

Republic of the Philippines
Supreme Court
Manila

EN BANC

PEOPLE OF THE G.R. No. 262846
PHILIPPINES,
Plaintiff-appellee,

- versus -

XXX262846,*
Accused-appellant.

Present:
GISMUNDO, C.J., Chairperson
LEONEN, S.A.J.
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.
GAERLAN,
ROSARIO,
LOPEZ, J.
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH,** JJ.

Promulgated:

February 18, 2025

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* The identity of the victim, as well as those of her immediate family or household members, and/or the accused, or any information which could establish or compromise the victim's identity shall be withheld pursuant to Republic Act No. 7610, titled "An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes," approved on June 17, 1992; Republic Act No. 9262, titled "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, titled "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.)

** On leave.

DECISION

KHO, JR., J.:

Before the Court is an ordinary Appeal¹ assailing the Decision² dated January 26, 2021 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02055, which affirmed the Joint Decision³ dated June 26, 2018 of Branch 26, Regional Trial Court, Medina, Misamis Oriental (RTC) finding accused-appellant XXX262846 guilty beyond reasonable doubt of the crime of rape, as defined and penalized under Article 266-A(1),⁴ and unjust vexation, as defined and penalized under Article 287(2)⁵ of the Revised Penal Code (RPC).

The Facts

This case stemmed from two Informations⁶ filed before the RTC charging XXX262846 with rape and attempted rape, the accusatory portions of which read:

F.C. Crim Case No. 065-M (2013)
(For Rape)

That sometime in the [f]irst week of January, 2013, at [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, through force and intimidation and having moral ascendancy over the herein victim, being her biological father, did then and there willfully, unlawfully[,] and feloniously have carnal knowledge of his own daughter, one [AAA262846], to her damage and prejudice.

CONTRARY TO and in violation of Article 266-A, in relation to Article 266-B, of the Revised Penal Code, as amended by [Republic Act No.] 8353.⁷ (Emphasis in the original)

F.C. Crim. Case No. 066-M (2013)
(For Attempted Rape)

That sometime in the last week of January, 2013 at [REDACTED], Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, violence[,] and intimidation and with lewd design, having moral ascendancy over the

¹ *Rollo*, pp. 4–5.

² *Id.* at 9–22. Penned by Associate Justice Edgardo T. Lloren and concurred in by Associate Justices Loida S. Posadas-Kahulugan and Anisah B. Amanodin-Umpa of the [REDACTED] Court of Appeals, [REDACTED].

³ *Id.* at 25–39. Penned by Pairing Judge Judy A. Sia-Galvez of [REDACTED] Regional Trial Court, [REDACTED].

⁴ REV. PEN. CODE (1930), as amended by Republic Act No. 8353 (1997).

⁵ REV. PEN. CODE (1930).

⁶ RTC records (FC Crim Case No. 065-M [2013]), pp. 1–2; RTC records (FC Crim. Case No. 066-M [2013]), pp. 1–2.

⁷ RTC records (FC Crim Case No. 065-M [2013]), p. 1.

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herein victim, being her biological father, did then and there willfully, unlawfully[,] and feloniously try and attempt to have carnal knowledge of his own daughter, one AAA262846, thus commencing the commission of the crime of rape directly by over[t] acts but did not perform all the acts of execution that could have produced the crime of rape by reason of cause or causes other than his own spontaneous desistance, to her damage and prejudice.

CONTRARY TO and in violation of Article 266-A, in relation to Article 266-B, Article 6 and 51 all of the Revised Penal Code, as amended by [Republic Act No.] 8353.⁸ (Emphasis in the original)

The prosecution alleged that AAA262846 and her younger brother lived with their father, XXX262846, in their house in [REDACTED], [REDACTED]. Since 2004, their mother had been working in Kuwait as an overseas Filipino worker. At the time of the incident, AAA262846 was a 16-year-old teenager and was a first-year college student.⁹

Sometime in the first week of January 2013, AAA262846 came home from school at around 9:00 p.m. She had her dinner, prepared for her math class, and went to bed at around 11:00 p.m. After, while she was sleeping, AAA262846 felt an unbearable pain in her back as if she had been kicked. When she awoke, she realized that it was XXX262846 who kicked her. She was shocked and remained motionless. XXX262846 then kept pulling her hair but she had no strength to fight back. Soon, he covered her mouth and pulled down her shorts and underwear. He then touched her breast and kissed her neck. Subsequently, he pulled down his shorts and inserted his penis into her vagina. AAA262846 could not make any noise since XXX262846 was covering her mouth with his hand. She then heard him saying "ah, ah, ah," appearing as if he was enjoying what he was doing to her. After, he threatened her not to make any sound or else he will kill her, along with her brother, grandmother, and uncle. XXX262846 then went to his room and slept. AAA262846 cried and had a hard time going back to sleep. She was afraid that he might come back and rape her again. The morning after the incident, XXX262846 acted as if nothing happened. On the other hand, AAA262846 was terrified and was afraid to go out, even to school. She could not concentrate in school and had a hard time absorbing her lessons.¹⁰

On the last week of January 2013, at around midnight, AAA262846 woke up and noticed that her shorts had already been removed. She then saw XXX262846 in her bedroom with his penis exposed. He was about to go on top of her when she raised her right knee, which hit his stomach. This deterred XXX262846 who, afterwards, left the room. The following day, AAA262846 confronted XXX262846 and asked him if she was really his daughter because

⁸ RTC records (FC Crim Case No. 066-M [2013]), p. 1.

⁹ *Rollo*, p. 12.

¹⁰ *Id.*

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of what he did to her. In response, he threatened her by saying that she could not live by herself and that she had no other means of support.¹¹

AAA262846 was closely guarded by XXX262846 so that she could not tell anyone about the incident. She could not move freely. However, when XXX262846 went to work in Cagayan de Oro City on February 10, 2013, she was finally able to tell her friends about the incidents. She also told the same to her younger brother. Subsequently, her friends and younger brother brought her to her grandmother. Thereafter, they immediately went to the police station to report the incidents.¹²

On February 12, 2013, Dr. Analiza B. Bajan (Dr. Bajan) of the Northern Mindanao Medical Center examined AAA262846. Dr. Bajan issued a Living Case Report¹³ with the following observation:

Healed Complete Hymenal Laceration at 7 o'clock Positions
Healed Partial Hymenal Lacerations at 1, 5[,] and 11 o'clock Positions¹⁴

Based on her examination, Dr. Bajan declared that there was penetration of AAA262846's genitalia. However, Dr. Bajan could not determine the cause.¹⁵

For his part, XXX262846 vehemently denied the allegations against him. He testified that he was working as an appliance repairman in Cagayan de Oro City. While working in the city, he stayed in a boarding house for the entire month of January 2013 and did not return to his house. The one who took care of his children during his absence was his mother-in-law.¹⁶

Further, XXX262846 claimed that AAA262846 instituted the present case against him because the latter was angry at him for castigating her for having a boyfriend. There was a time when XXX262846 saw AAA262846 drinking alcohol with her boyfriend and friends. He averred that he scolded her in front of her friends, which resulted in AAA262846's embarrassment; thus, her anger towards him.¹⁷

XXX262846 offered the testimony of his close neighbor, YYY262846, who testified that XXX262846 was not in his house in [REDACTED] the whole month of January 2013. He also stated that XXX262846 asked him to

¹¹ *Id.* at 13.

¹² *Id.*

¹³ RTC records (FC Crim Case No. 065-M [2013]), p. 12.

¹⁴ *Rollo*, p. 13.

¹⁵ *Id.*

¹⁶ *Id.* at 13-14.

¹⁷ *Id.* at 14.

look after the latter's house. Further, he claimed that he did not see XXX262846 in their town for the entire month of January 2013.¹⁸

Aside from YYY262846, XXX262846 also offered the testimony of ZZZ262846. ZZZ262846 testified that he worked as XXX262846's assistant in repairing appliances and that they both lived together in his house. He claimed that for the entire month of January 2013, XXX262846 was working in [REDACTED], [REDACTED], [REDACTED], away from his family's house in [REDACTED]. There were times when XXX262846 would go to [REDACTED] once a week to buy spare parts, but he would return to ZZZ262846's house at the end of the day. ZZZ262846 further testified that he did not know if XXX262846 still went to his family in [REDACTED] because XXX262846's in-laws were against XXX262846. He also stated that he knew XXX262846 had two children and a wife who left the country. During cross-examination, he declared that for two years, XXX262846 did not go home in Brgy. San Jose.¹⁹

The RTC Ruling

In a Joint Decision²⁰ dated June 26, 2018, the RTC ruled as follows: (a) in **F.C. Crim Case No. 065-M (2013)**, XXX262846 was found guilty beyond reasonable doubt of the crime of rape and accordingly, was sentenced to suffer the penalty of *reclusion perpetua*, and was ordered to pay AAA262846 the amounts of PHP 100,000.00 as civil indemnity *ex delicto*, PHP 100,000.00 as moral damages, and PHP 100,000.00 as exemplary damages, all with legal interest at the rate of 6% per annum from the date of finality of the ruling until full payment; and (b) in **F.C. Crim Case No. 066-M (2013)**, XXX262846 was found guilty of unjust vexation instead of attempted rape, and was sentenced to suffer the penalty of 30 days of *arresto menor*, and was ordered to pay AAA262846 the amount of PHP 10,000.00 as civil indemnity *ex delicto*, with legal interest at the rate of 6% per annum from the date of finality of the ruling until full payment.²¹

In **F.C. Crim Case No. 065-M (2013)**, the RTC held that the prosecution was able to establish all the elements of rape, warranting XXX262846's conviction.²² It found AAA262846's testimony to be credible, since it was supported by Dr. Bajan's report. Moreover, citing current jurisprudence, the RTC held that AAA262846 would not have undergone the investigation by the police, be medically examined by a doctor, and be presented in court if the incident did not happen to her.²³ In addition, AAA262846 had no malevolent motive to testify against XXX262846. The

¹⁸ *Id.*

¹⁹ *Id.* at 31.

²⁰ *Id.* at 25–39.

²¹ *Id.* at 38–39.

²² *Id.* at 31–34.

²³ *Id.* at 34–35.

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RTC convicted XXX262846 of rape and not qualified rape because AAA262846's minority was not alleged in the Information. As such, AAA262846's minority was considered as an aggravating circumstance.²⁴ Similarly, it also held that XXX262846's relationship with AAA262846, the former being the latter's father, constituted an aggravating circumstance as well.²⁵ As for XXX262846's defense of denial and alibi and his witnesses' testimonies, it found the same to be not credible and convincing.²⁶ After all, the testimonies of XXX262846's witnesses conflicted with each other.²⁷

In **F.C. Crim. Case No. 066-M (2013)**, the RTC found that the attempted rape was not committed because XXX262846 spontaneously desisted from completing all the acts of rape when AAA262846's bent knee hit his stomach, which deterred him from pursuing his original intention. Instead, it convicted XXX262846 of unjust vexation under Article 287(2) of the RPC. In so ruling, it found that XXX262846's acts caused annoyance, irritation, torment, distress or disturbance to AAA262846 and that AAA262846's disturbance and distress were duly proven in the trial.²⁸

Aggrieved, XXX262846 appealed²⁹ to the CA.

The CA Ruling

In a Decision³⁰ dated January 26, 2021, the CA affirmed the RTC ruling.³¹ In so ruling, the CA gave credence to AAA262846's testimony, finding it to be categorical and unqualified.³² Further, the CA held that AAA262846's narration was corroborated by Dr. Bajan's medical findings of the existence of hymenal lacerations. It ruled that when the testimony of a rape victim is consistent with medical findings, then there was sufficient basis to conclude that there had been carnal knowledge.³³

The CA likewise found that XXX262846 cannot be held guilty of attempted rape. It echoed the RTC in ruling that to be held guilty of attempted rape, XXX262846 must have commenced the act of inserting his sexual organ into AAA262846's vagina. However, it held that the RTC correctly convicted XXX262846 of unjust vexation since AAA262846 was disturbed and distressed by XXX262846's acts. It did not give credence to XXX262846's claim that AAA262846 filed the present case because the former scolded the latter. Further, it rejected XXX262846's denial and defense of alibi due to the

²⁴ *Id.* at 33.

²⁵ *Id.* at 35.

²⁶ *Id.* at 34.

²⁷ *Id.* at 33–34.

²⁸ *Id.* at 35–36.

²⁹ See Appellant's Brief; CA *rollo*, pp. 26–39.

³⁰ *Rollo*, pp. 9–22.

³¹ *Id.* at 21.

³² *Id.* at 17.

³³ *Id.* at 19.

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conflicting testimonies of XXX262846 and his two witnesses, ZZZ262846 and YYY262843.³⁴

Hence, this Appeal by XXX262846.³⁵

The Issue Before the Court

The Court resolves whether the CA erred in affirming XXX262846's conviction for rape and unjust vexation.

The Court's Ruling

The Appeal is denied.

In criminal cases, an appeal opens the entire case 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.³⁶

Guided by the foregoing, the Court sustains XXX262846's conviction for rape. Further, the Court finds XXX262846 guilty of attempted rape instead of unjust vexation.

F.C. Crim Case No. 065-M (2013)

Rape is defined under Article 266-A(1) of the RPC, to wit:

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

³⁴ *Id.* at 20–21.

³⁵ *Id.* at 4–5.

³⁶ *People v. Bernardo*, 890 Phil. 97, 110 (2020) [Per J. Perlas-Bernabe, Second Division], citing *Arambulo v. People*, 857 Phil. 828, 836 (2019) [Per J. Perlas-Bernabe, Second Division].

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.

Rape under Article 266-A(1)(a) of the RPC is committed by: (a) sexual intercourse with a woman; and (b) through force, threat, or intimidation.³⁷

It bears stressing that rape cases are, more often than not, solely decided based on the credibility of the testimony of the private complainant. In this regard, case law provides the following guidelines in evaluating the credibility of the private complainant: (a) the Court gives the highest respect to the RTC's evaluation of the testimony of the witnesses, considering its unique position in directly observing the demeanor of a witness on the stand. From its vantage point, the trial court is in the best position to determine the truthfulness of witnesses; (b) absent any substantial reason which would justify the reversal of the RTC's assessments and conclusions, the reviewing court is generally bound by the lower court's findings, particularly when no significant facts and circumstances, affecting the outcome of the case, are shown to have been overlooked or disregarded; and (c) the rule is even more stringently applied if the CA concurred with the RTC.³⁸

Here, the courts *a quo* correctly ruled that the prosecution—through AAA262846's positive, candid, and categorical testimony—had established beyond reasonable doubt that XXX262846 raped AAA262846. Given the foregoing, the Court finds no cogent reason to reverse the RTC's assessment of AAA262846's credibility, which was affirmed by the CA. Absent any evidence that such assessment was tainted with arbitrariness or oversight of a fact of consequence or influence—especially so when affirmed by the CA—it is entitled to great weight, if not conclusive and binding on the Court.³⁹ Moreover, jurisprudence holds that “there can be no greater source of fear or intimidation than your own father—one who, generally, has exercised authority over your person since birth. This Court has recognized the moral ascendancy and influence the father has over his child. When a father rapes his daughter, [moral ascendancy and influence supplant the element of violence or intimidation]. The rapist father can easily subjugate his daughter's will, allowing him to coerce the child to do his every bidding.”⁴⁰ As such, XXX262846's criminal liability must be sustained. As regards the impossible penalty, the courts *a quo* correctly sentenced XXX262846 to suffer the penalty of *reclusion perpetua*, with all its accessory penalties.

³⁷ *People v. Rapiz*, 885 Phil. 662, 672 (2020) [Per J. Lazaro-Javier, First Division].

³⁸ *People v. Pareja*, 724 Phil. 759, 773 (2014) [Per J. Leonardo-De Castro, First Division], citing *People v. Sanchez*, 681 Phil. 631, 635–636 (2012) [Per J. Brion, Second Division].

³⁹ *People v. Cadano, Jr.*, 729 Phil. 576, 585 (2014) [Per J. Perlas-Bernabe, Second Division]. (Citations omitted)

⁴⁰ *People v. Marmol*, 800 Phil. 813, 826 (2016) [Per J. Perez, Third Division].

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Finally, the Court notes that the courts *a quo* correctly convicted XXX262846 of rape and not qualified rape. Article 266-B of the RPC provides that rape becomes qualified if, *inter alia*, “the victim is below eighteen (18) years of age *and* the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim.” On this note, case law instructs that in order to appreciate the qualifying circumstance of minority and relationship in rape cases, the same must be *alleged in the [I]nformation and proven during trial*.⁴¹ In *People v. Lapore*,⁴² the Court reiterated the importance of alleging the presence of qualifying and aggravating circumstances in the complaint or Information against an accused, and discussed the effect of the failure to do so, to wit:

Sections 8 and 9 of Rule 110 of the [Revised] Rules on Criminal Procedure provide that for qualifying and aggravating circumstances to be appreciated, *it must be alleged in the complaint or information. This is in line with the constitutional right of an accused to be informed of the nature and cause of the accusation against him. Even if the prosecution has duly proven the presence of the circumstances, the Court cannot appreciate the same if they were not alleged in the Information.* Hence, although the prosecution has duly established the presence of the aforesaid circumstances, which, however, were not alleged in the Information, this Court cannot appreciate the same.⁴³ (Emphasis supplied, citations omitted)

In this case, while it was proven during trial that XXX262846 is indeed AAA262846’s biological father and that she was only 16 years old at the time of the incident, the latter’s minority, however, was not alleged in the Information. To be sure, the accusatory portion of the Information readily shows that it was only able to allege the fact of filial relationship between AAA262846 and XXX262846 and glaringly omitted the former’s minority.

Thus, the Court affirms the penalties imposed on XXX262846. He is meted the penalty of *reclusion perpetua* and ordered to pay the amounts of PHP 100,000.00 as civil indemnity, PHP 100,000.00 as moral damages, and PHP 100,000.00 as exemplary damages. These monetary awards shall earn legal interest at the rate of 6% per annum from the date of finality of the ruling until full payment.

⁴¹ “Rape is qualified and punished with death when committed by the victim’s parent, ascendant, step-parent, guardian, or relative by consanguinity or affinity within the third civil degree, or by the common-law spouse of the victim’s parent. However, an accused cannot be found guilty of qualified rape unless the information alleges the circumstances of the victim’s over 12 years but under 18 years of age and her relationship with him. The reason is that such circumstances alter the nature of the crime of rape and increase the penalty; hence, they are special qualifying circumstances. As such, both the age of the victim and her relationship with the offender must be specifically alleged in the information and proven beyond reasonable doubt during the trial; otherwise, the death penalty cannot be imposed.” (*People v. Arcillas*, 692 Phil. 40, 52 (2012) [Per J. Bersamin, First Division]. (Citations omitted)

⁴² 761 Phil. 196 (2015) [Per J. Perez, First Division].

⁴³ *Id.* at 203.

F.C. Crim. Case No. 066-M (2013)

As earlier stated, an appeal in a criminal case throws the entire case open for review, enabling the Court to resolve issues related to the case even if not raised by the parties. In *People v. Mirandilla, Jr.*,⁴⁴ the Court explained that an accused who appeals from the sentence of the trial court effectively waives the constitutional safeguard against double jeopardy and calls upon the appellate court to render judgment as law and justice dictate, whether favorable or unfavorable to the appellant.⁴⁵

The Court finds that XXX262846 is guilty of attempted rape.

While XXX262846 was charged with attempted rape in this case, the RTC, as affirmed by the CA, found him guilty of unjust vexation instead. The courts *a quo* uniformly found that on the night the crime was committed, AAA262846 awoke to find that her underwear had been removed. She then saw XXX262846, who was also naked with his genitals exposed, as he prepared to go on top of her. To ward off his advances, AAA262846 bent her knees and hit his stomach, which successfully deterred him from raping her. According to the RTC, XXX262846 cannot be held guilty of attempted rape because there was no showing that XXX262846's penis touched any part of AAA262846's genitalia or any part of her body.⁴⁶ Hence, according to the RTC, XXX262846's desistance from committing the crime was spontaneous. The CA, affirming the RTC, held that penetration is an essential act of execution in the crime of rape. Thus, to be convicted of attempted rape, the accused must have commenced the act of penetration.⁴⁷ Both courts erred.

There is attempted rape where the offender commences the commission of rape directly by overt acts and does not perform all the acts of execution, which should produce the crime of rape by reason of some cause or accident other than his own spontaneous desistance.⁴⁸ In attempted rape by carnal knowledge, there is *no requirement that the offender's penis touch the victim's genitalia or any other part of her body*. Instead, what is required are *overt acts* by the offender in commencing the direct commission of the crime. Jurisprudence has defined an overt act as some physical activity or deed, indicating the intention to commit a particular crime, more than a mere planning or preparation, which if carried out to its complete termination following its natural course, without being frustrated by external obstacles nor by the spontaneous desistance of the perpetrator, will logically and necessarily ripen into a concrete offense.⁴⁹

⁴⁴ 670 Phil. 397 (2011) [Per J. Perez, Second Division].

⁴⁵ *Id.* at 415, citing *Lontoc v. People*, 74 Phil. 513, 519 (1943) [Per J. Ozaeta, First Division].

⁴⁶ CA rollo, p. 51.

⁴⁷ Rollo, p. 20.

⁴⁸ *Talisay v. People*, G.R. No. 258257, August 9, 2023 [Per C.J. Gesmundo, First Division] at 8. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁴⁹ *People v. Lizada*, 444 Phil. 67, 98 (2003) [Per J. Callejo, Sr., *En Banc*].

Here, AAA262846 awoke to find that her underwear had been removed. XXX262846, with his penis exposed, tried to mount her. The act of mounting AAA262846 indicates no other intention but to commit the crime of rape. Had it not been for AAA262846's kick to his stomach, XXX262846's act would have logically and necessarily ripened into rape.

The Court is aware that in several decisions, it has pronounced that it can no longer review the "downgrading" of an offense done by a trial or appellate court without violating the right against double jeopardy, which proscribes an appeal from a judgment of acquittal or for the purpose of increasing the penalty imposed upon the accused. This was the case in *People v. Balunsat*,⁵⁰ where the CA held that the accused may not be held guilty of attempted rape but only of acts of lasciviousness, which carries a lesser penalty.⁵¹ Nonetheless, the CA also found the accused guilty of one count of statutory rape.⁵² *On appeal by the accused*, the Court affirmed his guilt for both crimes. However, the Court held that it may no longer review the CA's downgrading of the crime from attempted rape to acts of lasciviousness since it amounted to an acquittal for attempted rape. An acquittal, the Court held, is immediately final and no longer appealable.⁵³ Thus, the Court limited its review to whether the evidence supports a conviction for acts of lasciviousness.⁵⁴ Stated otherwise, the Court held that it is no longer allowed to revert to a finding of guilt on the crime of attempted rape.

In making this legal finding, the Court in *Balunsat* invoked its ruling in *People v. Alarcon*,⁵⁵ a case involving *an automatic review* by the Court of a criminal case where the RTC convicted the accused of two counts of qualified rape. On appeal, the CA modified the decision and found guilt for one count of acts of lasciviousness and one count of qualified rape instead of two counts of the latter offense. There, the Court held that it may no longer review the portion of the CA decision that found accused-appellant guilty of acts of lasciviousness. The Court noted that the case was brought before it by way of automatic review, which is mandatory where the penalty imposed is death, *reclusion perpetua*, or life imprisonment. Thus, the Court concluded that "the present appeal should therefore be treated as an appeal only from that aspect of the appellate court's decision finding appellant guilty of qualified rape."⁵⁶

A clarification is in order.

⁵⁰ 640 Phil. 139 (2010) [Per J. Leonardo-De Castro, First Division].

⁵¹ *Id.* at 159–160.

⁵² *Id.* at 152.

⁵³ *Id.* at 153–154.

⁵⁴ *Id.* at 160.

⁵⁵ 546 Phil. 601 (2007) [Per J. Tinga, *En Banc*].

⁵⁶ *Id.* at 607, citing *People v. Dela Torre*, 430 Phil 420, 422 (2002) [Per J. Panganiban, Third Division].

The right of an accused against being placed twice in jeopardy for the same crime is guaranteed by our Constitution.⁵⁷ Thus, the Court has consistently recognized the finality-of-acquittal rule, which ordains that a verdict of acquittal is immediately final and that a review of the merits of an acquittal places the accused in double jeopardy.⁵⁸ This rule prevents the State, through the prosecution, from appealing acquittals or seeking a more severe penalty on appeal.⁵⁹

In *People v. Dela Torre*,⁶⁰ the Court explained that the proscription on double jeopardy, a principle deeply rooted in jurisprudence, has several purposes:

Primarily, it prevents the State from using its criminal processes as an instrument of harassment to wear out the accused by a multitude of cases with accumulated trials. It also serves the additional purpose of precluding the State, following an acquittal, from successively retrying the defendant in the hope of securing a conviction. And finally, it prevents the State, following conviction, from retrying the defendant again in the hope of securing a greater penalty.⁶¹ (Citations omitted)

In the more recent case of *People v. Arcega*,⁶² the Court, ruling on a petition for review on certiorari filed by the State, cited *Balunsat* and held that a judgment of the CA modifying a conviction from attempted rape to acts of lasciviousness amounts to a judgment of acquittal for the former.⁶³ The Court ruled that double jeopardy had already set in and the State was already barred from filing the petition for review assailing the conviction of the accused for the offense with the lesser penalty.

Significantly, the finality of acquittal rule is a proscription *against the State*, and does not apply when it is the accused who appeals their conviction. As stated earlier, an appeal in a criminal case throws the entire case open for the appellate court's review. The appellate court is then called on to render such judgment as law and justice dictate, whether favorable or unfavorable to the accused-appellant.⁶⁴ Thus, in *Mirandilla*, the Court modified the CA decision finding the accused in that case guilty of several counts of rape, kidnapping with rape, and rape by sexual assault, and instead found the accused guilty of the special complex crime of kidnapping and illegal detention with rape. The crime as modified by the Court merited the death

⁵⁷ CONST., art. III, sec. 21.

⁵⁸ *Rebuta v. People*, G.R. No. 246306, July 26, 2023 [Per J. Inting, Third Division] at 15. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁵⁹ *People v. Dela Torre*, 430 Phil 420, 430 (2002) [Per J. Panganiban, Third Division].

⁶⁰ *Id.*

⁶¹ *Id.* at 430.

⁶² 880 Phil. 291 (2020) [Per C.J. Peralta, First Division].

⁶³ *Id.* at 304.

⁶⁴ *People v. Villanueva*, 822 Phil. 735, 746–747 (2017) [Per J. Tijam, First Division], citing *People v. Mirandilla, Jr.* 670 Phil. 397, 415 (2011) [Per J. Perez, Second Division].

penalty, which was reduced to *reclusion perpetua* without the possibility of parole.

In *People v. Villanueva*,⁶⁵ the accused was initially charged with three counts of rape but convicted by the trial court of only one count. On appeal, the CA affirmed. However, the Court found that the evidence established his guilt for three counts of rape. The Court stated:

While the Court affirms the RTC's and the CA's finding that accused-appellant is guilty of rape, We note that accused-appellant was in fact charged under three separate Informations for three counts of rape, specifically stating therein that the accused-appellant, together with his co-accused, conspired, confederated[,] and helped each other in committing the crime. *While it is true that the RTC and the CA only found accused-appellant guilty of one count of rape, when he appealed from the decision of the RTC and later on, the CA, he waived the constitutional safeguard against double jeopardy and threw the whole case open to the review of the appellate court, which is then called upon to render such judgment as law and justice dictate, whether favorable or unfavorable to the accused-appellant.*⁶⁶ (Emphasis supplied; citation omitted)

Notably, the Court's decision in *Balunsat* involved an appeal by the accused. Under the foregoing rule, since the accused in *Balunsat* waived his right against double jeopardy by lodging the appeal, the Court then had the authority to review the downgrading of the offense from attempted rape to acts of lasciviousness. Thus, *Balunsat* erroneously invoked the right of the accused against double jeopardy in ruling that the downgrading may no longer be reviewed.

For clarity, the Court declares that the doctrine laid down in *Balunsat* is hereby abandoned. The rule must be emphasized that when the accused appeals from the judgment in a criminal case, the entire case is open for review. Such comprehensive review may result, as law and justice dictate, in a heavier penalty. The Court may, as in this case, reverse the downgrading of the offense where it finds guilt beyond reasonable doubt for the crime carrying the more severe penalty. On the other hand, where it is the State seeking the review of an acquittal or a higher penalty, the constitutional safeguard against double jeopardy may rightfully be invoked. In these cases, the burden is on the State to prove that the judgment of acquittal or the judgment imposing a lesser penalty was handed down in violation of the prosecution's due process rights, such that the trial of the accused was a sham, or the prosecution was denied the opportunity to controvert or check the veracity of the evidence presented.⁶⁷

⁶⁵ *People v. Villanueva, et al.*, 822 Phil. 735 (2017) [Per J. Tijam, First Division].

⁶⁶ *Id.* at 746–747.

⁶⁷ *Raya v. People*, 902 Phil. 141 (2021) [Per J. Caguioa, First Division].

Having established XXX262846's guilt for attempted rape, the Court determines the imposable penalty. An attempted felony carries a penalty two degrees lower than that provided for a consummated felony.⁶⁸ Thus, the penalty for attempted rape is *prision mayor*. Following the Indeterminate Sentence Law,⁶⁹ the minimum of the imposable penalty shall be anywhere within the penalty next lower, *prision correccional*. Considering that here, as in F.C. Criminal Case No. 065-M (2013), XXX262846's biological relationship with AAA262846 is considered an aggravating circumstance, the maximum of the imposable penalty is *prision mayor* in its maximum period. Thus, the Court sees it fit to impose on XXX262846 the indeterminate penalty of six years of *prision correccional*, as minimum, to 12 years of *prision mayor*, as maximum. Finally, following case law,⁷⁰ civil indemnity, moral damages, and exemplary damages in the increased amount of PHP 50,000.00 each must be imposed on XXX262846.

In sum, XXX262846's conviction for rape in F.C. Criminal Case No. 065-M (2013) is affirmed as the prosecution was able to establish the existence of all the elements of the crime. As well, he must be convicted of attempted rape in F.C. Criminal Case No. 066-M (2013) as the evidence for the prosecution proved beyond reasonable doubt that he commenced the commission of the crime of rape against AAA262846 and would have consummated the same crime had it not been prevented by circumstances other than his spontaneous desistance.

ACCORDINGLY, the Appeal is **DENIED**. The Decision dated January 26, 2021 of the Court of Appeals in CA-G.R. CR-HC No. 02055 is **AFFIRMED with MODIFICATION** as follows:

- (1) In **F.C. Criminal Case No. 065-M (2013)**, accused-appellant XXX262846 is found **GUILTY** beyond reasonable doubt of the crime of rape under Article 266-A(1) of the Revised Penal Code. Accordingly, he is sentenced to suffer the penalty of *reclusion perpetua*, and ordered to pay AAA262846 the amounts of PHP 100,000.00 as civil indemnity, PHP 100,000.00 as moral damages, and PHP 100,000.00 as exemplary damages; and
- (2) In **F.C. Criminal Case No. 066-M (2013)**, accused-appellant XXX262846 is found **GUILTY** of the crime of attempted rape under Article 266-A(1) of the Revised Penal Code. Accordingly, he is sentenced to suffer the indeterminate penalty of six years of *prision correccional*, as minimum, to 12 years of *prision*

⁶⁸ REV. PEN. CODE, art. 51.

⁶⁹ Act No. 4103 (1933), An Act to Provide for an Indeterminate Sentence and Parole for All Persons Convicted of Certain Crimes by The Courts of The Philippine Islands; to Create a Board of Indeterminate Sentence and to Provide Funds Therefor; and for Other Purposes.

⁷⁰ *People v. ABC260708*, G.R. No. 260708, January 23, 2024 [Per J.M. Lopez, *En Banc*] at 29. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

mayor, as maximum, and ordered to pay AAA262846 the amounts of PHP 50,000.00 as civil indemnity, PHP 50,000.00 as moral damages, and PHP 50,000.00 as exemplary damages.

All monetary awards shall earn legal interest at the rate of 6% per annum from the date of finality of this Decision until full payment.

SO ORDERED.



ANTONIO T. KHO, JR.

Associate Justice

WE CONCUR:



ALEXANDER G. GESMUNDO

Chief Justice



MARVIC M.V.F. LEONEN

Senior Associate Justice



ALFREDO BENJAMIN S. CAGUIOA

Associate Justice



RAMON PAUL L. HERNANDO

Associate Justice



AMY C. LAZARO-JAVIER

Associate Justice



HENRI JEAN PAUL B. INTING

Associate Justice



RODIL V. ZALAMEDA

Associate Justice



MARIJO N. LOPEZ

Associate Justice




SAMUEL H. GAERLAN

Associate Justice



RICARDO R. ROSARIO

Associate Justice




JHOSEP V. LOPEZ

Associate Justice

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JAPAR B. DIMAAMPAO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

On leave
MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

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


ALEXANDER G. GESMUNDO
Chief Justice

Att