

Republic of the Philippines  
**Supreme Court**  
Manila

**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff-Appellee,

**G.R. No. 248875**

**Present:**

- versus -

PERALTA, C.J., *Chairperson*,  
CAGUIOA,  
REYES, J. JR.,  
INTING,\* and  
LOPEZ, JJ.

**Promulgated:**

**RODOLFO MASUBAY y PASAGI,**  
Accused-Appellant.

**SEP 03 2020**

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**DECISION**

**REYES, J. JR., J.:**

Before us is an appeal assailing the Decision<sup>1</sup> dated January 31, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09516, which affirmed with modification the Decision<sup>2</sup> dated February 15, 2017 of the Regional Trial Court (RTC) Branch 86, Quezon City, convicting accused-appellant Rodolfo Masubay y Pasagi (Masubay) of the crime of rape under Criminal Case No. Q-05-137304.

\* Designated as additional member in lieu of Associate Justice Amy C. Lazaro-Javier per Raffle dated September 25, 2019.

<sup>1</sup> Penned by Associate Justice Marie Christine Azcarraga-Jacob, with Associate Justices Remedios A. Salazar-Fernando and Amy C. Lazaro-Javier (now a member of this Court); *rollo*, pp. 3-17.

<sup>2</sup> CA *rollo*, pp. 40-52.

### **Factual Antecedents**

Accused-appellant Masubay was charged with two counts of Rape in two separate informations, as follows:

Crim. Case No. Q-05-137303

That on or about the last week of October 2003 in Quezon City Philippines, the abovenamed accused with force and intimidation did then and there willfully, unlawfully and feloniously have carnal knowledge of one AAA, a minor 16 years of age against her will and without her consent to her damage and prejudice.”

Crim. Case No. No. 05-137304

That on or about the month of October 2003 in Quezon City Philippines, the above named accused with force and intimidation did then and there willfully, unlawfully and feloniously have carnal knowledge of one AAA a minor 16, years of age against her will and without her consent.

### **Version of the Prosecution**

The following are the facts of the case as presented by the prosecution and narrated by the RTC.

Sometime in October 2003, at about noontime, AAA,<sup>3</sup> went home from her friend's place. Her house is located at 586 NPC Mendez St., Brgy. Baesa, Quezon City. When AAA was already at their doorstep and about to enter their house, accused suddenly grabbed her hands and pulled her inside his house. The accused is AAA's neighbor whose house is adjacent to that of AAA. The doors of their house are near and fronting each other. No one was around the place when AAA went home.

After having been brought inside the house, the accused threatened AAA with a knife not to shout. Helpless and afraid of the threat of the accused, she was laid down on the floor by the accused who ordered AAA to remove her clothes. When she resisted, the accused forcibly removed her shorts and panty. After the accused successfully removed AAA's underwear, accused removed his underwear and immediately thereafter, he laid on top of AAA and started kissing her cheeks, lips, held her vagina and then inserted his penis into AAA's vagina. AAA was resisting from the start she was being molested by the accused but with the knife poked on her and the threat that the accused would kill her, the resolve to resist was overpowered

<sup>3</sup> The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family or household members shall not be disclosed to protect her privacy and fictitious initials shall instead be used in accordance with *People v. Cabalquinto*, 533 Phil. 703 (2006) and A.M. No. 04-11-09 SC dated September 19, 2006.

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by fear and she stopped resisting that gave way to the consummation of the dastardly act of the accused. The accused having satisfied his carnal desire released AAA to go home but was given by the accused a stern warning not to tell anyone lest the accused will kill her. Grippled by fear and terror that the accused will kill her if she tells anyone, AAA kept to herself what the accused has done to her.

Days and months passed by and AAA did not tell anyone what happened to her in the hands of the accused. After three months of living in fear, on January 26, 2004, AAA was able to muster the courage to tell her parents what the accused did to her. The mother of AAA, upon knowing what the accused did to AAA, immediately decided to report the incident to the police and subsequently accompanied AAA to the PNP Crime Laboratory for medical and genital examination. The examination done on AAA shows that there is a deep healed laceration on her hymen at 8:00 o'clock position and shallow healed laceration at 3:00 & 5:00 o'clock positions. AAA, together with her mother, filed a complaint for rape at the Police Station 3, CPD, Quirino Highway, Brgy. Talipapa, Quezon City.

Dr. Reynaldo Dave, the medical doctor who conducted the medical examination upon AAA at the PNP Crime Laboratory on January 28, 2004 stated during his testimony and in the Initial Medico-Legal Report and Medico Legal Report No. M-358-04 that there is a deep healed laceration at 8:00 o'clock position and shallow-healed laceration at 3:00 & 5:00 o'clock positions; that the subject minor is in non-virgin state physically and that there are no external signs of application of any form of trauma. Further, she stated that the deep healed and shallow healed lacerations were caused by a blunt penetrating trauma to the vagina. It could be caused by a finger, erected (sic) penis or hard object.

### **Version of the Defense**

Accused denied that he committed the crime charged in the Information. He claimed that at the time the alleged crime was committed against AAA in October 2003, he was at his work and did not go home to his house. Being a delivery boy, and a "stay in" worker, he usually sleeps at his workplace and would go home to his house in Baesa on a weekly basis. His workplace and his house in Baesa is about 20 kilometers apart.

AAA is his neighbor at his house in Baesa, Quezon City. Whenever he goes home he would only stay for a while to get some clothes. He never stayed long in his house. He cannot recall if he went home sometime in October 2003. There is no truth to the allegation of AAA that he pulled her and forced her to go inside his house to sexually molest her.

He further claimed that the instant case was filed by AAA at the instigation of the mother who got mad at him when he collected from AAA's mother the money indebted to him by the latter. He was arrested at

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his workplace sometime on April 2013 and he was 59 years old when the alleged incident happened.

### **The Ruling of the Trial Court**

The RTC rendered its Decision dated February 15, 2017, the dispositive portion reads:

WHEREFORE, in view of the foregoing premises, the accused Rodolfo Masubay y Pasagi, under Criminal Case No. Q-05-137304, is hereby found guilty beyond reasonable doubt of the crime of rape punishable under Article 266-A (1) paragraph (a) in relation to Article 266-B of the Revised Penal Code, as amended, and is hereby sentenced to a penalty of Reclusion Perpetua. For this offense the accused is adjudged to pay the victim damages as follows: (1) One Hundred Thousand Pesos (P100,000.00) by way of civil indemnity *ex delicto*; (2) moral damages in the amount of One Hundred Thousand Pesos (P100,000.00); (3) exemplary damages in the amount of Thirty Thousand Pesos (P30,000.00) with legal interest from finality of decision. The charge under Criminal Case No. Q-05-13730[3] is dismissed for insufficiency of evidence.

SO ORDERED.<sup>4</sup>

Dissatisfied, appellant interposed an appeal alleging that the RTC gravely erred: (i) in giving weight and credence to the dubious, incredible and inconsistent testimonies of the prosecution witnesses; (ii) in disregarding his defense of denial.<sup>5</sup>

As summarized by the CA, the crux of appellant's defense is that the testimonies of private complainant (AAA) and her witnesses are so incredible in that they cannot justify a conviction. Appellant specifically assails the testimony of AAA, which he alleged were inconsistent and contradictory, to wit: AAA stated in her direct examination and in her sworn statement that she was raped twice; in her cross examination, however, she testified that she was raped only once. Appellant also contends that AAA suffered no physical injuries thus negating her claim that he employed force and intimidation on her. Appellant likewise wails why AAA did not shout for help when she was allegedly pulled from the doorstep of their house to his house in the afternoon of October 2003. Granting *arguendo* that AAA was indeed pulled into his house, appellant avers that "it is quite perplexing how the accused succeeded without having been seen by other people, considering that it happened in a public place and in broad daylight." Appellant further asserts that AAA's declaration that she was raped is belied by the testimony of Dr. Reynaldo Dave that no spermatozoa was found in AAA's hymen during her genital examination. Lastly, appellant argues that his defense of denial and alibi should have been given more credence than the frail and effete evidence of the prosecution identifying him as the one who raped AAA.

<sup>4</sup> CA rollo, p. 52.

<sup>5</sup> Rollo, p. 7.

The CA, in its Decision dated January 31, 2019, denied the appeal and affirmed with modification the decision of the RTC, to wit:

**WHEREFORE**, all premises considered, the instant appeal is hereby **DENIED**.

Accordingly, the *Decision dated [February 15, 2017]* of the Regional Trial Court, Branch 86, Quezon City, convicting accused-appellant Rodolfo Masubay y Pasagi of the crime of rape under Criminal Case No. Q-05-137304, is **AFFIRMED** with the **MODIFICATION** that the award of exemplary damages is increased to P100,000.00.

Pursuant to the pronouncement in *Nacar v. Gallery Frames and Felipe Bordey, Jr.*, accused-appellant is further **ORDERED** to pay legal interest on all awarded damages at 6% per *annum* from the filing of the Information on [October 19, 2005] until the finality of this Decision, and another 6% per *annum* from such finality until full payment.

Aggrieved by the Decision of the CA, accused-appellant then appealed to this Court. Both parties filed their respective Manifestations that they are adopting their respective Briefs filed with the CA.<sup>7</sup>

### The Court's Ruling

This Court finds the appeal unmeritorious.

We find no cogent reasons to disturb the findings of the RTC, more so when the same was affirmed by the CA. As we have repeatedly ruled, the trial court's assessment of the credibility of witnesses must be given great respect in the absence of any attendant grave abuse of discretion; the trial court had the advantage of actually examining both real and testimonial evidence, including the demeanor of the witnesses, and is in the best position to rule on their weight and credibility. The rule finds greater application when the CA sustains the findings of the trial court.<sup>8</sup>

The determination of the credibility of the offended party's testimony is a most basic consideration in every prosecution for rape, for the lone testimony of the victim, if credible, is sufficient to sustain the verdict of conviction. As in most rape cases, the ultimate issue in this case is credibility. In this regard, when the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, considering that the latter is in a better position to decide the question as it heard the witnesses themselves and observed their deportment and manner of testifying during trial. The exceptions to the rule are when such evaluation was reached arbitrarily, or when the trial court overlooked, misunderstood or

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<sup>7</sup> Id. at 26; 32.

<sup>8</sup> *People v. Masagca, Jr. y Padilla*, 659 Phil. 344, 349 (2011).

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misapplied some facts or circumstance of weight and substance which could affect the result of the case.<sup>8</sup>

We agree with the RTC and the CA that the prosecution was able to establish and prove the elements of rape. The RTC noted that the narration of facts by AAA in her testimony on how the accused, by force, threat and intimidation succeeded in having carnal knowledge with her sometime in October 2003 was simple, candid, straightforward, clear and without any material or significant inconsistency which deserves full credit. The following are the pertinent portion of AAA's testimony:

Q. What happened on October 2003 when the first incident of rape?

x x x x

A. I was on my way home that time, [s]ir.

Q. So, what happened to you?

A. When he suddenly pulled me towards his house, [s]ir.

Q. By whom?

A. Rodolfo Masubay, [s]ir.

Q. That accused on this case?

A. Yes[,] [s]ir.

Q. So, what happened to you when the accused pulled you inside his house?

A. He forcibly tried to remove my short[s][,] sir.

Q. What else happened?

A. And also my panty, [s]ir.

Q. How about the t-shirt or blouse you were wearing at that time?

A. He was not able to remove it, [s]ir[,] because I was struggling.

Q. So, what happened after the accused removed your short[s] and panty?

A. He poked a knife at me and he uttered for me not to shout[,] sir.

Q. How about the accused[?] [W]hat did he do to himself after removing your short[s] and panty?

A. He also undressed himself[,] [s]ir.

Q. Then afterwards what happened?

A. Something happened to us, sir[.]

Q. So, what something that you are referring to?

A. He inserted his penis into my vagina, [s]ir.

Q. So, at that particular instance, Madam Witness, the accused still holding his knife?

A. Yes, [s]ir.

<sup>8</sup> *Pecple v. Mabalo y Bacani*, G.R. No. 238839, February 27, 2019 (citations omitted).

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Q. So, what was your reaction when accused [was] already on top of you?

A. I was terrified, [s]ir.

x x x x

Q. What was your reaction when the accused was already on top of you?

A. I was afraid, [s]ir.

Q. So, why?

A. Because he is in possession of the knife, [s]ir.

Q. So, what did you feel when the accused inserted his private part to your private part?

A. It was painful, [s]ir.

Q. How painful?

A. It was really painful, [s]ir.

Q. So, what happened afterwards?

A. I went out of his house, [s]ir.

Q. So, what did accused tell you when you go outside his house?

A. For me not to report to my mother, [s]ir.

Q. And what the accused will do to you in case you report the matter to your mother?

x x x x

A. That he will kill me, [s]ir.<sup>10</sup>

Accused-appellant questions the credibility of AAA on account of inconsistencies in her direct testimony and sworn statement, with that of cross-examination, regarding the number of times she was raped.

This Court is not convinced. We find that this to be inconsequential to the finding of guilt of the accused-appellant in the instant case. The truth as to whether or not AAA was raped once or twice by accused-appellant does not detract from the fact that she was raped.

It is well-settled that testimonies of child-victims are normally given full weight and credit, since 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.<sup>11</sup> Further, inaccuracies and inconsistencies in the rape victim's testimony are to be expected.<sup>12</sup> Also, noteworthy is the fact that the other

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<sup>10</sup> *Rollo*, pp. 9-10.

<sup>11</sup> *People v. Guambor*, 465 Phil. 671, 678 (2004).

<sup>12</sup> *People v. Rubio y Acosta*, 683 Phil. 714, 722 (2012).

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charge for rape Criminal Case No. Q-05-137303 was already dismissed by the RTC for insufficiency of evidence.

We also cannot accede to accused-appellant's assertion that he could not have raped AAA since the alleged event happened in a public place and in broad daylight; that the victim did not even scream; and that AAA would have suffered a trauma or should have at least shown any signs of physical abuse. In *People v. Mabonga y Babon*,<sup>13</sup> this Court ruled:

[I]t is a common judicial experience that "the presence of people nearby does not deter rapists from committing their odious act. Rape can be committed even in places where people congregate, in parks, along the roadside, within school premises, inside a house where there are several occupants and even in the same room where other members of the family are sleeping."<sup>14</sup>

It is well-settled that lust respects neither time nor place. "There is no rule that rape can be committed only in seclusion."<sup>15</sup>

We find accused-appellant's claim that there is absence of physical abuse or injuries negates AAA's claim of being raped unworthy of consideration. The gravamen of the crime of rape is carnal knowledge of a woman by force or intimidation and against her will or without her consent. What consummates the felony is penile contact, however slight, with the labia of the victim's vagina without her consent. Consequently, it is not required that lacerations be found on the private complainant's hymen. Nor is it necessary to show that the victim had a reddening of the external genitalia or sustained a hematoma on other parts of her body to sustain the possibility of a rape charge. For it is well-settled that the **absence of external injuries does not negate rape**. This is because in rape, the important consideration is not the presence of injuries on the victim's body, but penile contact with the female genitalia without the woman's consent.<sup>16</sup>

In a number of cases, this Court has recognized the fact that no clear-cut behavior can be expected of a person being raped or has been raped. It is a settled rule that failure of the victim to shout or seek help do not negate rape. Even lack of resistance will not imply that the victim has consented to the sexual act, especially when that person was intimidated into submission by the accused.<sup>17</sup>

In the case at bar, it was clearly shown that accused-appellant was then armed with a knife which made it difficult for AAA to resist and ultimately gave in to his sexual desires.

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<sup>13</sup> 477 Phil. 61 (2004).

<sup>14</sup> Id. at 78.

<sup>15</sup> *People v. Banig*, 693 Phil. 303, 316 (2012).

<sup>16</sup> *People v. Napud, Jr.*, 418 Phil. 268, 279-280 (2001) (emphasis supplied; citations omitted).

<sup>17</sup> *People v. Pareja y Cruz*, 724 Phil. 759, 778 (2014).



Accused-appellant then points out that the Medico Legal Report turned negative for spermatozoa. We also find the same to be without merit. It is well-settled that the absence of hymenal fluid or spermatozoa is not a negation of rape. The presence or absence thereof is immaterial since it is penetration, not ejaculation, which constitutes the crime of rape. Besides, the absence of the seminal fluid from the vagina could be due to a number of factors, such as the vertical drainage of the semen from the vagina, the acidity of the vagina, or simply the washing of the vagina after the sexual intercourse. At any rate, the presence of spermatozoa is not an element of the crime of rape.<sup>18</sup>

Accused-appellant proceeds with his defense of denial and maintained that when the alleged rape incident happened, he was at work with his co-workers. Accused-appellant argued that not all denials and alibis should be regarded as fabricated. He also maintained that although denial and alibi are generally held to be weak and unavailing, these defenses gain commensurate strength when the credibility of the prosecution witnesses is wanting and questionable.

Accused-appellant fails to persuade this Court. While accused-appellant is correct in stating that the prosecution cannot rely on the weakness of the evidence for the defense but must depend on the strength of its own evidence to prove the guilt of the accused, we find that the prosecution was able to provide sufficient evidence to prove the guilt of the accused beyond reasonable doubt through the testimony of AAA, which was corroborated by the Final Medico-legal Report and the Dr. Reynaldo Dave, Jr.'s testimony. Accused-appellant's defense of denial pales in comparison and cannot prevail over AAA's testimony positively identifying him as the perpetrator of the crime.

This Court has ruled in various cases that denial is inherently a weak defense as it is negative and self-serving. Corollarily, alibi is the weakest of all defenses for it is easy to contrive and difficult to prove. For alibi to prosper, it is not enough for the accused to prove that he was somewhere else when the crime was committed. He must likewise prove that it was physically impossible for him to be present at the crime scene or its immediate vicinity at the time of its commission.<sup>19</sup>

In this case, accused-appellant failed miserably in establishing that it was physically impossible for him to have been at the scene of the crime. Even accused-appellant admitted that the scene of the crime is merely twenty (20) kilometers away from his workplace.

We agree with the CA in holding that the trial court correctly rejected the defense of alibi proffered by appellant which is not only inherently weak and feeble, but which became more dubious when it was sought to be

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<sup>18</sup> *People v. Alberca*, 810 Phil. 896, 907-908 (2017) (citations omitted).

<sup>19</sup> *People v. An*, 612 Phil. 476, 491-492 (2009).

established only be appellant himself, and not by disinterested, unbiased person who would, in the natural order of things, be best situated to support the denial.

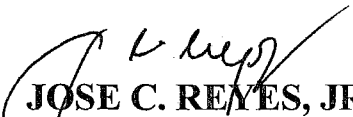
Consequently, this Court agrees with the CA in affirming the ruling of the RTC finding accused-appellant guilty beyond reasonable doubt of the crime of rape under Criminal Case No. Q-05-137304. However, we do not agree with the CA in appreciating the qualifying circumstance of use of a deadly weapon as this has not been sufficiently alleged in the information although established during trial. In any case, the RTC and the CA correctly imposed the penalty of *reclusion perpetua*. We also find it necessary to adjust the award of damages pursuant to *People v. Juguetta*,<sup>19</sup> which provides that in case of simple rape and the penalty imposed is *reclusion perpetua*, the award for civil indemnity, moral damages and exemplary damages is ₱75,000.00 each.

This Court also finds it proper to remove the CA's award pertaining to the legal interest with a reckoning period from the filing of the information, which provided:

x accused-appellant is further ORDERED to pay legal interest on all awarded damages at 6% per annum from the filing of the Information on [October 19, 2005], until the finality of this Decision, and another 6% per annum from such finality until full payment. (Emphasis supplied)

**WHEREFORE**, the appeal is **DENIED**. The Decision dated January 31, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 09516 is **AFFIRMED** with **MODIFICATION**. Accused-appellant Rodolfo Masubay y Pasagi is found **GUILTY** beyond reasonable doubt of the crime of rape, and is hereby **SENTENCED** to suffer the penalty of *reclusion perpetua* and **ORDERS** him to **PAY** AAA Seventy-Five Thousand Pesos (₱75,000.00) as civil indemnity, Seventy-Five Thousand Pesos (₱75,000.00) as moral damages, and Seventy-Five Thousand Pesos (₱75,000.00) as exemplary damages, all subject to 6% interest from the finality of the Decision until fully paid.

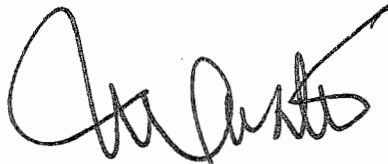
**SO ORDERED.**

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

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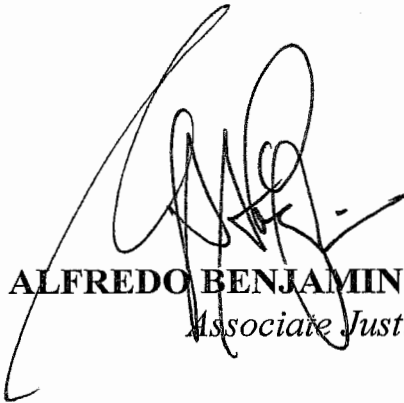
<sup>19</sup> 783 Phil. 806 (2016).

**WE CONCUR:**



**DIOSDADO M. PERALTA**

*Chief Justice*  
*Chairperson*



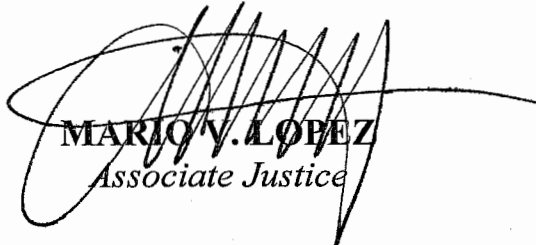
**ALFREDO BENJAMIN S. CAGUIOA**

*Associate Justice*



**HENRI JEAN PAUL B. INTING**

*Associate Justice*

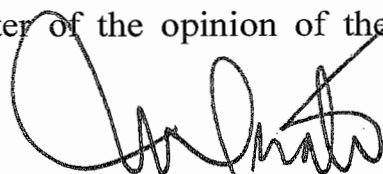


**MARIO V. LOPEZ**

*Associate Justice*

**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.



**DIOSDADO M. PERALTA**

*Chief Justice*

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