



**Republic of the Philippines  
Supreme Court  
Manila**

**SECOND DIVISION**

**PEOPLE OF THE PHILIPPINES,** **G.R. No. 229348**

Plaintiff-Appellee, Present:

- versus -

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

**ORLANDO TAGLE y**  
**ROQUETA @ "ALLAN,"**  
Accused-Appellant.

Promulgated:

19 NOV 2018

*Hernando Perlas-Bernabe*

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**DECISION**

**PERLAS-BERNABE, J.:**

Before the Court is an ordinary appeal<sup>1</sup> filed by accused-appellant Orlando Tagle y Roqueta @ "Allan" (Tagle) assailing the Decision<sup>2</sup> dated March 8, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06620, which affirmed with modification the Decision<sup>3</sup> dated November 15, 2013 of the Regional Trial Court of Las Piñas City, Branch 254 (RTC) in Crim. Case No. 07-0403, and found Tagle guilty beyond reasonable doubt of the crime of Rape, defined and penalized under Article 266-A, paragraph 1 (a) of the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 8353,<sup>4</sup> otherwise known as "The Anti-Rape Law of 1997."

\* Designated Additional Member per Special Order No. 2587 dated August 28, 2018.

<sup>1</sup> See Notice of Appeal dated March 29, 2016; *rollo*, pp. 24-25.

<sup>2</sup> *Id.* at 2-23. Penned by Associate Justice Leoncia Real-Dimagiba with Associate Justices Ramon R. Garcia and Jhosep Y. Lopez, concurring.

<sup>3</sup> *CA rollo*, pp. 85-94. Penned by Presiding Judge Gloria Butay Aglugub.

<sup>4</sup> Entitled "AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES," approved on September 30, 1997.

### The Facts

On May 11, 2007, an Information<sup>5</sup> was filed before the RTC charging Tagle of Rape, the accusatory portion of which states:

That on or about the 6<sup>th</sup> day of May, 2007, in the City of Las Piñas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with one [REDACTED] a.k.a. "Patis", a seventeen (17) year old, minor, one a.k.a. "Jay-jay", a fifteen (15) year old, minor, one a.k.a. "Danny or Armond; one a.k.a. "Mayang, one a.k.a. "Rose", and one John Doe, whose true identities and present whereabouts are still unknown, and all of them mutually helping and aiding one another, acting with discernment, with lewd design, did then and there willfully, unlawfully and feloniously have carnal knowledge with one [AAA<sup>6</sup>], a thirteen (13) year old, minor, through force, threat and intimidation, by then and there pointing a knife, and against her will and consent and thereby each one of them subjected her to sexual abuse and that the act complained of is prejudicial to the physical and psychological development of the complainant-minor.

CONTRARY TO LAW.<sup>7</sup> (Underscoring supplied)

The prosecution alleged that at around midnight of May 6, 2007, AAA was invited by her friend to get some clothes from a certain "Mata" at [REDACTED], Las Piñas City. Upon arrival thereat, "Mata" invited AAA and her friend to join a drinking spree, and thereafter, brought them to an unlighted grassy area, where Tagle and four (4) other male individuals were drinking without any tables and chairs. The men offered AAA some beer and forced her to drink, but she poured the contents at her back when no one was looking. AAA's friend then momentarily left AAA with the group. After an hour, "Mata" and the four (4) male individuals held AAA. Tagle and the others undressed AAA. According to AAA, she tried to resist and run away, but she was boxed on her stomach and subsequently restrained. AAA claimed that while she was lying down, Tagle touched her breasts, removed her short pants, mounted her, and inserted his penis into her vagina. Meanwhile, the other five (5) male individuals did not do anything except watch Tagle rape AAA. When Tagle was finished having carnal knowledge

<sup>5</sup> Dated May 9, 2007. *CA rollo*, pp. 95-96.

<sup>6</sup> 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]. See also Amended Administrative Circular No. 83-2015, entitled "PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES," dated September 5, 2017.)

<sup>7</sup> *Id.*, at 95.

of AAA, the other male individuals took turns in ravishing her as well. After the incident, they poked a knife at AAA and warned her not to report what happened to anyone or else something might happen to her family. At around two (2) o'clock in the morning, AAA's friend returned and found AAA crying at the grassy area. AAA then revealed to her friend that she was raped. Thereafter, she was brought to ██████████ Barangay Hall and then to the police station to report the incident. After narrating the incident, AAA, together with the police officers, proceeded to the *situs criminis* to look for her assailants, but they were nowhere to be found. They then went around ██████████, where AAA saw and recognized Tagle eating *balut*. Accordingly, Tagle was arrested and brought to the police station. Meanwhile, on May 7, 2007, AAA, her mother, and their neighbor went to the Philippine National Police Crime Laboratory in Camp Crame, Quezon City, where AAA underwent a medico-legal examination. After examination, Dr. Joseph Palmero (Dr. Palmero) revealed that AAA suffered a deep-healed laceration at three (3) o'clock position, which was supposedly caused by blunt force or penetrating trauma. He also opined that the injuries sustained by AAA were consistent with the alleged incident of rape since a deeply healing laceration is a fresh laceration.<sup>8</sup>

For his part, Tagle denied the allegations against him. He maintained that when he was on his way home on May 6, 2007, he saw AAA with a certain "Patis" and three (3) other men, who were altogether having a drinking spree. Tagle averred that when "Patis" invited him to drink, he only took one "shot" and left immediately. When Tagle arrived at his house, he stayed there for a while and subsequently went out to drink coffee at a store. Thereat, a policeman suddenly approached and arrested him for raping AAA. Consequently, Tagle was detained.<sup>9</sup>

### The RTC Ruling

In a Decision<sup>10</sup> dated November 15, 2013, the RTC found Tagle guilty beyond reasonable doubt of the crime of Rape, defined and penalized under Article 266-A of the RPC, in relation to RA 7610, and accordingly, sentenced him to suffer the penalty of *reclusion perpetua* and to pay AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱50,000.00 as exemplary damages.<sup>11</sup> It found the prosecution to have duly established all the essential elements of the crime charged, as it was proven that AAA was sexually abused by Tagle at the time of the incident. It gave credence to her candid, straightforward, and categorical account of the incident – which was adequately corroborated by the medical findings of Dr. Palmero – in convicting Tagle of the said crime. Meanwhile,

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<sup>8</sup> See *rollo*, pp. 3-5.

<sup>9</sup> See *id.* at 5-6.

<sup>10</sup> *CA rollo*, pp. 85-94.

<sup>11</sup> *Id.* at 94.

Tagle did not present any evidence – as he only proffered a denial – to overcome the positive and unequivocal testimony of AAA.<sup>12</sup>

Aggrieved, Tagle appealed<sup>13</sup> to the CA.

### **The CA Ruling**

In a Decision<sup>14</sup> dated March 8, 2016, the CA affirmed Tagle's conviction with modification, finding him guilty of the crime of Rape under Article 266-A, paragraph 1 (a) of the RPC, as amended by RA 8353, and accordingly, sentencing him to suffer the penalty of *reclusion perpetua* and ordering him to pay AAA the amounts of ₱75,000.00 as moral damages and ₱50,000.00 as exemplary damages, with interest at the rate of six percent (6%) on all damages awarded from the date of finality of its decision until fully paid.<sup>15</sup>

Agreeing with the RTC, the CA held that AAA was able to narrate the incident in its material points, unmistakably identifying Tagle as one of the men who raped her.<sup>16</sup> Furthermore, it rejected Tagle's defense of non-flight for being insufficient to prove his innocence.<sup>17</sup>

However, the CA ruled that Tagle should be convicted under Article 266-A, paragraph 1 (a) of the RPC, as amended by RA 8353, given that the prosecution's evidence only established that he sexually violated AAA through force and intimidation by threatening her with a bladed instrument and forcing her to submit to his bestial design.<sup>18</sup> It further clarified the RTC's judgment of conviction, holding that the same was not grounded on conspiracy but on the individual and personal act of Tagle against AAA.<sup>19</sup>

Undeterred, Tagle filed the instant appeal.

### **The Issue Before the Court**

The issue for the Court's resolution is whether or not Tagle's conviction for the crime of Rape should be upheld.

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<sup>12</sup> See *id.* at 90-93.

<sup>13</sup> See Notice of Appeal dated January 16, 2014; *id.* at 57.

<sup>14</sup> *Rollo*, pp. 2-23.

<sup>15</sup> *Id.* at 22.

<sup>16</sup> See *id.* at 7-18.

<sup>17</sup> See *id.* at 20.

<sup>18</sup> See *id.* at 21-22.

<sup>19</sup> See *id.* at 18.

### The Court's Ruling

The appeal is bereft of merit.

“At the outset, it must be stressed that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court’s decision based on grounds other than those that the parties raised as errors. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.”<sup>20</sup>

As will be explained hereunder, the CA correctly upheld Tagle’s conviction but erred in appreciating the use of a deadly weapon to perpetrate the crime of Rape against AAA.

Here, a plain reading of the Information reveals that Tagle was charged of the crime of Qualified Rape under Article 266-A, paragraph 1, in relation to Article 266-B, of the RPC, to wit:

ART. 266-A. *Rape, When and How Committed.* – Rape is committed –

1. By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a. **Through force, threat or intimidation;**

b. When the offended party is deprived of reason or is otherwise unconscious;

c. By means of fraudulent machination or grave abuse of authority;

d. When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

x x x x

ART. 266-B. *Penalties.* – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

**Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.**

x x x x (Emphases and underscoring supplied)

<sup>20</sup> See *People v. Comboy*, G.R. No. 218399, March 2, 2016, 785 SCRA 512, 521.

For the successful prosecution of the crime of Rape by sexual intercourse under Article 266-A, paragraph 1 of the RPC, the prosecution must establish that: (a) the offender had carnal knowledge of a woman; and (b) he accomplished this act through force, threat or intimidation, or when the victim was deprived of reason or otherwise unconscious, or by means of fraudulent machination or grave abuse of authority, or when the victim is under twelve (12) years of age or is demented.<sup>21</sup> Essentially, the gravamen of Rape is sexual intercourse with a woman against her will.<sup>22</sup>

In this case, the Court agrees with the findings of both the RTC and the CA that the prosecution established, *inter alia*, that: (a) on May 6, 2007, AAA and her friend went to the place of “Mata” at [REDACTED], Las Piñas City; (b) when AAA and her friend arrived at the place of “Mata,” the latter brought them to an unlighted grassy area, where Tagle and four (4) other male individuals were drinking; (c) when AAA’s friend momentarily left her, AAA was held down, boxed on her stomach, and undressed by the male individuals for Tagle to have carnal knowledge of her; (d) after Tagle had carnal knowledge of AAA, the other male individuals took turns in raping her as well; (e) after the incident, AAA reported the matter to the barangay and police authorities; and (f) upon the conduct of medical examination, Dr. Palmero confirmed that AAA was indeed raped. Verily, the assessment and findings of the trial court are generally accorded great weight, and are conclusive and binding to the Court if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence,<sup>23</sup> which exceptions do not obtain in this case.

However, the CA should not have taken into account the qualifying circumstance of the use of a deadly weapon against AAA. Case law states that the penalty for the crime of Rape is increased from *reclusion perpetua* to death if it is committed “with the use of a deadly weapon.”<sup>24</sup> In order for the qualifying circumstance of “use of a deadly weapon” – if the same is sufficiently alleged in the Information – to be appreciated, it must be proven that the deadly weapon was **used to make the victim submit to the will of the offender.**<sup>25</sup> Even the act of holding a bladed instrument, by itself, is strongly suggestive of force or, at least, intimidation, and **threatening the victim with the same is sufficient to bring her into submission.**<sup>26</sup> In *People v. Dumadag*,<sup>27</sup> the Court ruled that:

The intimidations made by the appellant are sufficient since it instilled fear in her mind that if she would not submit to his bestial demands, something bad would befall her. **“Well-settled is the rule that where the**

<sup>21</sup> See *People v. Bagamano*, G.R. No. 222658, August 17, 2016, citing *People v. Hilarion*, 722 Phil. 52, 55 (2013).

<sup>22</sup> *People v. Comboy*, supra note 19, at 522.

<sup>23</sup> *People v. Arguta*, 758 Phil. 594, 603 (2015).

<sup>24</sup> See *People v. Napiot*, 370 Phil. 811, 822 (1999).

<sup>25</sup> See *People v. Condes*, 659 Phil. 375, 398 (2011).

<sup>26</sup> *People v. Arguta*, supra note 22, at 602.

<sup>27</sup> 667 Phil. 664 (2011).

**victim is threatened with bodily injury, as when the rapist is armed with a deadly weapon, such as a pistol, knife, ice pick or bolo, such constitutes intimidation sufficient to bring the victim to submission to the lustful desires of the rapist.**<sup>28</sup> (Emphasis and underscoring supplied)

In this case, contrary to the finding of the CA that the rape was committed through force and intimidation given that Tagle threatened AAA with a knife and forced her to submit to his bestial designs, a close scrutiny of the records reveals that Tagle's act of threatening AAA with a knife actually happened after the commission of rape and not before or during the incident. Pertinently, the knife was not used to cause AAA to submit to Tagle's bestial designs, as in fact, it was only used to threaten her into silence, so she would not report the incident to anyone. AAA's testimony is enlightening on this matter:

Q: By the way, while this Orlando Tagle was inserting or touching your body, did you hear him say anything?

A: Nothing, Ma'am.

Q: How about the other five male personas? Did they utter anything?

A: Yes, Ma'am.

Q: What did they say?

A: I was told not to report the incident to anyone or else, something might happen to my family, Ma'am.

Q: While saying that, what did they do?

A: They were having fun, Ma'am.

Q: Did they threaten you with anything to make you be (sic) quiet?

A: Yes, Ma'am.

Q: What was that?

A: A knife was poked at me, Ma'am.

Q: What time was it poked on you? Was it before or after the rape was committed?

A: After the incident, Ma'am.<sup>29</sup> (Emphasis and underscoring supplied)

The foregoing notwithstanding, in light of the fact that the prosecution duly established Tagle's employment of force and intimidation to

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<sup>28</sup> Id. at 676; citation omitted.


<sup>29</sup> *Rollo*, pp. 16-17.

accomplish his criminal desires and that this circumstance was properly alleged in the Information, his conviction for Rape is proper.


Given the above, Tagle must be sentenced to suffer the penalty of *reclusion perpetua* and ordered to pay AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages,<sup>30</sup> all with legal interest at the rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.<sup>31</sup>

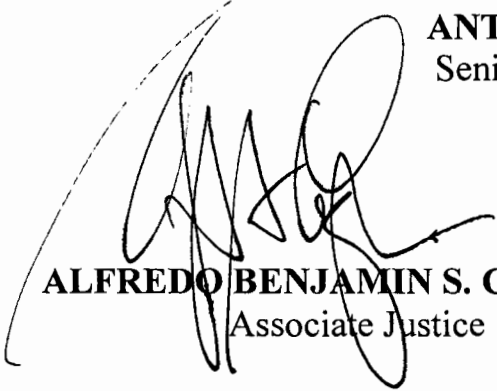
**WHEREFORE**, the appeal is **DENIED**. The Decision dated March 8, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06620, finding accused-appellant Orlando Tagle y Roqueta @ “Allan” **GUILTY** beyond reasonable doubt of the crime of Rape as defined and penalized under Article 266-A, paragraph 1 (a) of the Revised Penal Code, as amended by Republic Act No. 8353, is hereby **AFFIRMED** with **MODIFICATION** sentencing him to suffer the penalty of *reclusion perpetua* and ordering him to pay AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, with legal interest at the rate of six percent (6%) per annum on all the monetary awards from the date of finality of this Decision until fully paid.

**SO ORDERED.**

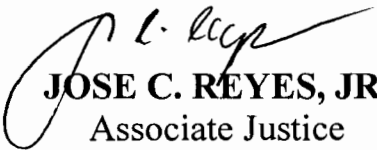
  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

  
**ANDRES B. REYES, JR.**  
Associate Justice

  
**JOSE C. REYES, JR.**  
Associate Justice

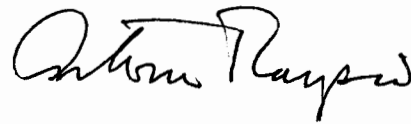
<sup>30</sup> See *People v. Jugueta*, G.R. No. 202124, April 5, 2016, 788 SCRA 331, 382-383.

<sup>31</sup> See *People v. Inciong*, 761 Phil. 561, 569 (2015).




## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.



**ANTONIO T. CARPIO**  
Senior Associate Justice  
(Per Section 12, Republic Act No. 296,  
The Judiciary Act of 1948, as amended)

**CERTIFIED TRUE COPY**



**MARIA LOURDES C. PERFECTO**  
Division Clerk of Court  
Second Division