

Republic of the Philippines  
Supreme Court  
Manila

**SECOND DIVISION**

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

**G.R. No. 257276**

Present:

PERLAS-BERNABE, S.A.J.,  
*Chairperson,*  
HERNANDO,  
ZALAMEDA,  
ROSARIO, and  
MARQUEZ, JJ.

- versus -

**XXX<sup>1</sup>,**

*Accused-Appellant.*

Promulgated:

**FEB 28 2022**

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**DECISION**

**HERNANDO, J.:**

This resolves the appeal<sup>2</sup> filed by accused-appellant XXX (accused-appellant) assailing the November 25, 2020 Decision<sup>3</sup> of the Court of Appeals

<sup>1</sup> Initials were used to identify the accused-appellant pursuant to Supreme Court Amended Administrative Circular No. 83-2015 dated September 5, 2017 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."

<sup>2</sup> *Rollo*, pp. 5-7. Notice of Appeal dated January 4, 2021.

<sup>3</sup> *Id.* at 11-26. Penned by Associate Justice Gabriel T. Ingles and concurred in by Associate Justices Emily R. Alino-Geluz and Lorenza Redulla Bordios.

(CA) in CA-G.R. CEB CR. HC. No. 03295. Accused-appellant was charged with Qualified Rape under the following Information:

That on or about the 8<sup>th</sup> day of August 2009 in the [REDACTED],<sup>4</sup> and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there willfully, unlawfully and feloniously have sexual intercourse with [AAA],<sup>5</sup> a minor 7 years old (sic) aggravated by relationship, the accused being the uncle of the victim because accused is the brother of the victim's father.

CONTRARY TO LAW.<sup>6</sup>

Accused-appellant pleaded not guilty to the charge against him.<sup>7</sup> The defense admitted the authenticity and due execution of complainant AAA's temporary medical certificate. The said document, along with AAA's baptismal certificate and birth certificate, was admitted as documentary evidence.<sup>8</sup> The prosecution presented the testimonies of AAA, her mother BBB, and Dr. Rufina Leonor Barrot Gler (Dr. Gler). The records of the stenographic notes of the said witnesses were lost due to the onslaught of Typhoon Yolanda; thus, the retaking of testimonies of the said witnesses was conducted, except for Dr. Gler's.<sup>9</sup> However, the defense admitted the authenticity and due execution of the temporary medical report and final medico-legal report.<sup>10</sup>

#### Version of the prosecution:

AAA recounted that at around 7:00 p.m. of August 8, 2009, she was inside their house when accused-appellant, her uncle who lived with them, summoned her inside his room. Upon entering accused-appellant's room, accused-appellant pulled down her shirt, removed her panty, and undressed himself by removing his pants, brief, and t-shirt. Accused-appellant proceeded to kiss AAA on the lips, then laid her down on the bed. He subsequently mounted AAA and inserted his penis inside her vagina.<sup>11</sup> The latter felt pain in her vagina and informed

<sup>4</sup> Geographical location is blotted out pursuant to Supreme Court Amended Administrative Circular No. 83-2015.

<sup>5</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 Republic Act No. 7610, An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, 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]).

<sup>6</sup> Records, pp. 1-2.

<sup>7</sup> Id. at 18-19.

<sup>8</sup> Id. at 99.

<sup>9</sup> Id. at 30. TSN, June 26, 2015, pp. 1-12.

<sup>10</sup> Records, p. 31.

<sup>11</sup> TSN, June 26, 2015, pp. 6-7.

accused-appellant about it, which caused him to stop his actions. Accused-appellant stood up, put on his clothes and directed AAA to do the same. She put on her clothes and both of them then sat on the bed side by side. At this point, accused-appellant unzipped his pants and ordered AAA to suck his penis. Due to his threat that he will kill her if she does not comply with his orders, AAA followed his order. After 30 minutes of satisfying his desires, accused-appellant told her to get out of his room.<sup>12</sup> AAA was only seven years old at the time of the incident.<sup>13</sup> She further testified that accused-appellant also raped her prior to the incident.<sup>14</sup>

On the same night, BBB was grilling fish inside their house and called for AAA to help her. However, she did not reply. BBB went out to look for her daughter. While BBB was passing through accused-appellant's window, she saw that accused-appellant was kissing her daughter and that her daughter was holding accused-appellant's penis, running her fingers on it in an up and down motion.<sup>15</sup> BBB rushed to enter her house and saw her daughter coming out of accused-appellant's room. Upon seeing her mother, AAA informed her that accused-appellant sexually abused her and threatened to kill her if she does not follow his orders. Upon hearing this, BBB informed her husband, and they immediately proceeded to the [REDACTED] Police Community Precinct to report the rape incident against accused-appellant. After reporting the incident, they brought AAA to the hospital to undergo a medical examination.<sup>16</sup>

Dr. Florence J. Curbilla, the gynecologist who examined AAA, discovered that there was an abrasion on the labia majora and an old healed incomplete hymenal laceration at the 11:00 o'clock position, but her vaginal discharge did not contain any spermatozoa. Dr. Curbilla's findings were contained in the medico-legal report.<sup>17</sup>

#### **Version of the Defense:**

For his part, accused-appellant denied having raped AAA and claimed that he was sleeping in his house at the time of the incident. His house was adjacent to the house of AAA. While he was sleeping, two police officers went to his house, awakened him, and informed him that someone has complained that he

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<sup>12</sup> Id. at 8-9.

<sup>13</sup> Id. at 9; Folder of Exhibits, p. 61.

<sup>14</sup> TSN, June 26, 2015; p. 9.

<sup>15</sup> Id. at 2-3.

<sup>16</sup> Id. at 4, 9, and 12.

<sup>17</sup> Folder of Exhibits, p. 24.

committed rape. BBB accompanied the police officers.<sup>18</sup> He admitted that he was AAA's uncle, since her father is his brother.<sup>19</sup> While he noted that the only possible motive against him is a land dispute between the siblings, he stated that he was very close to AAA's parents, who treated him well and had no reason to charge him with sexual abuse.<sup>20</sup>

### **Ruling of the Regional Trial Court (RTC):**

On February 20, 2019, the RTC, Branch 7 of ██████████, convicted accused-appellant of Qualified Rape. The RTC accorded great weight to the victim's straightforward and positive testimony, which was corroborated by BBB's testimony, over accused-appellant's negative and self-serving account.<sup>21</sup> The RTC also noted that the fact that the victim was only seven years old at the time of the incident and that the accused-appellant is her uncle was sufficiently proven.<sup>22</sup> The *fallo* of the RTC's judgment reads:

**WHEREFORE**, premises considered, judgment is hereby rendered finding the accused [XXX] guilty beyond reasonable doubt of the crime of Qualified Rape. He is hereby sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole and to pay the private offended party "AAA" ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages and ₱100,000.00 as exemplary damages, with all such amounts to earn interest of 6% per annum from the finality of this decision until full payment.

x x x x

**SO ORDERED.**<sup>23</sup>

In his appeal, accused-appellant decried the RTC's finding of guilt, and argued that the RTC erred in giving weight and credence to the testimony of AAA. Accused-appellant argued that there are glaring inconsistencies in AAA's and BBB's testimonies, noting further that BBB's supposed reaction of not rushing to the aid of her daughter in a dreadful situation is incredulous. Accused-appellant likewise maintained that his relationship to AAA was not duly proven.<sup>24</sup> On the other hand, the Office of the Solicitor General averred that accused-appellant's guilt has been proven beyond reasonable doubt, and

<sup>18</sup> TSN, November 9, 2016, pp. 2-3.

<sup>19</sup> Id. at 2.

<sup>20</sup> Id. at 4-5.

<sup>21</sup> *Rollo*, pp. 36-38.

<sup>22</sup> Id. at 38.

<sup>23</sup> Id. at 39.

<sup>24</sup> *CA rollo*, pp. 20-24.

maintained that the complainant's credible and straightforward testimony must prevail over the bare denials of the accused-appellant.<sup>25</sup>

### **Ruling of the Court of Appeals:**

In its November 25, 2020 Decision, the CA modified the designation of the crime committed from Qualified Rape to Statutory Rape. The CA agreed that the prosecution sufficiently established AAA's minority at the time of the incident and the presence of the elements of Statutory Rape, and that AAA's clear and convincing testimony deserves full weight and credence. However, the CA observed that the allegation of relationship between AAA and accused-appellant under the Information is insufficient under prevailing jurisprudence.<sup>26</sup> The dispositive portion of the CA's Decision reads:

**WHEREFORE**, the appeal is **DISMISSED**. The Judgment dated 20 February 2019 of the Regional Trial Court of [REDACTED], [REDACTED], Branch 7, in Criminal Case No. 2009-08-363 finding accused-appellant [XXX] guilty beyond reasonable doubt of statutory rape is **AFFIRMED WITH MODIFICATION**. [XXX] is sentenced to suffer the penalty of *reclusion perpetua*, and to pay AAA the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P75,000.00 as exemplary damages.

The award of damages must earn 6% per annum computed from finality of the Court's Decision until satisfied.

**SO ORDERED.**<sup>27</sup>

Hence, this appeal.<sup>28</sup>

### **Our Ruling**

After a careful review of the records, the Court holds that the appeal is bereft of merit.

In the review of rape cases, We continue to be guided by the following principles: (1) an accusation for rape can be made with facility, it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the nature of the crime of rape where only two persons are usually involved, the testimony of the complainant is scrutinized with extreme caution; and (3) the evidence for the prosecution stands or falls on its own merits and cannot be allowed to draw strength from the weakness of the defense. Thus, in

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<sup>25</sup> Id. at 51-57.

<sup>26</sup> *Rollo*, pp. 16-24.

<sup>27</sup> Id. at 26.

<sup>28</sup> Id. at 5-7. Notice of Appeal dated January 4, 2021.

a prosecution for rape, the complainant's credibility becomes the single most important issue.<sup>29</sup>

Considering the foregoing, the Court finds no cogent reason to disturb the findings of the courts *a quo* that the elements of Statutory Rape were duly established. AAA's straightforward and positive testimony that accused-appellant raped her was corroborated by BBB's testimony. When considered together with the medico-legal certificate indicating an abrasion on her labia majora and AAA's birth certificate proving that she was seven years old at the time of the incident, the prosecution's evidence is sufficient for conviction. It is settled that the crime of rape is deemed consummated even when the man's penis merely enters or comes into contact to the labia or lips of the female organ.<sup>30</sup> Further, the trial court's assessment on the credibility of witnesses deserves great weight, and even conclusive and binding effect, unless the same is tainted with arbitrariness or oversight of some fact or circumstance of weight and influence, since the trial court is in a better position than the appellate court to properly evaluate testimonial evidence. The rule finds an even more stringent application where the CA sustained said findings, as in this case.<sup>31</sup>

Moreover, AAA's testimony is clear, candid, consistent in its material points, and unshaken during cross-examination. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability, but also the shame to which she would be exposed if the matter to which she testified is not true.<sup>32</sup> Thus, accused-appellant's defense of denial cannot overcome the categorical testimony of the victim. Denial is an intrinsically weak defense which must be buttressed with strong evidence of non-culpability to merit credibility. A denial, which necessarily constitutes self-serving negative evidence, cannot prevail over the declaration of credible witnesses who testify on affirmative matters.<sup>33</sup>

However, contrary to the finding of the CA, We hold that the special qualifying circumstance of relationship was sufficiently alleged in the Information. Indeed, the minority of the victim and his or her relationship with the offender should both be alleged in the Information and proven beyond reasonable doubt during trial in order to qualify the rape charge as these circumstances have the effect of altering the nature of the rape and its corresponding penalty.<sup>34</sup> If the offender is merely a relation — not a parent, ascendant, step-parent, or guardian or common-law spouse of the mother of the

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<sup>29</sup> *People v. Galuga*, G.R. No. 221428, February 13, 2019, citing *People v. Ramos*, 743 Phil. 344, 355-356 (2014).

<sup>30</sup> *People v. Agan*, G.R. No. 228947, June 22, 2020, citing *People v. Tampos*, 455 Phil. 844, 858 (2003).

<sup>31</sup> See *id.*

<sup>32</sup> *People v. XXX*, G.R. No. 239906, August 26, 2020.

<sup>33</sup> See *id.*

<sup>34</sup> *People v. De Guzman*, G.R. No. 224212, November 27, 2019. (Citations omitted)

victim — it must be alleged in the information that he is “a relative by consanguinity or affinity (as the case may be) within the third civil degree.” The allegation that accused-appellant is the uncle of AAA, and a brother of AAA’s father, without specifically alleging that such relationship was within the third civil degree, is specific enough to satisfy the special qualifying circumstance of relationship.<sup>35</sup> In *People v. XXX*,<sup>36</sup> the Court considered the qualifying circumstance of relationship even without the specific allegation that the same was within the third civil degree of consanguinity or affinity, since the information therein already described the offender as the “maternal uncle” of the victim. In the same manner, the Information in the instant case contained a statement that “the accused being the uncle of victim because accused is the brother of the victim’s father.”<sup>37</sup> Hence, accused-appellant can be properly convicted of Qualified Rape.

In sum, accused-appellant is guilty beyond reasonable doubt of Qualified Rape. Thus, he was properly meted out the penalty of *reclusion perpetua* without eligibility for parole.<sup>38</sup> The CA’s awards of ₱75,000.00 each as civil indemnity, moral damages, and exemplary damages are increased to ₱100,000.00 each to conform to prevailing jurisprudence.<sup>39</sup> All damages awarded shall earn six percent (6%) interest per *annum* from the date of finality of this Decision until full payment.

**WHEREFORE**, the appeal is **DISMISSED**. The November 25, 2020 Decision of the Court of Appeals in CA-G.R. CEB CR. HC. No. 03295 is hereby **AFFIRMED with MODIFICATION** that accused-appellant XXX is found **GUILTY** of Qualified Rape and sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. He is ordered to pay AAA (i) ₱100,000.00 as civil indemnity, (ii) ₱100,000.00 as moral damages, and (iii) ₱100,000.00 as exemplary damages. Interest at the rate of six percent (6%) per *annum* shall be imposed on the aggregate amount of the monetary awards computed from the finality of this Decision until full payment.

<sup>35</sup> See *People v. XXX*, G.R. No. 236562, September 22, 2020.

<sup>36</sup> *Id.*

<sup>37</sup> Records, pp. 1-2.

<sup>38</sup> REVISED PENAL CODE, Article 266-B, reads:


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

Section 3 of RA 9346 reads:

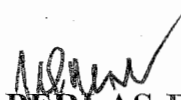
SEC. 3. Persons convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to *reclusion perpetua*, by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended.


<sup>39</sup> See *People v. Jugueta*, 783 Phil. 806, 848-849 (2016).

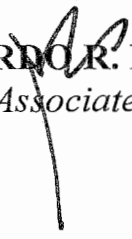
**SO ORDERED.**

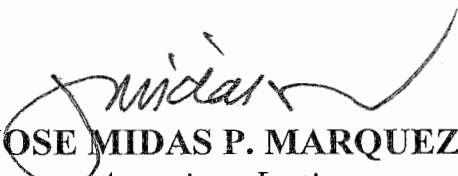
  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

**WE CONCUR:**

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

  
**RODIL N. ZALAMEDA**  
*Associate Justice*


  
**RICARDO R. ROSARIO**  
*Associate Justice*

  
**JOSE MIDAS P. MARQUEZ**  
*Associate Justice*



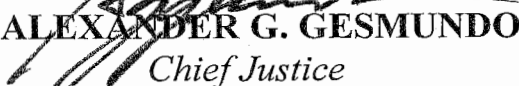
### ATTESTATION

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.

  
**ESTELA M. PERLAS-BERNABE**  
*Senior 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.

  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*

