded great weight and respect to the observation of the RTC that her testimony was consistent, candid and straightforward throughout the proceedings. It likewise dismissed the accused-appellant's question on the failure of the prosecution to present the medico-legal officer who conducted the physical examination on AAA after the incident holding that the same is not indispensable in the prosecution for rape.<sup>17</sup>

On April 10, 2015, the accused-appellant filed a Notice of Appeal<sup>18</sup> with the CA, pursuant to Section 13(c) of Rule 124 of the Rules of Court, as amended by A.M. No. 00-5-03-SC.

### **Ruling of the Court**

The appeal lacks merit.

The elements of rape under Article 266-A, paragraph (1)(a) of the RPC, as amended, are: (1) that the offender had carnal knowledge of a woman; and (2) that such act was accomplished through force, threat, or intimidation.<sup>19</sup> Then, to raise the crime of simple rape to qualified rape under Article 266-B, paragraph (1) of the RPC, as amended, the twin circumstances of minority of the victim and her relationship to the offender must concur.<sup>20</sup>

There is no question that all of the foregoing elements were duly established by the prosecution in the instant case. AAA consistently and categorically stated during the trial that the accused-appellant had carnal knowledge of her against her will. Even at her tender age, she was able to clearly relay the incident in a vernacular familiar to her and even demonstrated how she was violated. She testified, thus:

T - Bakit mo isusumbong si Papa mo?

S - Kasi pinasok po niya yong 'totoy' niya sa 'pepe' ko at saka sa 'puwet' ko.

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<sup>16</sup> Id. at 79-80.

<sup>17</sup> Id. at 77-78.

<sup>18</sup> Id. at 86-87.

<sup>19</sup> *People v. Amistoso*, 701 Phil. 345, 355 (2013).

<sup>20</sup> Id.

- T - Papaano ipinasok ni papa mo ang 'totoy' niya sa 'pepe' mo?  
S - Di [ba] ito yong 'totoy' niya, ito yung 'pepe' ko, yun ipinasok nya  
(Victim demonstrate thru her hands how his father sexually abused  
her[.])<sup>21</sup>

The elements of minority and relationship were also duly established during the trial by the admission of the parties and the presentation of AAA's certificate of live birth, where the accused-appellant was identified as the father and also verified that the victim was only 5 years old at the time of the incident.<sup>22</sup> As to the manner by which the crime was committed, *i.e.*, by force, threat or intimidation, such is dismissible in view of the relationship between the parties. In *People v. Barcelá*,<sup>23</sup> the Court expounded on this matter, *viz.*:

[I]n the incestuous rape of a minor, actual force or intimidation need not be [proven]. x x x The moral and physical [domination] of the father is sufficient to [intimidate] the victim into submission to his [carnal] desires. x x x The [rapist], by his overpowering and overbearing moral influence, can easily consummate his bestial lust with impunity. [Consequently], proof of force and violence is unnecessary, unlike when the accused is not an ascendant or a blood relative of the victim.<sup>24</sup>

What is most important is that the victim categorically and consistently identified her own father as the author of that hideous violation of her person. There was no instance that she showed even the slightest hesitation on the identity of her perpetrator. All throughout the proceedings, and even on her sworn statement, she has pointed to her own father as the one who committed the crime.

The Court also finds no compelling reason to depart from the finding of the RTC that AAA's testimony was clear and straightforward, and in according the same with full weight and credence. It is well to remember that when it comes to the issue of credibility of the victim or the prosecution witnesses, the findings of the trial courts carry great weight and respect and, generally, the appellate courts will not overturn the said findings unless the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which will alter the assailed decision or affect the result of the case. This is so because trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying, their demeanor and behavior in court.<sup>25</sup>

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<sup>21</sup> CA *rollo*, p. 13.

<sup>22</sup> Id. at 14.

<sup>23</sup> 652 Phil. 134 (2010).

<sup>24</sup> Id. at 147.

<sup>25</sup> *People v. Amistoso*, *supra* note 19, at 247.

The accused-appellant's defense of denial deserves scant consideration. Aside from his allegation of denial, the records are wanting of any evidence that would support his claim. On the other hand, he was positively identified by his own daughter as the one who committed the crime. Between the positive assertions of AAA and the negative averments of the accused-appellant, the former indisputably deserve more credence and are entitled to greater evidentiary weight.<sup>26</sup>

Further, the accused-appellant's claim that the filing of the complaint was instigated by EEE so that she may be able to freely cohabit with her alleged new lover fails to persuade. The Court entertains no doubt that AAA's filing of complaint against her own father was prompted by nothing else but to seek redress for the desecration of her honor and innocence. In *People v. Dimanawa*,<sup>27</sup> the Court held that no young woman, especially one of tender age, would concoct a story of defloration in the hands of her own father, allow an examination of her private parts, and thereafter pervert herself by being subjected to a public trial, if she was not motivated solely by the desire to obtain justice for the wrong committed against her. It is against human nature for a 5-year-old girl to fabricate a story that would expose herself, as well as her family, to a lifetime of shame, especially when her charge could mean the death or lifetime imprisonment of her own father.<sup>28</sup>

On the basis of the foregoing, the Court is in agreement with the RTC and the CA's finding of guilt of the accused-appellant beyond reasonable doubt of the crime of qualified rape.

With respect to the monetary awards, however, modification must be made in order to be consistent to the prevailing jurisprudence of *People of the Philippines v. Ireneo Jugueta*.<sup>29</sup> For qualified rape where the penalty imposable is death penalty but was reduced to *reclusion perpetua* in view of Republic Act No. 9346, the accused-appellant shall be ordered to pay the following: (a) civil indemnity – ₱100,000.00; (b) moral damages – ₱100,000.00; and (c) exemplary damages – ₱100,000.00.<sup>30</sup>

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated March 13, 2015 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04919 is **AFFIRMED with MODIFICATION** in that accused-appellant Ariel S. Mendoza is hereby ordered to pay the victim the following increased amounts: civil indemnity of ₱100,000.00, moral damages of ₱100,000.00, and exemplary damages of ₱100,000.00. He is further ordered

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<sup>26</sup> *People v. Barcelá*, supra note 23, at 148.

<sup>27</sup> 628 Phil. 678 (2010).


<sup>28</sup> Id. at 689.

<sup>29</sup> G.R. No. 202124, April 5, 2016.


<sup>30</sup> Id.

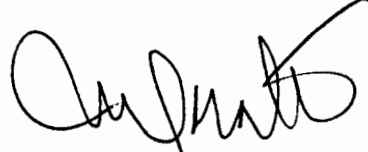
to pay interest on all damages awarded at the legal rate of six percent (6%) *per annum* from the date of finality of this Resolution until fully paid.


**SO ORDERED.**

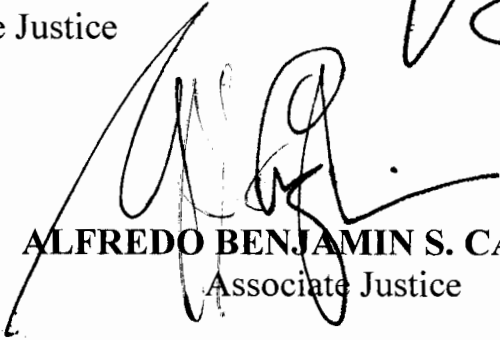
  
**BIENVENIDO L. REYES**  
Associate Justice

**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

  
**DIOSDADO M. PERALTA**  
Associate Justice


  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



**ATTESTATION**

I attest that the conclusions in the above Resolution 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 Resolution 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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