



**Republic of the Philippines
Supreme Court
Manila**

SECOND DIVISION

ROGELIO B. ANTONE,
Petitioner,

G.R. No. 225146

Present:

- versus -

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

**PEOPLE OF THE
PHILIPPINES,**
Respondent.

Promulgated:

20 NOV 2017

W. Cabalag

X-----X

DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated July 31, 2015 and the Resolution³ dated April 22, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01327, which affirmed the conviction of petitioner Rogelio B. Antone (Antone) for two (2) counts of the crime of Statutory Rape.

The Facts

The instant case stemmed from two (2) separate Informations⁴ filed before the Regional Trial Court of Guihulngan, Negros Oriental, Branch 64

* On official leave.

¹ *Rollo*, pp. 12-37.

² *Id.* at 39-67. Penned by Associate Justice Jhosep Y. Lopez with Associate Justices Pamela Ann Abella Maxino and Germano Francisco D. Legaspi concurring.

³ Not attached to the *rollo*. See *id.* at 13.

⁴ Not attached to the *rollo*.

N

(RTC) each charging Antone of raping his then eleven (11)-year old niece-in-law, AAA,⁵ the accusatory portions of which reads:

Criminal Case FC No. 99-028-G

That on August 1997, in the Municipality of Guihulngan, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously, by means of force and intimidation did lie and succeed in having carnal knowledge with AAA, an eleven (11) year old minor child, the accused being the husband of her Aunt Aniceta Bontigao, the elder sister of the father of AAA.

Criminal Case FC No. 99-029-G

That on November 1997, in the Municipality of Guihulngan, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously, by means of force and intimidation did lie and succeed in having carnal knowledge with AAA, an eleven (11) year old minor child, the accused being the husband of her Aunt Aniceta Bontigao, the elder sister of the father of AAA.⁶

The prosecution alleged that starting 1995, AAA started living in the house of her Aunt Aniceta and her husband, Antone. AAA's mother and brother, BBB and DDD,⁷ lived in another house about 200 meters away, while her father, CCC,⁸ lived in Mandaue City where he worked as a security guard and only came home about twice a month. At around three o'clock in the afternoon of a Saturday in August 1997, AAA was preparing dinner when she saw Antone staring strangely at her. Initially, AAA ignored what Antone was doing, but after a while, Antone approached her, grabbed her hand, and carried her into the master's bedroom. Thereat, Antone locked the door, approached AAA, and removed her shorts and underwear. He then removed his own lower garments, separated AAA's legs and mounted her. However, since his penis remained flaccid, he made AAA hold his penis, and thereafter, repositioned himself on top of her and made pumping motions. At this point, AAA surmised that Antone's penis was already erect at that time as she felt it penetrate her vagina, causing her to feel pain. After Antone ejaculated, he got a rag then used the same to wipe his penis as well

⁵ The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to RA 7610, entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES," approved on June 17, 1992; RA 9262, entitled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES," approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the "Rule on Violence against Women and Their Children" (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]).

⁶ *Rollo*, pp. 46-47.

⁷ See note 5.

⁸ *Id.*

✓

as AAA's vagina before instructing the latter to put her shorts and underwear back on. Before leaving the room, Antone threatened AAA to kill her should she tell what just happened.⁹

A similar incident happened in November 1997 when Antone commanded AAA to give him a massage, to which the latter obliged. After a while, Antone again brought AAA to the master's bedroom, locked the door, removed AAA's shorts and panty, had carnal knowledge of her until he ejaculated, and threatened to kill her if she revealed to anyone about what happened.¹⁰

According to AAA, the incident happened several times more and she eventually started to like what Antone was doing to her. When AAA returned to her parents' house, she started missing her sexual activities, which caused her to seduce her own brother, DDD. Eventually, word came out of their incestuous relationship, prompting BBB to confront her about it. It was only then that AAA admitted to her mother about her sexual encounters with Antone. Accordingly, AAA's parents had her medically examined and filed the instant criminal cases against Antone.¹¹

In his defense, Antone denied the charges against him, averring that it was impossible for him to rape AAA as there were a lot of people residing in their house. He then claimed that AAA and DDD were caught red handed by their grandmother engaging in incestuous relations and BBB and CCC only made it appear that he was the one who abused AAA in order to cover up the family embarrassment.¹²

The RTC Ruling

In a Judgment¹³ dated January 6, 2011, the RTC found Antone guilty beyond reasonable doubt of two (2) counts of Simple Statutory Rape, and accordingly, sentenced him to suffer the penalty of *reclusion perpetua* for each count of rape, and ordered him to indemnify AAA the amounts of ₱50,000.00 as civil indemnity and ₱30,000.00 as exemplary damages for each count of rape, without subsidiary imprisonment in case of insolvency.¹⁴

Aggrieved, Antone appealed¹⁵ to the CA.

⁹ Id. at 40-41.

¹⁰ Id. at 42.

¹¹ Id. at 42-45.

¹² See id. at 15-16, 44-45, and 48.

¹³ Not attached to the *rollo*. See id. at 39-40 and 47.

¹⁴ Id.

¹⁵ Not attached to the *rollo*.

✓

The CA Ruling

In a the Decision¹⁶ dated July 31, 2015, the CA affirmed the RTC ruling with modification, adjusting the award of damages in favor of AAA to ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages, plus legal interest at the rate of six percent (6%) per annum from finality of the ruling until fully paid.¹⁷

The CA held that AAA's clear and straightforward testimony positively identifying Antone as her assailant is enough to establish the fact of statutory rape, considering that she was just eleven (11) years of age when the sexual abuses occurred. The CA noted that as a minor who has no ill motive to falsely testify against Antone, AAA's testimony must be given full faith and credence.¹⁸

Dissatisfied, Antone moved for reconsideration but the same was denied in a Resolution¹⁹ dated April 22, 2016; hence, this petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not Antone's conviction must be upheld.

The Court's Ruling

The petition must be dismissed.

At the outset, the Court notes that Antone made a procedural lapse in elevating the case before the Court *via* a petition for review on *certiorari* under Rule 45 of the Rules of Court. Section 3 (e), Rule 122 of the Revised Rules on Criminal Procedure (Rules) especially provides that "[e]xcept as provided in the last paragraph of Section 13, Rule 124, all other appeals to the Supreme Court shall be by petition for review on *certiorari* under Rule 45. In this regard, Section 13, Rule 124 of the Rules states:

Section 13. *Certification or appeal of case to the Supreme Court.* –
(a) Whenever the Court of Appeals finds that the penalty of death should be imposed, the court shall render judgment but refrain from making an

¹⁶ Id. at 39-67.

¹⁷ Id. at 66.

¹⁸ Id. at 48-62.

¹⁹ Not attached to the *rollo*. See id. at 13.

entry of judgment and forthwith certify the case and elevate its entire record to the Supreme Court for review.

(b) Where the judgment also imposes a lesser penalty for offenses committed on the same occasion or which arose out of the same occurrence that gave rise to the more severe offense for which the penalty of death is imposed, and the accused appeals, the appeal shall be included in the case certified for review to the Supreme Court.

(c) **In cases where the Court of Appeals imposes *reclusion perpetua*, life imprisonment or a lesser penalty, it shall render and enter judgment imposing such penalty. The judgment may be appealed to the Supreme Court by notice of appeal filed with the Court of Appeals.**
(Emphases and underscoring supplied)

In this case, the CA affirmed the imposition of the penalty of *reclusion perpetua* to Antone for each count of Statutory Rape committed against AAA. As such, he should have filed a notice of appeal before the CA instead of filing a petition for review on *certiorari* before the Court.


Accordingly, Antone's failure to timely file a notice of appeal before the CA resulted in the latter court's Decision dated July 31, 2015 and the Resolution dated April 22, 2016 lapsing into finality. Time and again, the Court has repeatedly held that "a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land. This principle, known as the doctrine of immutability of judgment, has a two-fold purpose, namely: (a) to avoid delay in the administration of justice and thus, procedurally, to make orderly the discharge of judicial business; and (b) to put an end to judicial controversies, at the risk of occasional errors, which is precisely why courts exist. Verily, it fosters the judicious perception that the rights and obligations of every litigant must not hang in suspense for an indefinite period of time. As such, it is not regarded as a mere technicality to be easily brushed aside, but rather, a matter of public policy which must be faithfully complied."²⁰

While the Court notes that there are exceptions to the application of this principle, none of which properly obtains in this case. In fine, Antone's conviction remains.

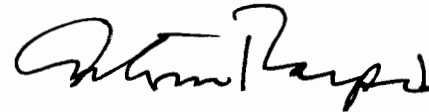
WHEREFORE, the petition is DISMISSED.

²⁰ See *Uy v. Del Castillo*, G.R. No. 223610, July 24, 2017, citing *National Housing Authority v. CA*, 731 Phil. 401, 405-406 (2014).

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

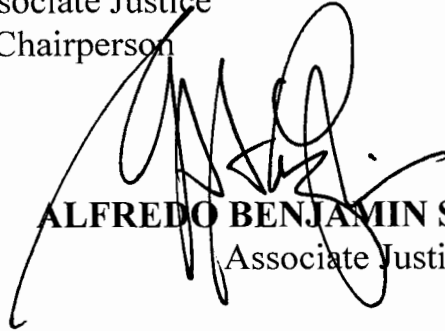
WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



DIOSDADO M. PERALTA
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 Decision 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, Second 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