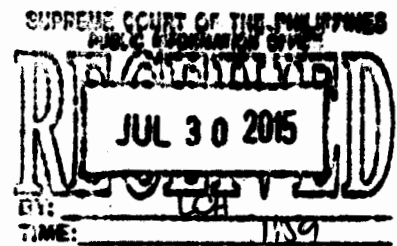




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 22 July 2015 which reads as follows:

"G.R. No. 204020 – People of the Philippines, plaintiff-appellee, vs. Samuel Lugo, accused-appellant.

On appeal is the June 27, 2012 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04629 affirming with modification the August 16, 2010² Decision³ of the Regional Trial Court (RTC) of Cabagan, Isabela, Branch 22, in Criminal Case No. 22-2064 finding appellant Samuel Lugo guilty beyond reasonable doubt of the crime of statutory rape.

The facts of the case are simple.

In an Information⁴ dated December 27, 2006, appellant was charged with the crime of statutory rape committed on December 22, 2006 against "AAA," a six-year old minor. The accusatory portion of the Information reads:

That on or about the 22nd day of December, 2006, in the municipality of x x x, province of Isabela, Philippines and within the jurisdiction of this Honorable Court, the said accused, with lewd design, and by means of force and intimidation, did then and there, willfully and feloniously, lay with and have carnal knowledge [of "AAA"], who is a minor of 6 years old, thereby subjecting her to exploitation and sexual abuse, against her will and consent.⁵

When arraigned, appellant entered a plea of not guilty.⁶ During trial, the prosecution presented in evidence "AAA's" birth certificate showing that she was born on October 20, 2000. As such, she was only six years old during the time material to this case. The prosecution presented "AAA" as its first witness who testified as follows:

Q. Do you recall where [you were] at 6:30 o'clock in the evening of December 22, 2006?

¹ CA rollo, pp. 94-104; penned by Associate Justice Japar B. Dimaampao and concurred in by Associate Justices Michael P. Elbinias and Nina G. Antonio-Valenzuela.

² Promulgated on August 25, 2010.

³ Records, pp. 155-161; penned by Judge Felipe Jesus Torio II.

⁴ Id. at 9.

⁵ Id.

⁶ Id. at 49.

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A. Yes, sir.

Q. You were in your house?

A. Yes, Sir.

Q. What were you doing there?

A. I was watching, Sir.

Q. You were watching what?

A. The *teleserye* "Pangako Sa Iyo", Sir.

Q. Now while you were watching at your house x x x do you remember [any] unusual incident?

A. Yes, Sir.

Q. And what was that?

A. Samuel Lugo removed my short and underwear and then he removed also his long pants and brief and then he [inserted] his penis [into] my vagina, Sir.

x x x x

Q. Now by the way in what part of your house where you x x x then while viewing television?

A. I was sitting on the chair, Sir.

Q. Now when Samuel Lugo placed his penis in your private part were you sitting or standing x x x?

A. I was sitting on his lap, Sir.

Q. In other words he [put] you on his lap?

A. On his x x x legs, Sir.

Q. So he carried you?

A. Yes, Sir.

Q. And when he carried you Samuel Lugo was sitting?

A. Yes, Sir.

Q. He was sitting like this?

A. No, Sir.

Q. Could you demonstrate how [Samuel Lugo was] sitting?

A. (The witness making a demonstration x x x by sitting with legs apart).

Q. For how long [did] Samuel Lugo [insert] his penis [into] your private part?

A. Medyo, Sir.

Q. Quite long or quite short?

A. Quite short, Sir.

Q. Were you in pain when Samuel Lugo [inserted] his penis [into] your private part?

A. Yes, Sir.

Q. Did you cry?

A. Yes, Sir.

Q. Who were your companions at that time before while [sic] watching television (TV) and before Samuel Lugo went to your house?

A. None, Sir.

x x x x

Q. While Samuel Lugo was [inserting] his penis [into] your private part what happened if there is any?

A. It was painful, Sir.

Q. Did Samuel Lugo stop inserting his penis [into] your private part?

A. Yes, Sir.

Q. How did he stop?

A. Because my elder sister "BBB" arrived, Sir.

Q. And when your elder sister" BBB" arrived what did Samuel Lugo do if any?

A. He was [hurriedly] putting up his underwear and long pants [then he] went home, Sir.

Q. How about you what did you do if any when your sister arrived when Samuel Lugo rushed out of your house?⁷

A. I was crying, Sir.

x x x x

Q. Now when Samuel Lugo [inserted] his penis into your private part did Samuel Lugo tell you something?

A. Yes, Sir.

Q. And what did Samuel Lugo tell you while he was [inserting] his penis [into] your private part?

A. That if I will report the matter he will kill me, Sir.⁷

For his part, appellant testified that at around 6:00 o'clock in the evening of December 22, 2006, he went to the store owned by "AAA's" family which was located adjacent to their main house to buy cigarettes. Ten (10)-year old "BBB," "AAA's" older sister, was the one who handed him the cigarettes. Thereafter, he watched television inside "AAA's" house;

⁷ TSN, September 9, 2009, pp. 5-8.

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with him were "AAA" and "BBB." After about an hour, he left and went home. His house is located about seven (7) meters away from "AAA's" house.⁸

The RTC found "AAA's" narration to be credible. Moreover, it was corroborated by the medical report showing that "AAA" had hyperemic *labia minora* or reddening of the *labia minora* of the vagina, proof that the crime of rape was consummated. Noting that "AAA" was only six (6) years of age at the time of the commission of the crime, the trial court found appellant guilty of statutory rape, thus:

WHEREFORE, premises considered, the Court hereby finds the accused Samuel Lugo GUILTY beyond reasonable doubt of the crime of Rape under Article 266-A, paragraph 1(d) of the Revised Penal Code and accordingly x x x sentenced [him] to Reclusion Perpetua pursuant to Article 266-B of the said Penal Code. Further the accused is ordered to pay to "AAA" the sum of Fifty Thousand (Php50,000.00) Pesos as Civil Indemnity and Seventy-Five Thousand Pesos as Moral Damages.

SO DECIDED.⁹

Appellant filed an Appeal. In his Brief,¹⁰ he argued that the prosecution failed to prove his guilt beyond reasonable doubt. He asserted that there is no proof of penetration or that his penis touched the *labia* of the *pubendum* of "AAA".¹¹ While it may be true that there was reddening of AAA's *labia minora*, however, there was no proof that it was caused by the introduction of appellant's penis into "AAA's" vagina.¹² Finally, he claimed that it is unlikely for him to commit the rape inside the house of "AAA" when at any time, anybody could enter the house.

The Office of the Solicitor General (OSG), on the other hand, posited that all the elements of the crime of rape were proved beyond reasonable doubt by the prosecution. "AAA" candidly testified on how she was raped by the appellant. She remained firm in her narration even during cross-examination. The OSG argued that the crime of rape is deemed consummated even "when the man's penis merely enters the labia or lips of the female organ or x x x by the mere touching of the external genitalia by the penis capable of consummating the sexual act."¹³ The OSG pointed out

⁸ TSN, March 3, 2010, pp. 4-14.

⁹ Records, p. 161.

¹⁰ CA *rollo*, pp. 41-50.

¹¹ Id. at 47.

¹² Id.

¹³ Id. at 77.

that during her testimony, "AAA" categorically stated that appellant inserted penis into her vagina.¹⁴

The CA found the appeal unmeritorious. It noted that "AAA" was consistent and straightforward in her testimony that appellant raped her by inserting his penis into her vagina. It held that rupture of the hymen is not an element of rape; it is enough that the man's penis touched the *labia minora* of the child's private part. Except for the modification in the award of exemplary damages, the CA affirmed in full the ruling of the RTC, viz.:

WHEREFORE, the Appeal is hereby DENIED. The Decision of conviction dated 16 August 2010 of the Regional Trial Court, Second Judicial Region, Branch 22 of Cabagan, Isabela, in Criminal Case No. 22-2064, is AFFIRMED with MODIFICATION in that exemplary damages in the amount of ₱30,000.00 is awarded.

SO ORDERED.¹⁵

Hence, this appeal.

In a Resolution¹⁶ dated January 21, 2013, we required the parties to file their respective supplemental briefs. However, both opted to adopt the briefs they filed before the CA.¹⁷

After a careful review of the records of the case, the Court finds the appeal to be lacking in merit. We thus adopt and affirm the findings of fact of the trial court as affirmed by the CA. Both the RTC and the CA correctly found appellant guilty beyond reasonable doubt of the crime of statutory rape. "AAA" consistently and categorically testified that appellant inserted his penis into her vagina and even threatened to harm her if she reports the matter to anybody. Besides, the rape incident was witnessed by "BBB," "AAA's" older sister who wasted no time reporting the matter to their mother. In turn, their mother immediately brought "AAA" to the police station and caused the arrest of appellant. The latter could not even offer a plausible defense. His denial and alibi deserved no credence at all. In fact, he admitted his presence at the crime scene. It was also shown that there was no ill-motive on the part of "AAA" and her family to falsely charge appellant.

¹⁴ Id. at 78-79.

¹⁵ Id. at 104.

¹⁶ *Rollo*, pp. 17-18.

¹⁷ Id. at 21-26.

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Article 266-A of the Revised Penal Code (RPC) provides:

Art. 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:

x x x x

- d. When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

In this case, the fact of carnal knowledge was duly proved by the prosecution. It was not even necessary for the prosecution to prove the elements of force, threat or intimidation as “AAA” was under twelve (12) years of age. In any event, it still proved that appellant threatened “AAA” with bodily harm if she would tell on him.

As regards the proper imposable penalty, Article 266-B of the RPC provides that:

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

x x x x

5. When the victim is a child below seven (7) years old.


Here, it was satisfactorily established that “AAA” was only six (6) years of age when the crime of rape was committed. Hence, the proper imposable penalty should have been death. However, in lieu thereof, the penalty of *reclusion perpetua* is imposed in view of the enactment of Republic Act No. 9346 (RA 9346; An Act Prohibiting The Imposition Of Death Penalty In The Philippines). Moreover, appellant is without eligibility for parole pursuant to Section 3 of RA 9346. The awards of civil indemnity, moral damages and exemplary damages must also be increased to ₱100,000.00 each in line with prevailing jurisprudence.¹⁸ Finally, interest at the rate of 6% *per annum* shall be imposed on all monetary awards from date of finality of this Resolution until fully paid.

¹⁸ *People v. Gambao*, G.R. No. 172707, October 1, 2013, 706 SCRA 508, 535.

WHEREFORE, the assailed June 27, 2012 Decision of the Court of Appeals in CA-G.R. CR-HC No. 04629 finding appellant Samuel Lugo **GUILTY** beyond reasonable doubt of the crime of statutory rape is **AFFIRMED** with **MODIFICATIONS** that appellant is not eligible for parole; the awards of civil indemnity, moral damages, and exemplary damages are increased to ₱100,000.00 each; in addition, all monetary awards shall earn interest at the rate of 6% *per annum* from date of finality of this Resolution until fully paid.

SO ORDERED."

Very truly yours,


MA. LOURDES C. PERFECTO
Division Clerk of Court *by 7/22*

PUBLIC ATTORNEY'S OFFICE (reg)
(ATTY. KAROL SARAH P. BAGUILAT)
DOJ Agencies Building
NIA Road corner East Avenue
Diliman, Quezon City

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amoroso Street
1229 Legaspi Village
Makati City

SAMUEL LUGO y SADORNAS (reg)
Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (reg)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 22
Cabagan, Isabela
Crim. Case No. 22-2064

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR-H.C. No. 04629

JUDGMENT DIVISION (x)
Supreme Court, Manila

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