



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Appellee,

G.R. No. 229084

Present:

- versus -

CARPIO, J., Chairperson,
CAGUIOA,
REYES, J., JR.,
LAZARO-JAVIER, and
ZALAMEDA, JJ.

ROLLYBERT OROPESA y DOE,
Appellant.

Promulgated:

2 OCT 2019

x-----
Honorable Justice

DECISION

CARPIO, J.:

The Case

This appeal assails the 21 July 2016 Decision¹ of the Court of Appeals in CA-G.R. CR-HC No. 07328 affirming with modifications the 19 January 2015 Joint Judgment² of the Regional Trial Court, Branch 57, Libmanan, Camarines Sur, which found appellant Rollybert Oropesa y Doe³ (appellant) guilty beyond reasonable doubt of the crime of rape defined and penalized under Article 266-A of the Revised Penal Code, as amended.

The Facts

Appellant and co-accused Honeyval Latonero y Doe (Latonero) were charged with two counts of rape in two separate Informations which read:

¹ Rollo, pp. 2-19. Penned by Associate Justice Normandie B. Pizarro, with Associate Justices Samuel H. Gaerlan and Ma. Luisa C. Quijano-Padilla concurring.
² CA rollo, pp. 50-55. Penned by Judge Irma Isidora M. Boncodin-Zamudio.
³ Also referred to in the records as Rolly Bert Oropesa y Doe.

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Criminal Case No. L-2058

That on or about February 12, 1998[,] at around 10:00 o'clock in the evening[,] [in the] Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually helping one another, with lewd designs and by means of force and intimidation, did[,] then and there[,] willfully, unlawfully[,] and feloniously, took turn[s], one after the other[,] in having carnal knowledge with AAA, then 17 years of age and being the sister-in-law of accused Rolly Bert Oropesa y Doe, against her will and to her damage and prejudice.

Criminal Case No. L-2059

That on or about February 12, 1998[,] at around 10:00 o'clock in the evening[,] [in the] Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually helping one another, with lewd designs and by means of force and intimidation, did[,] then and there[,] willfully, unlawfully[,] and feloniously, took turn[s], one after the other[,] in having carnal knowledge with AAA, then 17 years of age and being the sister-in-law of accused Rolly Bert Oropesa y Doe, against her will and to her damage and prejudice.⁴

In an Order dated 2 September 1998, the Regional Trial Court of Libmanan, Camarines Sur, Branch 57, issued a warrant of arrest against appellant and Latonero. However, the arrest warrant was returned unserved since appellant and Latonero could not be found. As a result, the cases were archived on 23 June 1999.

On 12 August 2002, Latonero was arrested by the Philippine National Police in Sipocot, Camarines Sur. The trial court ordered the revival of the cases, and arraigned Latonero who pleaded not guilty.

On 1 October 2002, the trial court dismissed the cases against Latonero after AAA⁵ executed an Affidavit of Desistance dated 4 September 2002. In her Affidavit of Assistance, AAA stated that she was no longer interested in further prosecuting the case because at the time that she filed the cases, she was simply overwhelmed with emotions and she was not able to reflect the consequences or legal effects of the filing of the cases.⁶ AAA also stated that she no longer wanted to be reminded of the past and wanted to live peacefully with her family free from any scandalous circumstances.⁷

⁴ CA rollo, p. 50.

⁵ In accordance with Amended Administrative Circular No. 83-2015, the identities of the parties, records and court proceedings are kept confidential by replacing their names and other personal circumstances with fictitious initials, and by blotting out the specific geographical location that may disclose the identities of the victims. While the Information alleges that AAA is appellant's sister-in-law, it appears that AAA is merely a cousin of appellant's wife (TSN, 13 June 2013, p. 3).

⁶ Records, p. 17.

⁷ Id.



Meanwhile, appellant was arrested on 7 January 2010. He was arraigned on 1 February 2010 and pleaded not guilty.

Trial on the merits ensued thereafter.

During the trial, the prosecution presented the testimonies of AAA and Dr. Francia Aquino, the Rural Health Physician of Rural Health Unit, Sipocot, Camarines Sur, who examined AAA. The defense presented the testimonies of appellant, Latonero, and Roger Oropesa (Roger), appellant's father.

The prosecution's version of the events, as narrated by the Court of Appeals, is as follows:

On February 12, 1998, AAA, then seventeen (17) years old and a high school student, left her parents' house without their knowledge, in order to avoid her brother-in-law, the Accused-Appellant, who already took sexual advantage of her in December 1997. AAA decided to go to Manila with some classmates/friends. However, at around 10:00 p.m., while AAA and her friends were on their way to the railroad track at Barangay Manangle, Sipocot, Camarines Sur, they met the Accused-Appellant and his "compadre", Latonero. AAA's friends then left her alone.

The Accused-Appellant went to AAA, held her by the arm and, together with Latonero, brought her inside an empty *kubo* located near the road. There, the Accused-Appellant removed AAA's skirt uniform and underwear, laid her on the grassy ground, and pressed her left thigh. The Accused-Appellant then mounted AAA and inserted his penis inside AAA's vagina while Latonero held and raised AAA's hands parallel to her head. The Accused-Appellant then let Latonero take his turn in having carnal knowledge of AAA, telling him (Latonero), "*Sige na padi gamiton mo na yan ta akong bahala sa imo.*" AAA asked for help from the Accused-Appellant but the latter merely laughed at her. At the time of the incident, the Accused-Appellant poked a pair of scissors at AAA's side and threatened to kill her parents if she said anything to them about what happened.

Thereafter, AAA, the Accused-Appellant, and Latonero put on their clothes. The Accused-Appellant then brought AAA to his parents' house in Barangay Tara, Sipocot, Camarines Sur, where they stayed until dawn. AAA left when her brother came to fetch her there.

When she revealed to her parents that the Accused-Appellant and Latonero raped her, AAA underwent medical examination on February 23, 1998.

Dr. Aquino, the Rural Health Physician of Sipocot, Camarines Sur, found "normal looking external genitalia, with scanty pubic hair, with recently healed hymenal laceration at 9 o'clock position. According to Dr. Aquino, the finding of a healed hymenal laceration is consistent with sexual intercourse but the date of which could not be ascertained."⁸

⁸ Rollo, pp. 5-7.



The version of the defense is as follows:

The Accused-Appellant denied the charges against him and stated that AAA was only used by BBB, his mother-in-law and AAA's mother, in filing the complaint because he did not like him as a son-in-law and she wanted him to separate from his wife and AAA's sister, CCC. He testified that on the date and time of the alleged incident, he did not meet Latonero because he was in his parents' house at Barangay Tara, Sipocot, Camarines Sur, with his wife, parents, siblings, and two (2) children. He added that the cases against Latonero were dismissed because the latter gave Twenty Thousand Pesos (PhP20,000.00) to AAA's family who asked for money to settle the same. For his part, he did not give money to AAA's family since he did not commit the offense charged against him. He testified further that Barangay Tara and Barangay Manangle are only two (2) Barangays apart.

Latonero corroborated the Accused-Appellant's testimony and confirmed that his parents gave money to AAA's family because they wanted to settle the case amicably though Latonero was innocent of the offense charged. He testified that he knew both the Accused-appellant and AAA but he was not with them on the date and time of the alleged incident. He explained that he did not immediately submit himself to the authorities but left Barangay Manangle because he feared that he would be incarcerated despite his innocence.

Roger, the Accused-Appellant's father, testified that his son was charged because his *balae*, BBB, was angry at the Accused-Appellant since he and CCC stayed in Barangay Tara instead of Barangay Manangle where BBB wanted them to live. He further testified that BBB wanted the Accused-Appellant and CCC to separate. He claimed that AAA's family asked Fifty Thousand Pesos (Php50,000.00) to settle the case but he did not give in to the demand. He, however, admitted on cross-examination that he had no knowledge as to how the charges against his son transpired.⁹

The Ruling of the Trial Court

On 19 January 2015, the trial court rendered a Joint Judgment convicting appellant for one count of rape. The dispositive portion of the Joint Judgment reads:

WHEREFORE, in view of the foregoing, this court finds accused ROLLYBERT OROPESA y Doe GUILTY beyond reasonable doubt of the crime of rape in Criminal Case No. L-2058 and hereby sentences said accused to suffer the penalty of RECLUSION PERPETUA and to pay AAA the sum of FIFTY THOUSAND PESOS (₱50,000.00) as civil indemnity and the further sum of FIFTY THOUSAND PESOS (₱50,000.00) as moral damages. The prosecution not being able to prove the guilt of accused in Criminal Case No. L-2059 as in fact no evidence was presented relative to the latter case, said case is hereby ordered DISMISSED and accused is ACQUITTED of the crime charged.

SO ORDERED.¹⁰

⁹ Id. at 7-8.

¹⁰ CA rollo, p 55.



The Ruling of the Court of Appeals

In a Decision dated 21 July 2016, the Court of Appeals affirmed appellant's conviction for rape. The dispositive portion of the Decision reads:

WHEREFORE, the appeal is DENIED. The assailed RTC Decision dated January 19, 2015 is AFFIRMED with MODIFICATIONS in that the award of civil indemnity from Fifty Thousand Pesos (PhP50,000.00) is increased to One Hundred Thousand Pesos (PhP100,000.00) and the award of moral damages of Fifty Thousand Pesos (PhP50,000.00) is increased to One Hundred Thousand Pesos (PhP100,000.00). The Accused-Appellant is ORDERED to pay exemplary damages to the victim AAA in the amount of One Hundred Thousand Pesos (PhP100,000.00). All damages shall earn interest at the rate of six percent (6%) per annum from date of finality of this judgment until fully paid.

SO ORDERED.¹¹

In affirming the trial court's decision, the Court of Appeals found that all the elements of rape, as defined and penalized under Article 266-A of the Revised Penal Code, as amended, are present in this case. Appellant had carnal knowledge of AAA and appellant employed threat, force and intimidation to satisfy his lust. The Court of Appeals rejected the defense's claim that there was no resistance and no involuntariness on the part of AAA when the alleged rape took place. The Court of Appeals likewise disagreed with the defense that AAA's testimony was "riddled with inconsistencies." The Court of Appeals found appellant's denial and alibi as weak and self-serving. Further, the Court of Appeals found incredible appellant's attribution of ill motive against AAA and her family. In addition, according to the Court of Appeals, the Affidavit of Desistance executed by AAA in favor of Latonero was executed "not because he did not rape her but because she was merely hasty in deciding to drop the case against him."¹² The Court of Appeals also pointed out that appellant's flight indicated his guilt for the crime charged.

The Issue

The sole issue in this case is whether appellant is guilty beyond reasonable doubt of rape, as defined and penalized under Article 266-A of the Revised Penal Code, as amended.

The Ruling of this Court

The appeal is meritorious.

¹¹ *Rollo*, p. 18.

¹² *Id.* at 15.



Elements of Rape

Article 266-A of the Revised Penal Code enumerates the elements of rape as follows:

Article 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 otherwise unconscious;
 - c) By means of fraudulent machination or grave abuse of authority; and
 - 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.

In this case, the prosecution accuses appellant of raping AAA. AAA was 17 years old when the alleged rape happened. There was no allegation that AAA was deprived of reason or was unconscious. Therefore, the prosecution must establish that appellant had carnal knowledge of AAA through force, threat, or intimidation.

In *People v. Tionloc*,¹³ the Court emphasized that the element of force, threat or intimidation must be established to convict the accused of rape, thus:

x x x. "In rape cases alleged to have been committed by force, threat or intimidation, it is imperative for the prosecution to establish that the element of voluntariness on the part of the victim be absolutely lacking. The prosecution must prove that force or intimidation was actually employed by accused upon his victim to achieve his end. Failure to do so is fatal to its cause."

Force, as an element of rape, must be sufficient to consummate the purposes which the accused had in mind. On the other hand, intimidation must produce fear that if the victim does not yield to the bestial demands of the accused, something would happen to her at that moment or even thereafter as when she is threatened with death if she reports the incident. "Intimidation includes the moral kind as the fear caused by threatening the girl with a knife or pistol."

Aside from examining the presence of all the elements of the crime charged, the Court is guided by the following principles in reviewing rape cases, thus:

In reviewing rape cases, the Court is guided by the following principles: (1) to accuse a man of rape is easy, but to disprove the accusation is difficult, though the accused may be innocent; (2) inasmuch as only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merit and should not be

¹³ 805 Phil. 907, 915-916 (2017).



allowed to draw strength from the weakness of the evidence for the defense. So long as the private complainant's testimony meets the test of credibility, the accused may be convicted on the basis thereof.¹⁴

No force, threat, or intimidation

In this case, there is no evidence to prove that appellant used force, threat or intimidation during his sexual congress with AAA.

The trial court noted that AAA testified that on the date and time of the alleged rape incident, she was leaving home without asking permission from her parents, because she wanted to avoid appellant's threats.¹⁵ Yet, despite these supposed threats, "AAA went with accused **voluntarily** in going to the hut where the incident complained of happened."¹⁶ AAA's alleged reason was that "[s]he thought accused would not do it to her again."¹⁷ In fact, AAA testified that she did not ask appellant where they were going that fateful night because she trusted him.¹⁸

In convicting appellant despite the lack of force, threat or intimidation, the Court of Appeals explained that "[AAA] went with accused voluntarily [because] she thought that accused would not do it to her again."¹⁹ The Court of Appeals merely speculated on AAA's reason for going with appellant voluntarily. The Court of Appeals stated that AAA "could have been afraid of accused."²⁰ There is nothing in AAA's testimony which even remotely hints of AAA's fear of appellant.

The prosecution pointed out that "[i]n a prosecution for rape, the accused may be convicted solely on the basis of the testimony of the victim that is credible, convincing, and consistent with human nature and the normal course of things, as in this case."²¹

On the contrary, the testimony of AAA is incredible, unconvincing, and inconsistent with human nature and the normal course of things. If indeed AAA planned to leave home and run away due to appellant's alleged threats, it is inexplicable why AAA went voluntarily with appellant. At the time of the incident, AAA was with her friends, whom she could have asked for help or whom she could simply have continued to accompany, and she could have easily evaded appellant and Latonero. Instead, when AAA and her friends were allegedly about to go to the railroad track and saw appellant and Latonero, she and her friends separated ways and AAA went with appellant and Latonero. Further, during cross-examination, AAA had no answer when

¹⁴ *People v. Patentes*, 726 Phil. 590, 599-600 (2014).

¹⁵ *CA rollo*, p. 52-A, citing TSN 8 November 2010, p. 4.

¹⁶ *Id.* at 53.

¹⁷ *Id.*

¹⁸ TSN, 8 November 2010, p. 16.

¹⁹ *CA rollo*, p 53.

²⁰ *Id.*

²¹ *Id.* at 81.



asked that despite the fact that she had previous sexual contact with appellant, she went with him voluntarily because she trusted him, to wit:

ATTY. ABOGADO:

I will say my question again. Was that the first time that you had sexual contact voluntarily or involuntarily?

COURT:

Answer.

A: No, sir.

Q: What do you mean by no, sir?

A: He did that to me for several times already but I cannot tell it to my parents, sir.

Q: For several times already before the incident of February 12, 1998, is that what you mean?

A: I cannot really remember, sir.

Q: You had previous sexual contact with the accused you said a while ago and yet a while ago also you told us that you went with him voluntarily because [you] trust him, right?

A: No answer.²²

Clearly, despite the alleged previous sexual advances made by appellant, AAA still voluntarily went with him because she trusted him. AAA's voluntary acts of separating from her friends and going with appellant because she trusted him negate the presence of force, threat, or intimidation in the commission of the alleged rape.

In *People v. Amarela*,²³ the Court acquitted the accused for failure of the prosecution to prove their guilt beyond reasonable doubt. The Court could not completely rule out the probability that the victim voluntarily had sex that night, thus:

Rape is essentially a crime committed through force or intimidation, that is, against the will of the female. It is also committed without force or intimidation when carnal knowledge of a female is alleged and shown to be without her consent. Carnal knowledge of the female with her consent is not rape, provided she is above the age of consent or is capable in the eyes of the law of giving consent. The female must not at any time consent; her consent, given at any time prior to penetration, however reluctantly given, or if accompanied with mere verbal protests and refusals, prevents the act from being rape, provided the consent is willing and free of initial coercion.

Although Amarela or Racho did not raise consensual intercourse as a defense, We must bear in mind that the burden of proof is never shifted and the evidence for the prosecution must stand or fall on its own merits. Whether the accused's defense has merit is entirely irrelevant in a criminal

²² TSN, 8 November 2010, p. 17.

²³ G.R. Nos. 225642-43, 17 January 2018, 852 SCRA 54, 81-82, 84.



case. It is fundamental that the prosecution's case cannot be allowed to draw strength from the weakness of the evidence for the defense.

x x x x

Henceforth, we are constrained to reverse the RTC and the CA's rulings due to the presence of lingering doubts which are inconsistent with the requirement of guilt beyond reasonable doubt as quantum of evidence to convict an accused in a criminal case. Amarela and Racho are entitled to an acquittal, as a matter of right, because the prosecution has failed to prove their guilt beyond reasonable doubt.

Similarly, in this case, where the prosecution gravely failed to establish the element of force, threat or intimidation in the commission of the crime charged, the Court acquits appellant of rape.

WHEREFORE, the Court **GRANTS** the appeal. The Court **REVERSES** and **SETS ASIDE** the Decision of the Court of Appeals dated 21 July 2016, affirming with modifications the Joint Judgment of the Regional Trial Court of Libmanan, Camarines Sur, Branch 57 which convicted appellant Rollybert Oropesa y Doe for rape. Appellant Rollybert Oropesa y Doe is **ACQUITTED** for failure to prove his guilt beyond reasonable doubt and **ORDERED** immediately released from the New Bilibid Prison unless he is detained for another lawful cause.

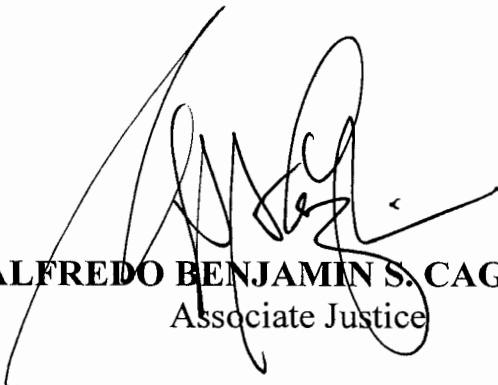
Let a copy of this Decision be furnished the Superintendent of the New Bilibid Prison, Bureau of Corrections in Muntinlupa City for immediate implementation. The said Superintendent is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Decision the action he has taken.

SO ORDERED.

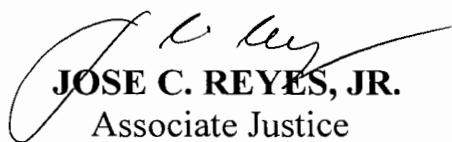


ANTONIO T. CARPIO
Associate Justice

WE CONCUR:



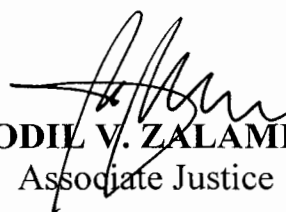
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REYES, JR.
Associate Justice




AMY C. LAZARO-JAVIER
Associate Justice



RODIL V. ZALAMEDA
Associate Justice

ATTESTATION

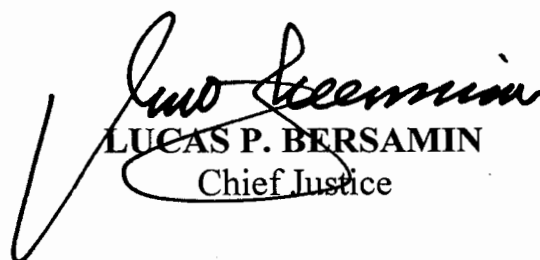
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson

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.



LUCAS P. BERSAMIN
Chief Justice