



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 222180

Present:

- versus -

CARPIO, J., Chairperson,  
PERALTA,  
PERLAS-BERNABE,  
CAGUIOA, and  
REYES, JR.,\* JJ.

ELEUTERIO BRAGAT,  
Accused-Appellant,

Promulgated:

JUNDIE BALVEZ and TWO (2)  
JOHN DOES,  
Accused.

22 NOV 2017

X-----

RESOLUTION

CARPIO, J.:

The Case

This is an appeal from the 12 August 2015 Decision<sup>1</sup> of the Court of Appeals in CA-G.R. CEB CR-H.C. No. 01433 which affirmed with modification the 19 January 2012 Decision<sup>2</sup> of the Regional Trial Court (RTC) of Toledo City, Cebu, Branch 29.

The Charge

Criminal Case No. TCS-5344, entitled *People of the Philippines v. Eleuterio Bragat, Jundie Balvez, and Two (2) John Does*, was filed against Eleuterio Bragat (appellant) for the special complex crime of robbery with rape under Article 294 of the Revised Penal Code, as amended, alleged to have been committed as follows:

\* On official leave.

<sup>1</sup> *Rollo*, pp. 4-16. Penned by Associate Justice Germano Francisco D. Legaspi, with Associate Justices Pamela Ann Abella Maxino and Jhosep Y. Lopez concurring.

<sup>2</sup> *CA rollo*, pp. 30-41. Penned by Presiding Judge Ruben F. Altubar.

That on the 9<sup>th</sup> day of February, 2005 at 7:00 in the evening, more or less, x x x, Province of Cebu, Philippines and within the jurisdiction of this Honorable Court, accused Eleuterio Bragat and Jundie Balves and their two (2) other companions herein designated as “John Does” who are still at-large and whose real names are yet to be ascertained, armed with firearms and a bladed weapon, with intent [to] gain, conspiring, confederating and mutually helping one another, and by means of violence against and force and intimidation upon persons, did then and there willfully, unlawfully and feloniously enter the house of SPOUSES AAA and BBB<sup>3</sup> inhabited by them with their children and thereafter take, steal and carry away their money in the amount of [P]600.00 and a pair of earrings worth P3,000.00, to the damage and prejudice of said spouses in the total amount of THREE THOUSAND SIX HUNDRED ([P]3,600.00) PESOS; That by reason or on the occasion of said robbery, accused ELEUTERIO BRAGAT, moved by lewd design and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with AAA, against her will.

CONTRARY TO LAW.<sup>4</sup>

Only appellant was arraigned on 26 January 2006 and he pleaded not guilty. Jundie Balvez was initially detained but escaped from the Tabuelan Municipal Jail in March 2005. He still remains at large up to this day.<sup>5</sup>

### **Version of the Facts of the Prosecution**

On 9 February 2005, at around 7:00 in the evening, spouses AAA (wife) and BBB (husband) were in their house with their 10-month-old child when someone called from outside, “[B], we are thirsty. Will you please give us water?”<sup>6</sup> B is BBB’s nickname.

BBB recognized that the caller was Jundie Balvez, a classmate of their child and someone who would usually drop by their house. AAA signalled to BBB not to open the door. When the spouses went to the kitchen to lock their door, four armed and masked men had already barged into their kitchen. The four armed and masked men, consisting of appellant and three other companions, hogtied the spouses with nylon rope and asked them where they kept their money. When BBB told them they had no money, appellant and his companions beat him up and pointed a gun to his head. Two men brought BBB to the spouses’ bedroom and proceeded to ransack their house. Appellant brought AAA to the back of the kitchen and directed one of his companions to watch over the 10-month-old baby.

<sup>3</sup> The real name of the victim [of rape], 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 Supreme Court Amended Administrative Circular No. 83-15 dated 5 September 2017.

<sup>4</sup> *Rollo*, p. 6.

<sup>5</sup> *CA rollo*, p. 31.

<sup>6</sup> *Id.*

At the back of the kitchen, appellant told AAA to lie on her side. Appellant took off AAA's shorts and underwear, and unbuttoned his own pants. He laid on top of her. When AAA tried to resist and told him that she had menstruation, appellant pointed a gun at her and threatened to kill her, her husband, and their child if she did not give in. Appellant removed his bonnet, kissed AAA and had sexual intercourse with her.

After appellant was done raping AAA, he brought AAA to the bedroom where BBB and the other men were because BBB refused to cooperate and tell them where they kept their money.

When AAA told appellant and his companions that they did not keep their money in the bedroom, the spouses were brought to the kitchen. AAA pointed to a small box in their kitchen where they kept all their money amounting to Six Hundred (₱600.00) Pesos. When appellant and his companions demanded for more, AAA also gave them the only piece of jewelry she had, a small pair of gold earrings worth Three Thousand (₱3,000.00) Pesos.

AAA testified that after appellant and his companions took the money and her earrings, they left. On the other hand, BBB testified that after appellant and his companions took their money and the earrings, they brought the spouses back to the bedroom and searched their things one last time before leaving.

On 10 February 2005, at 4:00 in the morning, the spouses went to the barangay captain and informed him about the incident.

The spouses subsequently proceeded to the Women and Children Friendly Center of the Vicente Sotto Memorial Medical Center in Cebu City to have AAA checked. Dra. Madeline Amadora (Dra. Amadora) physically examined AAA and conducted sperm identification on her. Dra. Amadora testified in the RTC that the tests yielded negative results because of three possible reasons: (a) studies show that only 30% of sperm identification is positive within 24 hours because of the patient's post-sexual activities like washing the genitalia, urinating or bathing; (b) there was no penetration and/or ejaculation; and (c) AAA had menstruation when she was raped by appellant. A Medical Certificate which she and Dra. Michelle Ann Dy, an OB-Gyne resident, had signed was presented to the RTC as Exhibit "C."

### **Version of the Facts of the Defense**

Appellant testified that he did not know his co-accused, Jundie Balvez and the spouses.



On 9 February 2005, appellant was in the house of his employer, Celestino Jojo Andales, Jr. in Poblacion, Tuburan, Cebu. His employer owns the *trisikad* appellant was driving since 2004 until he was arrested.

At around 7:00 that evening, appellant had just returned the *trisikad* to his employer's garage. After an hour of talking to his employer, appellant slept in his employer's house together with two other *trisikad* drivers, Federico Casas and Berto Bensolan. Appellant only goes home on weekends to his family in another town named Tabuelan, Cebu.

On 10 February 2005, AAA pointed to appellant while appellant was waiting for passengers. Appellant was subsequently arrested by two policemen who were not in uniform and were not armed with a warrant of arrest. The policemen brought appellant to the Tabuelan Police Station.

Appellant claims that he is innocent.

### **The Ruling of the RTC**

In its Decision dated 19 January 2012, the RTC found appellant guilty beyond reasonable doubt of the crime of robbery with rape. The dispositive portion reads:

WHEREFORE, in the light of all the foregoing, judgement is hereby rendered finding accused Eleuterio Bragat guilty beyond reasonable doubt of the crime of Robbery with Rape, and he is hereby sentenced to suffer the penalty of Reclusion Perpetua with all the accessory penalties provided by law and to indemnify private complainant, AAA joined by her husband, BBB the following amounts:

- a. Seventy-Five Thousand Pesos (₱75,000.00) by way of civil indemnity;
- b. Seventy-Five Thousand Pesos (₱75,000.00) by way of moral damages; and
- c. Thirty Thousand Pesos (₱30,000.00) by way of exemplary damages.

Accused is also ordered to pay complainants the amount of Six Hundred Pesos (₱600.00) representing the money taken and to return to complainants the pair of earrings, and if the return is already impossible, to pay complainants the value thereof which is Three Thousand Pesos (₱3,000.00).

h

Further, all the said monetary awards shall bear interest at six percent (6%) per annum from the finality of this Decision until fully paid.

x x x x

With costs against accused.

SO ORDERED.<sup>7</sup>

### **The Ruling of the Court of Appeals**

The Court of Appeals denied the appeal of appellant. The dispositive portion of its Decision reads:

WHEREFORE, the appeal is DENIED. The Decision dated January 19, 2012 rendered by Branch 29 of the Regional Trial Court (RTC) of Toledo City finding accused-appellant Eleuterio Bragat guilty of robbery with rape is AFFIRMED with MODIFICATION. The award of civil indemnity is reduced to ₱50,000.00 and the award of moral damages is also reduced to ₱50,000.00.

SO ORDERED.<sup>8</sup>

Hence, this appeal.

### **The Issue**

The issue in this case is whether appellant Eleuterio Bragat is guilty of the crime of robbery with rape.

### **The Ruling of the Court**

The appeal lacks merit.

Both the RTC of Toledo City, Cebu, Branch 29, and the Court of Appeals correctly found the appellant guilty beyond reasonable doubt of the special complex crime of robbery with rape under Article 294 of the Revised

---

<sup>7</sup> Id. at 40-41.

<sup>8</sup> *Rollo*, p. 15.

Penal Code,<sup>9</sup> as amended by Section 9 of Republic Act No. 7659.<sup>10</sup> Robbery with rape contemplates a situation where the original intent of the accused was to take, with intent to gain, personal property belonging to another and rape is committed on the occasion thereof or as an accompanying crime, and not the other way around.<sup>11</sup>

After a careful review of the records of the case, this Court finds that there is no basis to disturb the findings of the RTC as affirmed by the Court of Appeals. The prosecution's evidence satisfactorily established the following essential elements of the crime: (a) the taking of personal property is committed with violence or intimidation against persons; (b) the property taken belongs to another; (c) the taking is done with *animo lucrandi*; and (d) the robbery is accompanied by rape. The Court of Appeals held:

In this case, the prosecution established that accused-appellant and his three companions took the cash and gold earrings of the spouses AAA and BBB by means of violence and intimidation. Accused-appellant and his cohorts barged into the house of the spouses armed with firearms and tied their hands behind their backs using a nylon rope. The assailants then asked for the location of the spouses' money. When BBB did not reveal where they kept their money, accused-appellant's companions then poked a gun at him and punched him in the stomach. Intent to gain, or *animus lucrandi*, as an element of the crime of robbery, is an internal act; hence, presumed from the unlawful taking of things. Having established that the

<sup>9</sup> Article 294 of the Revised Penal Code, as amended, provides:

Art. 294. *Robbery with violence against or intimidation of persons – Penalties.*  
Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1. The penalty of *reclusion perpetua* to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed, or when the robbery shall have been accompanied by rape or intentional mutilation or arson.
2. The penalty of *reclusion temporal* in its medium period to *reclusion perpetua*, when or if by reason or on occasion of such robbery, any of the physical injuries penalized in subdivision 1 of Article 263 shall have been inflicted.
3. The penalty of *reclusion temporal*, when by reason or on occasion of the robbery, any of the physical injuries penalized in subdivision 2 of the article mentioned in the next preceding paragraph, shall have been inflicted.
4. The penalty of *prision mayor* in its maximum period to *reclusion temporal* in its medium period, if the violence or intimidation employed in the commission of the robbery shall have been carried to a degree clearly unnecessary for the commission of the crime, or when in the course of its execution, the offender shall have inflicted upon any person not responsible for its commission any of the physical injuries covered by subdivisions 3 and 4 of said Article 263.
5. The penalty of *prision correccional* in its maximum period to *prision mayor* in its medium period in other cases.

<sup>10</sup> An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, As Amended, Other Special Penal Laws, and for Other Purposes.

<sup>11</sup> *People v. Belmonte*, G.R. No. 22089, 5 July 2017, citing *People v. Tamayo*, 434 Phil. 642, 654 (2002).

personal properties of the victims were unlawfully taken by accused-appellant, intent to gain was sufficiently proven. Thus, the first three elements of the crime were clearly established.

We shall now discuss the last element of the crime charged. Accused-appellant argues that AAA's lone testimony is not sufficient to prove that rape was committed on the occasion of the robbery. We disagree. The Supreme Court has consistently ruled that the sole testimony of the rape victim may be sufficient to convict the accused. If her testimony meets the test of credibility, such is sufficient to convict the accused. The credibility of the victim is almost always the single most important issue to hurdle. x x x.<sup>12</sup>

This Court agrees with the RTC and the Court of Appeals that the testimonies of the prosecution witnesses were sufficient and credible to sustain the conviction of appellant. Appellant not only failed to discredit the testimonies of the prosecution witnesses, but also failed to strengthen his *alibi*. Appellant did not introduce as witnesses his alleged companions that night, his employer, Celestino Jojo Andales, Jr. and the other two *trisikad* drivers, Federico Casas and Berto Bensolan, to testify that it was physically impossible for appellant to be in the spouses' house because appellant was with them in another municipality. Here, absent any showing of ill motive on the part of the witnesses, a categorical, consistent, and positive identification of the appellant prevails over the appellant's *alibi* that "he was somewhere else when the crime was committed and that it was physically impossible for him to have been at the scene of the crime."<sup>13</sup> Unless substantiated by clear and convincing proof, *alibi* and denial are negative, self-serving, and undeserving of any weight in law.<sup>14</sup>

This Court also agrees with the Court of Appeals that the negative results of a physical examination conducted by a certified doctor do not at all negate the commission of rape. We have consistently ruled that a medical examination and a medical certificate are merely corroborative and are not indispensable to the prosecution of a rape case.<sup>15</sup> We agree with the ruling of the Court of Appeals that:

While Dr. Amadora testified in court that the results of the physical examinations conducted on AAA were negative, such fact does not at all negate the commission of rape. It has been ruled that the absence of fresh lacerations does not prove that the victim was not raped. A freshly broken hymen is not an essential element of rape and healed lacerations do not negate rape. Hence, the presence of healed hymenal lacerations the day after the victim was raped does not negate the commission of rape by the accused when the crime was proven by the combination of highly convincing pieces of circumstantial evidence. x x x.<sup>16</sup>

---

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

<sup>13</sup> *Id.* at 14.

<sup>14</sup> *Id.*, citing *People v. Catuiran*, 397 Phil. 325, 350 (2000).

<sup>15</sup> *People v. Evangelio*, 672 Phil. 229, 245 (2011), citing *People v. Orilla*, 467 Phil. 253, 274 (2004).

<sup>16</sup> *Rollo*, p. 13.

This Court has consistently ruled that the determination by a trial judge who could weigh and appraise the testimonies of the witnesses as to the facts duly proved is entitled to the highest respect, unless it could be shown that the trial judge ignored or disregarded circumstances of weight or influence sufficient to call for a different finding.<sup>17</sup> This Court will not interfere with the judgement of the trial court in passing on the credibility of the opposing witnesses, unless there appears in the record facts or circumstances of weight and influence which have been overlooked or the significance of which has been misinterpreted.<sup>18</sup> Here, we find no cogent reason to depart from the ruling of the RTC.

However, the award of civil indemnity, moral damages, and exemplary damages should be increased to ₱75,000.00 each, pursuant to prevailing jurisprudence.<sup>19</sup> Interest at the rate of 6% *per annum* is imposed on all damages awarded from the date of finality of this Resolution until fully paid.

**WHEREFORE**, the Decision dated 12 August 2015 of the Court of Appeals in CA-G.R. CEB CR H.C. No. 01433 finding appellant Eleuterio Bragat guilty of robbery with rape is **AFFIRMED** with **MODIFICATION**. The award of civil indemnity, moral damages, and exemplary damages is increased to ₱75,000.00 each. Interest at the rate of 6% *per annum* is imposed on all damages awarded from the date of finality of this Resolution until fully paid.

**SO ORDERED.**



**ANTONIO T. CARPIO**  
Associate Justice

<sup>17</sup> *People v. Carandang*, 152 Phil. 237, 246-247 (1973).

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

<sup>19</sup> *People v. Jugueta*, G.R. No. 202124, 5 April 2016, 788 SCRA 331.

**WE CONCUR:**

  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

(on official leave)  
**ANDRES B. REYES, JR.**  
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.

  
**ANTONIO T. CARPIO**  
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