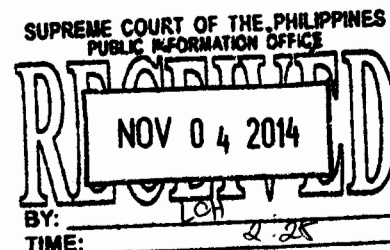




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **September 24, 2014** which reads as follows:

“G.R. No. 200917 (People of the Philippines, plaintiff-appellee v. Elmer Honrubia, accused-appellant).

For review on *Certiorari* is the Decision¹ of the Court of Appeals (CA) in CA-G.R. CR.-H.C. No. 03491, entitled “*People of the Philippines v. Elmer Honrubia*”, which convicted accused-appellant Elmer Honrubia (Honrubia) for three (3) counts of Statutory Rape as defined and penalized under Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353,² sentencing Honrubia to suffer the penalty of *reclusion perpetua* for each count.

On 30 August 2005, three sets of Information were filed before the Regional Trial Court (RTC) charging Honrubia of the crime of statutory rape.

We hereby adopt, by way of reference, the findings of facts of the appellate court, as integral part of this decision. The facts as presented by the CA:

The Version of the Prosecution

AAA is the daughter of BBB while the Accused-Appellant is the maternal uncle of AAA, being the full-blooded younger brother of BBB. According to BBB, AAA has a mental defect from the time of her birth.

¹ Penned by Associate Justice Normandie B. Pizarro with Associate Justices Amelita G. Tolentino and Rodil V. Zalameda concurring; CA *rollo*, pp. 163-177.

² Article 266-A. Rape: When And How Committed. - Rape is committed:
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.

At the time of the incidents, AAA was twenty-one (21) years old and was living with her maternal grandmother, CCC, at XXX while BBB worked as a laundrywoman in Manila. Each time CCC left AAA, the former would entrust the latter to the Accused-Appellant, whose house was only five (5) steps away from CCC's house.

On October 10, 2004, AAA was at the house of her uncle, the Accused-Appellant. He invited her to eat but she refused. He, then, dragged her inside the bedroom and undressed her. When she was already naked, he mounted on top of her and inserted his penis into her vagina. She cried but could not scream because he was poking a knife at her neck. After he satisfied his lust, he kissed her on the cheek.

On November 25, 2004, when her grandmother went to poblacion together the Accused-Appellant's wife, AAA was entrusted to the care of the Accused-Appellant. He, again, had his way with AAA. He removed his short and brief, and while she was lying naked on the floor, he mounted her and inserted his penis into her vagina. For a second time, she did not shout because he was poking a knife at her. When he was finished, he kissed her, mashed her breast, and, then, he left.

On December 3, 2004, AAA was alone in the house of her grandmother, who left for the poblacion. AAA was cooking when the Accused-Appellant entered the house. Thereafter, he made her lie down and removed her blouse, short, and panty. He, in turn, removed his underwear. He, then, mounted on top of her, entered his penis into her vagina, and made push and pull motions. She cried but did not shout for help because she knew that the neighbors' houses were far away. In all three (3) instances, she felt pain and had vaginal bleeding.

Due to the sexual abuses she experienced, AAA became pregnant with Accused-Appellant's child. She and CCC then went to Manila where the former gave birth to a baby girl sometime in 2005. She gave up her baby to her uncle, DDD, another brother of her mother. AAA did not reveal her ordeal to her grandmother because the Accused-Appellant threatened to kill her. She only revealed the same to her mother when she returned to XXX after giving birth in Manila.

Dr. Ella testified that she conducted a medical examination on AAA which revealed that the latter cannot differentiate daytime and nighttime, despite her educational attainment of second (2nd) year high school; that her hymen had old healed lacerations at 9:00 o'clock and 3:00 o'clock positions; that her vaginal canal admitted two (2) examining fingers easily and without resistance; that her vaginal wall was very lax with obliterated rugosities; and, that her uterus was slightly palpable. Her clinical findings confirmed penile penetration.

Dr. Escuadra testified that on February 22, 2006, she conducted a psychiatric evaluation on AAA which revealed that the latter has a moderate mental retardation and that her IQ was below normal, being comparable to that of an eight (8) year old child.

The Version of the Defense

The Accused-Appellant denied the commission of the crime charged and averred that he was not at home during the alleged incidents and was at his coconut land in XXX. He claimed that the cases were filed against him by his aunt, older brother, and BBB for the purpose of taking over the six and one-half (6 ½) hectares of coconut land he was managing. He, however, admitted that his brother and aunt were also administering coconut lands with areas of almost four and one-half (4 ½) and eight (8) hectares, respectively; that his coconut land was only about a fifteen (15)-minute walk away from his house; and, that he still had custody over AAA in 2004.³

When arraigned, Honrubia pleaded not guilty. During trial, the prosecution presented AAA, the victim; AAA's mother, BBB; Dr. Irene V. Ella (Dr. Ella); and Dr. Imelda Escuadra (Dr. Escuadra) as witnesses. On the other hand, the defense presented Honrubia as its sole witness.

RTC Ruling

The RTC convicted Honrubia for three counts of statutory rape. The dispositive portion of the RTC Decision reads:

WHEREFORE, premises considered, accused ELMER HONRUBIA's GUILT having been established beyond reasonable doubt by the strength of the prosecution evidence in the three (3) counts of STATUTORY RAPE (Criminal Cases (sic) Nos. 05-761; 05-762 and 05-763), he is hereby sentenced to suffer the single indivisible penalty of RECLUSION PERPETUA for each count of Statutory Rape (Par. 1 (d) of Art. 266-A of the RPC[,] as amended), in relation to R.A. 9346[,] without eligibility of parole. To indemnify the victim AAA for each count of Statutory Rape in the amounts of Php50,000.00 as civil indemnity and another Php50,000.00 as moral damages, with the additional amount of Php25,000.00 as exemplary damages[,] in order to deter similar perversities, particularly sexual abuse of one's niece.

The number of years of preventive imprisonment already served by the accused shall be credited in the service of his sentence in accordance with the provision of Art. 29 of the same code.

The service of sentences of the accused shall be made successively in the Order of their respective severity pursuant to the provision of Art. 70 of the same code.

SO ORDERED.⁴

The RTC opined that because the victim is mentally retardate, her mental condition could easily cowed her into submission even with slightest show of force or intimidation especially, if the one applying force

³ CA rollo, pp. 166-169.

⁴ Penned by Judge Adolfo G. Fajardo; records, p. 148.

or intimidation is a person exercising moral ascendancy over the victim, such as AAA's uncle, Honrubia. Even if we assume that Honrubia did not force or intimidate the victim into having sexual intercourse with him, having sexual intercourse with a woman who is mentally retardate constitutes statutory rape.⁵

CA Ruling

In its Decision dated 11 April 2011, the CA denied Honrubia's appeal and affirmed his conviction.

The CA rejected the defense's attempt to inspire doubt in AAA's credibility as a witness due to AAA's mental condition. Although AAA may be suffering from mental retardation, her credibility as a witness remains untarnished. Her candid and straightforward recount of her unfortunate ordeal did not undermine the probative value of her testimony. As already held, the competence and credibility of mentally deficient rape victims as witnesses lends greater credence as long as he/she can communicate his/her ordeal capably and consistently, especially if the victim's testimony is corroborated by testimonial and medical evidence.

The CA affirmed Honrubia's conviction with modifications as to the monetary awards to conform to prevailing jurisprudence. From Fifty Thousand Pesos (₱50,000.00) to Seventy-Five Thousand Pesos (₱75,000.00) as moral damages, while the award for exemplary damages was increased from Twenty Five Thousand Pesos (₱25,000.00) to Thirty Thousand Pesos (₱30,000.00) for each count.

Issue

Whether or not Honrubia is guilty of the crime of statutory rape

Our Ruling

Finding no reversible error in the findings of fact and conclusions of law of the lower court, the Court resolves to **ADOPT with modifications** the Decision of the CA to conform to prevailing jurisprudence in "*People of the Philippines v. Halil Gambao y Esmail, et al.*,"⁶ where amounts of indemnity and damages were increased in cases where the imposable penalty for the crime committed is death, which, however, cannot be imposed due to the enactment of Republic Act No. 9346 on 24 June 2006, which prohibited the imposition of death penalty. Applying the aforesaid

⁵ Id. at 147.

⁶ G.R. No. 172707, 1 October 2013.

law, because the imposable penalty on the crime of Statutory Rape is death⁷ which cannot be imposed, the property penalty to be imposed on accused-appellant Elmer Honrubia is *reclusion perpetua*. Therefore, we increase from Seventy Five Thousand Pesos (₱75,000.00) to One Hundred Thousand Pesos (₱100,000.00) as moral damages, while the award for exemplary damages be increased from Thirty Thousand Pesos (₱30,000.00) to One Hundred Thousand Pesos (₱100,000.00) for each count.

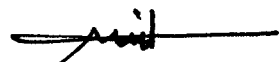
WHEREFORE, the Decision of the Court of Appeals dated 11 April 2011 in CA-G.R. CR.-H.C. No. 03491, entitled "*People of the Philippines v. Elmer Honrubia*" finding accused-appellant Elmer Honrubia **GUILTY** beyond reasonable doubt of the crime of three (3) counts of Statutory Rape as defined and penalized under Article 266-A of the Revised Penal Code, as amended by Republic Act No. 7659 is hereby **AFFIRMED with MODIFICATIONS** as to the civil damages for each count of Statutory Rape:

1. One Hundred Thousand Pesos (₱100,000.00) as civil indemnity;
2. One Hundred Thousand Pesos (₱100,000.00) as moral damages; and
3. One Hundred Thousand Pesos (₱100,000.00) as exemplary damages.

Finally, accused-appellant Elmer Honrubia is further ordered to pay interest at rate of six percent (6%) per annum to the award of civil indemnity, moral damages, and exemplary damages from finality of judgment until fully paid.

SO ORDERED."

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court *etc*
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- over -

⁷ Republic Act No. 8353, otherwise known as the "The Anti-Rape Law of 1997".

The Solicitor General (x)
Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR H.C. No. 03491)

The Hon. Presiding Judge
Regional Trial Court, Br. 65
(Bulan, Sorsogon)
4700 Sorsogon City
(Crim. Case Nos. 05-761 to 63)

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