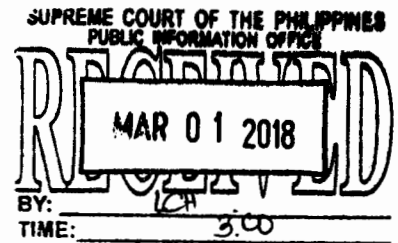




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION



PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 222654

Present:

SERENO, *Chief Justice,*
LEONARDO-DE CASTRO,*
Acting Chairperson,
DEL CASTILLO,
REYES,** *and*
TIJAM, JJ.

- versus -

ROMEO GARIN y OSORIO,
Accused-Appellant.

Promulgated:
FEB 21 2018

X-----X

RESOLUTION

DEL CASTILLO, J.:

This is an appeal filed by appellant Romeo Garin y Osorio from the December 4, 2015 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01223-MIN, affirming with modification the April 20, 2013 Judgment² of the Regional Trial Court (RTC) of Butuan City, Branch 1, in Criminal Case No. 14892, finding the appellant guilty beyond reasonable doubt of rape through sexual assault in relation to Republic Act (RA) No. 7610.

The Factual Antecedents

Appellant was charged under the following Information:

That at more or less 1:20 x x x in the afternoon of December 25, 2010 at Butuan City, Philippines and within the jurisdiction of this Honorable Court, the above-named [appellant], by means of force, threat or intimidation did then and

* Per Special Order No. 2536 dated February 20, 2018.

** Designated as additional member per November 29, 2017 raffle vice J. Jardeleza who recused due to prior action as Solicitor General.

¹ *Rollo*, pp. 3-15; penned by Associate Justice Maria Filomena D. Singh and concurred in by Associate Justices Edgardo T. Lloren and Ronaldo B. Martin.

² *CA rollo*, pp. 38-51; penned by Judge Eduardo S. Casals.

there willfully, unlawfully and feloniously have carnal knowledge [of] "AAA,"³ a four (4) year old minor by inserting his finger into her vagina against her will resulting to mental, emotional and psychological trauma, to the damage and prejudice of said "AAA," x x x.

CONTRARY TO LAW: (Article 266-A, paragraph 2 of the Revised Penal Code as amended by RA 8353 in relation to RA 7610)⁴

When arraigned, appellant pleaded not guilty to the crime charged.⁵

During the pre-trial conference, the following facts were stipulated and agreed upon by the parties:

1. The defense admitted the identity of the [appellant] as named in the Information;
2. The defense admitted that the victim "AAA" [was] a 4-year old minor; and
3. The defense admitted the date of the incident on December 25, 2010.⁶

Version of the Prosecution

During the trial, the prosecution presented the testimonies of "AAA," her mother "BBB," witness "FFF," and Dr. Wenceslina L. Caseñas.

The evidence of the prosecution was as follows:

Private complainant "AAA" is a minor aged four (4) when the crime occurred. She testified that on December 25, 2010 she went out of their house to go to the house of her Auntie "CCC" to see the new bike of her cousin "DDD". The house of her aunt is near the house of her friend "EEE," where appellant x x x was. "AAA" said that she was not able to go to the house of "DDD" to see his bike because appellant took her and placed her on his lap. x x x That while she was on the lap of appellant, the latter put his finger inside her vagina and she felt pain. She ran away but appellant chased her and caught her. Appellant then covered her mouth and boxed her in the stomach. x x x.



³ "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 Republic Act No. 7610, An Act Providing for Stronger Deterrence And Special Protection Against Child Abuse, Exploitation And Discrimination, And for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women And Their Children, Providing For Protective Measures For Victims, Prescribing Penalties Therefor, And for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and Their Children, effective November 15, 2004." *People v. Dumadag*, 667 Phil. 664, 669 (2011).

⁴ Records, p. 1.

⁵ *Rollo*, p. 4.

⁶ Id.

“BBB,” mother of “AAA,” testified that she woke up at around 2:30 in the afternoon and found that “AAA” was not home. She asked “FFF” to look for “AAA,” and at around 3 o’clock in the afternoon, “FFF” and “AAA” got home. “BBB” immediately realized that something was wrong because her daughter looked pale, was cold to the touch, and looked as if she just cried. When “BBB” asked her what was wrong, “AAA” at first refused to say anything and just cried. “BBB” then embraced “AAA” and asked her again who she was with. “AAA” answered that she was with the [appellant]. “BBB” asked “AAA” if [appellant] did something to her. It was then that “AAA” told her that [appellant] put his finger [into] her vagina. Distraught, “BBB” decided to immediately report the incident to the Women and Children Protection Desk and thereafter brought her daughter “AAA” to the Butuan Medical Center to have her genitalia examined. The doctor-in-charge, Dra. Liong, refused to examine “AAA” because according to her she has a lot of patients. So on December 28, 2010 or three days after the incident “BBB” brought “AAA” again to the Butuan Medical Center where she was examined. x x x⁷

Version of the Appellant

The defense, on the other hand, presented the testimonies of appellant and his mother.

In his defense, appellant denied the accusation against him and claimed that he was with his friends at the time the alleged incident happened. However, on cross-examination, he admitted that at around 2:00 o’clock in the afternoon of December 25, 2010, when he was on his way home, “AAA,” who was in the veranda of the house of “GGG,” called him and invited him to play; that while he was playing with “AAA,” his mother came and asked for money; that when his mother left, he continued to play with “AAA,” and that after playing with “AAA,” “FFF” took “AAA” home.⁸

Appellant’s mother testified that she saw her son playing with the minor victim when she dropped by to ask for money from him; that when she was there, she did not see “FFF;” that in the evening of that day, three police officers and a policewoman went to their house to look for his son but he was not at home; and that she later learned that her son had been apprehended for stealing money and cellphone from the store of “BBB.”⁹

Ruling of the Regional Trial Court

On April 20, 2013, the RTC rendered a Judgment finding the appellant guilty of the charge against him, the dispositive portion of which read:



⁷ Id. at 4-5.

⁸ Id. at 5.

⁹ CA rollo, p. 46.

WHEREFORE, after weighing carefully the evidence presented, this court finds [appellant] guilty beyond reasonable doubt of the crime of Rape in relation to RA 7610 as provided under Article 266-A, paragraph 2 of the Revised Penal Code as amended by RA 8353 in relation to RA 7610.

Accordingly, he is sentenced to suffer imprisonment of Reclusion Perpetua and to pay private complainant the sum of ₱50,000.00 as moral damages, plus ₱50,000.00 as civil indemnity and exemplary damages of ₱25,000.00 without subsidiary imprisonment in case of insolvency.

He shall serve his sentence at Davao Prison and Penal Farms, Panabo City, Davao del Norte. In the service of his sentence, he shall be credited with the full time benefit of his preventive imprisonment if he agrees in writing to abide by the same disciplinary rules imposed upon convicted prisoners; otherwise, if not he shall only be credited with 4/5 of his preventive imprisonment pursuant to Article 29 of [the] Revised Penal Code as amended.

SO ORDERED.¹⁰

Ruling of the Court of Appeals

Appellant elevated the case to the CA.

On December 4, 2015, the CA rendered the assailed Decision, affirming appellant's conviction but modifying the penalty and civil indemnity imposed in this wise:

WHEREFORE, the appeal is DENIED. The Judgment dated April 20, 2013 of the Regional Trial Court, Branch 1, Butuan City in Criminal Case No. 14892 finding [appellant] GUILTY beyond reasonable doubt of qualified rape, is hereby AFFIRMED, with MODIFICATION, as follows:

1. [Appellant] is hereby sentenced to suffer the indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to twelve (12) years and one (1) day of *reclusion temporal*, as maximum.

2. He is likewise ordered to pay "AAA" the amounts of ₱30,000.00 as civil indemnity ex delicto, ₱30,000.00 as moral damages, and ₱30,000.00 as exemplary damages for qualified rape through sexual assault.

SO ORDERED.¹¹

Hence, appellant filed the instant appeal.



¹⁰ Id. at 50-51.

¹¹ Rollo, pp. 14-15.

The Court required both parties to file their respective supplementary briefs;¹² however, they opted not to file the same.¹³

The Court's Ruling

The appeal lacks merit.

Appellant claims that he should be acquitted as the prosecution was not able to prove the accusations against him beyond reasonable doubt. He likewise puts in issue the fact that there was no in-court identification.

The Court does not agree.

Jurisprudence consistently holds that testimonies of minor victims are generally given full weight and credence as the court considers their youth and immaturity as badges of truth and sincerity.¹⁴

In this case, the Court agrees with the CA that there was no reason to doubt the veracity of the testimony of the minor victim as her testimony was “straightforward, detailed, consistent, and without any artificiality or pretension that would tarnish its credence.”¹⁵ Moreover, her testimony was corroborated by the medical findings that there were abrasions and redness on the minor victim’s vaginal area.

Also, the fact that there was no in-court identification was of no moment. In *People v. Quezada*,¹⁶ the Court already ruled that such is not always necessary as the “[i]n-court identification of the offender is essential only when there is a question or doubt on whether the one alleged to have committed the crime is the same person who is charged in the information and subject of the trial.”¹⁷

In this case, there was no doubt since the parties already stipulated on the identity of appellant. This was done in order to protect “AAA,” the minor victim, from being traumatized.

In fine, there is no doubt that appellant was the perpetrator of the crime.



¹² Id. at 21-22.

¹³ Id. at 23-25; 31-34.

¹⁴ *People v. Brioso*, G.R. No. 209344, June 27, 2016, 794 SCRA 562, 574-575.

¹⁵ *Rollo*, p. 11.

¹⁶ 425 Phil. 877 (2002).

¹⁷ Id. at 889.

The Information charged appellant with rape through sexual assault under Article 266-A, paragraph 2 of the Revised Penal Code (RPC) and the same is punishable with *reclusion temporal* if committed with any of the aggravating/qualifying circumstances mentioned in Article 266-B of the RPC. In this case, the Information specifically mentioned that "AAA" was a four-year old minor; "AAA's" age was likewise established during trial. Thus, the qualifying circumstance in paragraph 5 of Article 266-B of the RPC, *i.e.*, when the victim is a child below seven years old, should be considered in the imposition of the penalty. *Reclusion temporal* ranges from twelve (12) years and one (1) day to twenty (20) years. There being no other modifying circumstance, the penalty must be imposed in its medium period. Applying the Indeterminate Sentence Law, the penalty next lower in degree is *prision mayor*, which ranges from six (6) years and one (1) day to twelve (12) years. Thus, the proper imposable penalty upon appellant should be eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum. Thus, the maximum period of the indeterminate penalty imposed by the CA must be modified.

Anent the civil liabilities, we quote with approval the pronouncement of the CA, *viz.*:

As to civil liabilities, the damages awarded in the form of civil indemnity in the amount of Php50,000.00 and moral damages, also in the amount of Php50,000.00 must be reduced to Php30,000.00, in line with current jurisprudence. Also, the amount of exemplary damages in the amount of Php25,000.00 must be increased to Php30,000.00

In addition, interest at the rate of 6% *per annum* shall be imposed on all damages awarded from the date of finality of this judgment until fully paid, likewise pursuant to prevailing jurisprudence.¹⁸

WHEREFORE, premises considered, the appeal is **DISMISSED**. The December 4, 2015 Decision of the Court of Appeals in CA-G.R. CR-HC No. 01223-MIN, finding appellant Romeo Garin *y* Osorio guilty beyond reasonable doubt of rape through sexual assault is **AFFIRMED with MODIFICATION** that he is sentenced to suffer the indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal* as maximum.



¹⁸ *Rollo*, p. 14.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:

(On official leave)
MARIA LOURDES P. A. SERENO
Chief Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ANDRES B. REYES, JR.
Associate Justice

(On official leave)
NOEL GIMENEZ TIJAM
Associate Justice

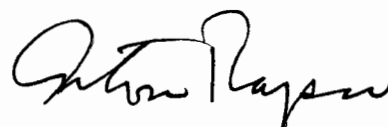
ATTESTATION

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.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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.



ANTONIO T. CARPIO
*Acting Chief Justice**



* Per Special Order No. 2535 dated February 20, 2018.