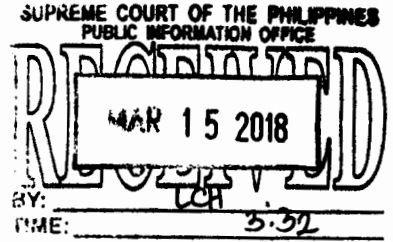




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 223113

- versus -

Present:

AUGUSTO GONZALES
ESMENIO PADER, JR., and
MARCELO ANTONIO,
Accused,

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,*
 DEL CASTILLO, and
 TIJAM, JJ.

MARCELO ANTONIO,
Accused-Appellant.

Promulgated:
FEB 19 2018

X-----X

RESOLUTION

DEL CASTILLO, J.:

On appeal is the March 13, 2015 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04791 finding appellant Marcelo Antonio (appellant) guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua*.

Factual Antecedents

Appellant, along with accused Augusto Gonzales (Augusto) and Esmenio Pader, Jr. (Esmenio), was charged with rape in an Information which reads:

That on or about the 13th day of December 1999, at about 8:00 o'clock in the evening, x x x Province of Zambales, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, with lewd design and by means of force, threats and intimidation, did then and there willfully, unlawfully and

* Designated as additional member per November 8, 2017 raffle vice J. Jardeleza who recused due to prior action as Solicitor General.
¹ CA *rollo*, pp. 96-104; penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Magdangal M. De Leon and Jane Aurora C. Lantion.

feloniously have carnal knowledge with one "AAA,"² a minor of 15 years old, against her will and consent, to the damage and prejudice of the latter.

CONTRARY TO LAW.³

The case was docketed as Criminal Case No. 395-2000 and raffled to the Regional Trial Court (RTC), Branch 73, Olongapo City.

Upon arraignment, appellant pleaded not guilty. Augusto and Esmenio were at large.

The prosecution presented five witnesses namely: AAA, Lorna Pascua, *Barangay Kagawad* Eduardo Escobar (*Barangay Kagawad* Eduardo), Dr. Nida Fabunan (Dr. Fabunan), and Marlon Cajobe (Marlon).

The prosecution's evidence, as summarized by the appellate court, is as follows:

x x x "AAA" was born on 01 March 1984, per the Certificate of Live Birth; on 13 December 1999, at around 8:00 p.m., "AAA" was on her way home [when she] met [appellant, Augusto, Esmenio], and Marlon on the road[.] [Augusto] asked "AAA" to go with them to Uncle Viano's house; "AAA" refused, so [appellant, Augusto, and Esmenio] dragged "AAA" to the sandpile; Marlon watched as [Augusto] removed "AAA's" clothes, and [appellant and Esmenio] pinned "AAA" down by holding "AAA's" hands and feet; [Augusto and appellant] punched "AAA" on the face and body; [appellant] kissed "AAA" on the lips and on the body, and inserted his penis in "AAA's" vagina[.] ["AAA"] felt pain; later, [Augusto] inserted his penis into "AAA's" vagina, and told "AAA" not to tell her parents about what happened; subsequently, [Esmenio] inserted his penis into "AAA's" vagina, and "AAA" cried; Lorna heard "AAA's" cries, and called *Barangay Kagawad* Eduardo [who] chased [appellant, Augusto, Esmenio], and Marlon, but *Barangay Kagawad* Eduardo was able to apprehend only the [appellant]; "AAA," accompanied by her mother, went to the San Marcelino Hospital for a physical examination; Dr. Fabunan physically examined "AAA," and issued the Medico-Legal Certificate dated 14 December 1999, indicating her findings (*i.e.*, "multiple lacerations surrounding the hymen," bleeding," and presence of spermatozoa).⁴

² "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).

³ *CA rollo*, p. 97.

⁴ *CA rollo*, 97-98.

The defense, on the other hand, presented appellant and his sister, Lorna Antonio Sison (Lorna). Appellant denied the accusations against him. His sister, Lorna, took the witness stand admitting that she pleaded with “AAA” and her parents to spare her brother. She was, however, unsuccessful unlike Marlon (prosecution’s witness) who was eventually discharged by “AAA.”

The defense’s version of the incident, as summarized by the appellate court, is as follows:

x x x [O]n 13 December 1999, while [appellant] was on [his] way to Uncle Viano’s house [together] with [Augusto, Esmenio], and Marlon, [appellant] saw “AAA” following them, so [Augusto] invited “AAA” to go with them to Uncle Viano’s house; [Augusto] and “AAA” disappeared, and later [appellant] discovered [Augusto] on top of “AAA” on the sandpile; an unidentified person hit and poked a knife at [appellant’s] neck, causing [appellant] to lose consciousness; upon regaining consciousness, [appellant] heard [Augusto] telling [Esmenio] and Marlon, “*Sige! Itumba ninyo na yan baka magsumbong pa si Antonio;*” then [Augusto] stabbed [appellant’s] left hand with a knife; the *barangay* officials arrived, and chased [Augusto, Esmenio], and Marlon; the *barangay* officials apprehended, mauled, and forced [appellant] to confess to the rape of “AAA.”⁵

Ruling of the Regional Trial Court

In its August 23, 2006 Decision,⁶ the RTC accorded full faith and credence to the evidence of the prosecution, particularly the testimony of “AAA” regarding how the incident happened, the specific participation of the three accused who conspired to commit the crime against her, and the positive identification of appellant. The RTC did not accord credence to appellant’s bare denials in view of the categorical and positive identification of appellant as one of the perpetrators of the crime. Based thereon, the RTC ruled as follows:

WHEREFORE, premises considered, the Court finds accused Marcelo Antonio *GUILTY* beyond reasonable doubt of the crime of Rape as defined and penalized under Republic Act 8353 and hereby sentences him to suffer a straight penalty of “*reclusion perpetua*”. He is also ordered to indemnify the victim “AAA” the sum of ₱50,000.00 as civil damages and another ₱50,000.00 as moral damages.

Insofar as accused Augusto Gonzales and Esmenio Pader are concerned, the Court shall deal with them after they shall have been arrested. Meantime, issue alias warrant for their arrest, send the records to the archives.

SO ORDERED.⁷



⁵ Id. at 98.

⁶ Id. at 15-22; penned by Judge Renato J. Dilag.

⁷ Id. at 22.

Aggrieved, appellant appealed before the CA.

Ruling of the Court of Appeals

In his Brief,⁸ appellant argued that “AAA’s” testimony had serious flaws and loopholes. In her narration of the incident, “AAA” did not show resistance to the alleged attack and thus militated against her assertion that the sexual intercourse with the accused was not consensual. Then, *Barangay Kagawad* Eduardo testified that he did not see “AAA” at the place of incident when he arrived. According to appellant, “AAA’s” failure to resist the attack, as well as her conduct after the incident, cast doubt on her credibility and the veracity of her assertions. Appellant also pointed out inconsistencies and inaccuracies in the testimonies of the prosecution’s witnesses, *i.e.*, 1) on direct examination, “AAA” testified that the sandpile was near her house, but on cross-examination, “AAA” testified that the sandpile was far from her house; 2) “AAA” testified that appellant punched her in the face and Augusto punched her in the body, but Marlon testified that appellant punched “AAA” on the body or stomach; 3) “AAA” testified that Augusto asked her to accompany him to Uncle Viano’s house, but Marlon testified that appellant called “AAA”; and 4) “AAA” testified that Augusto removed her dress, but later retracted her statement. Appellant thus posited that the RTC erred in finding him guilty beyond reasonable doubt of the crime of rape. Moreover, appellant claimed that the trial judge, by his actuations, failed to show impartiality in trying the case.

The Office of the Solicitor General (OSG), on the other hand, argued that the guilt of appellant was proven beyond reasonable doubt. The testimony of “AAA” showed the truthful account of the crime committed by appellant and corroborated by the prosecution’s witnesses. Besides, the inconsistencies pointed out by appellant were minor and inconsequential which did not negate appellant’s culpability.

Like the trial court, the CA found that all the elements of rape under Article 266-A(1) of the Revised Penal Code (RPC), as amended by Republic Act No. 8353, were established beyond reasonable doubt. The CA held that “AAA’s” alleged failure to resist the attack against her cannot be taken as voluntariness or consent to the sexual assault. It ruled further that while there may be inconsistencies in the testimonies of the prosecution’s witnesses, it did not negate the commission of rape for these were merely trivial, immaterial and could not discredit “AAA’s” claim of rape. The CA, hence, dismissed appellant’s appeal as his guilt was proven beyond reasonable doubt.

The dispositive portion of the CA Decision reads as follows:

⁸ Id. at 33-47.



In sum, accused-appellant Marcelo's guilt for the crime of rape was proved beyond reasonable doubt.

We DISMISS the appeal.

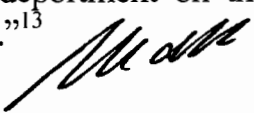
IT IS SO ORDERED.⁹

Still insisting on his innocence, appellant filed the present appeal. On May 30, 2016, the Court required both parties to file their respective supplemental briefs.¹⁰ Both parties, however, opted not to file the same.¹¹

Our Ruling

After careful review of the records of the case, we find the appeal to be devoid of merit. The Court finds no reason to reverse the CA in affirming the ruling of the RTC, finding appellant guilty beyond reasonable doubt of the crime of rape.

The prosecution satisfactorily established the elements of the crime of rape under Article 266-A(1)(a) of the RPC, namely: (1) the offender had carnal knowledge of a woman, and (2) he accomplished such act through force or intimidation. When "AAA" testified, she positively identified appellant as one of her rapists and candidly narrated her ordeal. "It is settled jurisprudence that testimonies of child victims are given full weight and credit, because when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed. Youth and immaturity are generally badges of truth and sincerity."¹² Both the trial court and the CA held that "AAA" was a credible witness. The CA further held that there was greater reason to believe the veracity of "AAA's" statements since her testimony was corroborated by the testimony of Dr. Fabunan, who examined her after the commission of the rape, and the Medico-Legal Certificate she issued which showed that "AAA" sustained hymenal lacerations and bleeding and the presence of spermatozoa in her genitals. There is no cogent reason to depart from these uniform findings. "Jurisprudence is replete with cases where the Court ruled that questions on the credibility of witnesses should best be addressed to the trial court because of its unique position to observe that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying which is denied to the appellate courts."¹³



⁹ Id. at 103.

¹⁰ *Rollo*, pp. 16-17.

¹¹ Id. at 18-20 and 23-27.

¹² *People v. Vergara*, 724 Phil. 702, 709 (2014).

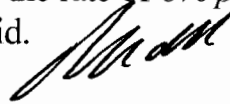
¹³ *People v. Barcelá*, 734 Phil. 332, 342 (2014).

Appellant's argument that "AAA's" failure to resist the sexual assault militated against her claim that she was raped deserves scant consideration. It has been held that the failure of a victim to shout for help does not negate rape.¹⁴ There is no specific behavior that can be expected of a person being raped.¹⁵ "[P]hysical resistance is not the sole test to determine whether a woman involuntarily succumbed to the lust of an accused; it is not an essential element of rape."¹⁶

Appellant further attempts to discredit the testimony of "AAA" pointing to inconsistencies and variations with the testimony of other witnesses. The Court, however, finds that the discrepancies involved minor matters that do not constitute material facts. As already mentioned, the trial court and the CA both held that "AAA's" testimony passed the test of credibility. Appellant may even be convicted based solely on the testimony of the victim.¹⁷

In view of the foregoing, we therefore affirm the conviction of appellant for the crime of rape under Article 266-A(1) of the RPC. The trial court, thus, correctly imposed upon appellant, as affirmed by the CA, the penalty of *reclusion perpetua*. However, there is a need to modify the amounts of damages awarded. To conform with prevailing jurisprudence, the awards of civil indemnity and moral damages are increased to ₱75,000.00 each.¹⁸ Appellant should also be ordered to pay P75,000.00 as exemplary damages.¹⁹ In addition, the civil indemnity, moral damages, and exemplary damages payable by appellant are subject to interest at the rate of 6% *per annum* from the finality of this Resolution until fully paid.²⁰

WHEREFORE, the appeal is **DISMISSED**. The assailed March 13, 2015 Decision of the Court of Appeals in CA-G.R. CR-HC No. 04791, finding appellant Marcelo Antonio **GUILTY** beyond reasonable doubt of the crime of rape under Article 266-A(1) of the Revised Penal Code and sentencing him to suffer the penalty of *reclusion perpetua*, is **AFFIRMED with MODIFICATIONS** that appellant is directed to pay the victim "AAA" civil indemnity, moral damages, and exemplary damages of ₱75,000.00 each and all damages awarded shall earn interest at the rate of 6% *per annum* from the date of finality of this Resolution until fully paid.



¹⁴ *People v. Pareja*, 724 Phil. 759, 778 (2014).

¹⁵ *Id.* at 778-779

¹⁶ *People v. Barberan*, G.R. No. 208759, June 22, 2016, 794 SCRA 348, 358.

¹⁷ *People v. Linsie*, 722 Phil. 374, 382-383 (2013).

¹⁸ *People v. Jugueta*, G.R. No. 202124, April 5, 2016, 788 SCRA 331, 383.


¹⁹ *Id.*

²⁰ *Nacar v. Gallery Frames*, 716 Phil. 267, 282 (2013).

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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