



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **October 14, 2020** which reads as follows:*

“G.R. No. 248075 (People of the Philippines v. Ernani Villanueva y Valdez)

THE CASE

This appeal assails the Court of Appeals’ Decision dated December 20, 2018 in CA-G.R. CR-H.C. No. 09744, affirming with modification the conviction of appellant Ernani Villanueva y Valdez @ “Nanie” for statutory rape under Article 266-A paragraph 1(d) of the Revised Penal Code (RPC), as amended.

ANTECEDENTS

Proceedings before the Trial Court

Appellant Ernani Villanueva y Valdez @ “Nanie” was charged with statutory rape under the following Information:

That sometime during the month of December 2007, in the Municipality of Rosario, Province of Cavite, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent, with lewd design and actuated by lust, by means of force, threat and intimidation, did then and there, willfully, unlawfully and feloniously have carnal knowledge of one AAA,¹ a ten (10) year-old minor, having been born on February

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¹ 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 initial shall, instead, be used, in accordance with *People v. Cabalquinto* [533 Phil. 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

11, 1997, against her will and consent, thus debasing, degrading and demeaning her intrinsic worth and dignity as a child, to the damage and prejudice of said minor.

CONTRARY TO LAW.²

The case was raffled to the Regional Trial Court-Branch 17, Cavite City.

On arraignment, appellant pleaded *not guilty*.³ During the pre-trial, the prosecution and the defense stipulated that AAA was ten (10) years old at the time of the alleged rape.⁴

During the trial proper, complainant AAA and Dr. Mariella S. Castillo testified for the prosecution.⁵ On the other hand, appellant testified as the lone witness for the defense.⁶

The Prosecution's Version

Then ten (10)-year-old AAA testified that sometime in December 2007, around 8 o' clock in the morning, she and her friend BBB were on their way to their classmate CCC's house because their school teacher was absent that day. They took a shortcut in "*lawa*". While walking though, they sensed that someone was following them. They looked back and saw a man who introduced himself as "Nanie Villanueva," herein appellant. He invited them to eat and brought them to a nearby house. After their meal, they asked permission to leave but appellant stopped them, grabbed them by the back of their clothes and dragged them to a secluded vacant lot nearby. Appellant forced AAA to undress, but when she declined, he boxed her right arm, pulled out a knife and pointed it at her. Out of fear, she obliged, removed her clothes and undergarments. Appellant had carnal knowledge of AAA while pointing the knife at BBB. Thereafter, he also had carnal knowledge of BBB while threatening AAA with a knife.⁷ It was only when an unidentified man responded to their cries for help when appellant stopped molesting them and ran away. AAA and BBB told the man what happened but did not report the incident right away out of fear. They only told their parents about it when appellant got involved in another rape case.⁸

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² CA rollo, p. 53.

³ Rollo, p. 5.

⁴ CA rollo, p. 67.

⁵ *Id.* at 55.

⁶ CA rollo, p. 63.

⁷ Rollo, p. 6, CA rollo, pp. 54-60.

⁸ Rollo, p. 6.

Dr. Mariella S. Castillo testified on the medical examination she did on AAA. She found “no evident injury at the time of the examination but medical evaluation cannot exclude sexual abuse.”⁹

The Defense’s Version

Appellant interposed denial and alibi. He testified that he was employed with Municipal Government of Rosario, Cavite and assigned in the Beautification Clean and Green project. His shift was from 8 o’clock in the morning until 4 o’clock in the afternoon. He regularly manned his post during the month of December 2007, thus it would have been impossible for him to have committed the crime because he could not be at two (2) places at once.¹⁰

The Trial Court’s Ruling

By Decision¹¹ dated July 12, 2017, the trial court found appellant guilty of rape, *viz*:

Wherefore, premises considered, the prosecution having proved all the elements of Rape under Article 266-A paragraph 1(d), of our Revised Penal Code, in relation to Republic Act No. 7610, beyond reasonable doubt, the accused herein **ERNANIE VILLANUEVA y VALDEZ a.k.a. “NANIE”**, of Taway Residence, Barangay Ligdong 3, Rosario, Cavite, is hereby **CONVICTED** of the crime of **RAPE** against the private complainant AAA, without modifying circumstances, and the Court hereby sentence (sic) him to suffer the penalty of *reclusion perpetua* and to pay his victim, AAA the amount of *Fifty Thousand Pesos (P50,000.00)* as civil indemnity, *Fifty Thousand Pesos (P50,000.00)* as moral damages, and *Thirty Thousand Pesos (P30,000.00)* as exemplary damages, all with interest at the rate of Six Percent (6%) *per annum* from the date of finality of this judgement (sic). No costs.

So Ordered. (Emphases and underscoring in the original)¹²

The trial court gave credence to AAA’s testimony and found that all the elements of rape were present. Against AAA’s positive testimony, appellant’s alibi failed.¹³

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⁹ *Id.*

¹⁰ *Rollo*, pp. 6-7, *CA rollo*, pp. 63-65.

¹¹ Penned by Acting Presiding Judge Betlee-Ian J. Barraquias; *CA rollo*, pp. 53-72.

¹² *CA rollo*, p. 71.

¹³ *Id.* at 16.

Proceedings before the Court of Appeals

On appeal, appellant faulted the trial court for relying solely on the testimony of AAA. He asserted that her testimony contained inconsistencies which cast doubt on her credibility; while AAA claimed that she and BBB were raped in December 2007, her Medico-Legal Report stated that she had “no evident injury”¹⁴; AAA testified that appellant boxed her in her right arm, but it was not noted in the report; too, AAA testified that an unidentified man responded to her cries for help, but in the same breath, she also said she could not shout for help out of fear; finally, AAA’s incredible testimony left much details to the imagination, thus, he should have been acquitted on reasonable doubt.¹⁵

On the other hand, the Office of the Solicitor General (OSG), through Solicitor General Jose C. Calida, Assistant Solicitor General Eric Remegio O. Panga, State Solicitor Dionis P. Jacobe, and Associate Solicitor Victor Napoleon D. Valeriano defended the verdict of conviction. It maintained that all the elements of rape were proven beyond reasonable doubt; both parties stipulated on AAA’s age during trial; minor inconsistencies and inaccuracies do not tarnish the credibility of AAA; and the date and time of the commission of rape are not elements of the crime.¹⁶

Appellant’s denial and alibi cannot prevail over AAA’s positive testimony. A young and innocent girl would not fabricate a story and subject herself to medical examination and public trial if she was not impelled by a sincere desire to put behind bars the person who assaulted her.¹⁷

The Court of Appeals’ Ruling

By Decision¹⁸ dated December 20, 2018, the Court of Appeals affirmed with modification, thus:

WHEREFORE, premises considered, the Appeal is hereby DENIED. Accordingly, the Decision dated 12 July 2017 of Branch 17, Regional Trial Court of Cavite City in Criminal Case No. 27-09 is AFFIRMED, but with MODIFICATION, in that accused-

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¹⁴ *Id.* at 62.

¹⁵ *Id.* at 47-49.

¹⁶ *Id.* at 83-88.

¹⁷ *Id.* at 87.

¹⁸ Penned by Associate Justice Rodil V. Zalameda (now an Associate Justice of the Supreme Court) with Associate Justices Fernanda Lampas Peralta and Ronaldo Roberto B. Martin, concurring; *rollo*, pp. 3-14.

appellant is found guilty only of Statutory Rape, defined and penalized under Article 266-A paragraph 1(d), of the RPC.

The accused-appellant is also ORDERED instead to pay AAA as follows: ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages and ₱75,000.00 as exemplary damages. The monetary award shall earn legal interest at the rate of 6% *per annum* from the date of finality of judgment until fully paid.

SO ORDERED.¹⁹

The Court of Appeals sustained the trial court's factual findings on the credibility of the witnesses and its assessment of the evidence on record.²⁰ It, nonetheless, modified the penalty by increasing the award of civil indemnity, moral damages, and exemplary damages to ₱75,000.00 each to conform with prevailing jurisprudence.²¹

The Present Appeal

Appellant now seeks affirmative relief from the Court, praying anew for his acquittal.

In compliance with Resolution²² dated August 19, 2019, appellant and the OSG manifested that they were adopting their arguments in their respective appeal briefs filed before the Court of Appeals.²³

Issue

Did the Court of Appeals err in affirming appellant's conviction for statutory rape?

Ruling

We affirm.

Rape is defined and penalized under Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353 (RA 8353), *viz.* :

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

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¹⁹ *Rollo*, pp. 13.

²⁰ *Id.* at 9-13.

²¹ *Rollo*, p. 13, citing *People v. Jugueta*, G.R. No. 202124, April 5, 2016.

²² *Id.* at 22.

²³ *Id.* at 24-26, 35-37.

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 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. (Emphasis supplied)

x x x x

The Information charged appellant with rape under Article 266-A(1)(d). It requires the following elements: (1) the offended party is under twelve (12) years of age and (2) the accused has carnal knowledge of her. It is enough that the age of the victim is proven and that there was sexual intercourse.²⁴

In *People v. Tulagan*,²⁵ the Court decreed that “sexual intercourse with a victim who is under twelve (12) years of age or is demented is always **statutory rape**,” viz.:

It bears emphasis that violation of the first clause of Section 5 (b), Article III of R.A. No. 7610 on sexual intercourse with a child exploited in prostitution or subject to other sexual abuse, is separate and distinct from statutory rape under paragraph 1 (d), Article 266-A of the RPC. Aside from being dissimilar in the sense that the former is an offense under special law, while the latter is a felony under the RPC, they also have different elements. **Nevertheless sexual intercourse with a victim who is under 12 years of age or is demented is always statutory rape, as Section 5 (b) of R.A. No. 7610 expressly states that the perpetrator will be prosecuted under Article 335, paragraph 3 of the RPC [now paragraph 1 (d), Article 266A of the RPC as amended by R.A. No. 83531.**

Even if the girl who is below twelve (12) years old or is demented consents to the sexual intercourse, it is always a crime of statutory rape under the RPC, and the offender should no longer be held liable under R.A. No. 7610. xxx

x x x x

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²⁴ See *People v. Francica*, 817 Phil. 972, 986 (2017), citing *People v. Gutierrez*, 731 Phil. 352 (2014) [Per J. Leonen, Third Division].

²⁵ G.R. No. 227363, March 12, 2019.

With this decision, We now clarify the principles laid down in *Abay, Pangilinan* and *Tubillo* to the effect that there is a need to examine the evidence of the prosecution to determine whether the person accused of rape should be prosecuted under the RPC or R.A. No. 7610 when the offended party is 12 years old or below 18.

First. if sexual intercourse is committed with an offended party who is a child less than 12 years old or is demented, whether or not exploited in prostitution, it is always a crime of statutory rape: more so when the child is below 7 years old, in which case the crime is always qualified rape. (Emphases supplied; citations omitted)

Here, the prosecution sufficiently established the elements of statutory rape.

First. During the pre-trial, the prosecution and the defense stipulated that AAA was only ten years old at the time of the incident. This conformed with the testimonies of AAA and Dr. Castillo on AAA's biological age. More, the prosecution offered in evidence copy of AAA's birth certificate indicating that she was born on February 11, 1997 and was only ten (10) years old on December 2007, when she got raped.²⁶

Second. The prosecution established appellant had carnal knowledge of AAA through her testimony, *viz:*

X X X X

Q What happened next after he introduced himself to you and BBB?

A He invited us to eat.

Q And did you go with him?

A I do not know him but BBB said he (sic) already knew the man, so we went with him.

Q And where did the man bring you?

A According to him, the place was his godmother's.

X X X X

Q Where (sic) you able to eat in that house as promised?

A Yes, ma'am.

Q So what happened next?

A After that he pulled us from the back of our clothes.

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²⁶ CA rollo, p. 6, 85.

Q When you say us, you are referring to yourself and BBB?
A Yes, ma'am.

x x x x

Q And where did you bring you and BBB when he pulled both of you?
A At the vacant space, ma'am.

Q Did you shout while he was dragging you?
A No, ma'am.

x x x x

Q Why were you not able to shout or fight?
A Because he was dragging us.

x x x x

Q So, what happened when you were already at that vacant lot?
A He asked us who should be first.

Q And what was your reply?
A I asked him what he meant by saying who will be first.

x x x x

Q And what was his reply?
A That I will be first.

Q So what happened next after he said that?
A He ordered me to undress.

Q And did you follow his order?
A No ma'am.

Q And so, what happened when you refused to follow his order?
A He took out a knife from his right waist.

Q And what did he do with that knife?
A He pulled out a knife and then pointed the knife at me, and so, I just undressed so as not to be hurt.

x x x x

Q And then, what happened next?
A He inserted his penis into my vagina.

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PROS ROJO:

May we make it of record that the witness is crying at this point.

COURT:

Alright.

PROS ROJO:

Q And what did you feel [when] he did that?
A I was hurt.

x x x x

Q And this Ernanie Villanueva, can you recognize him if you will see him again?
A Yes ma'am.²⁷

x x x x

AAA clearly narrated the harrowing details when appellant raped her. She positively identified appellant as the person who dragged her and BBB from the house to a nearby vacant lot, boxed her on the arm, threatened them with a knife, forced her to undress, and inserted his penis into her vagina.

By itself, AAA's testimony withstands scrutiny sufficient to sustain a verdict of conviction. Both the trial court and the Court of Appeals found AAA to have been steadfast and consistent and her testimony, clear, straightforward and categorical, thus, meriting full weight and credence.

Her tender age, her voluntary submission to medical examination and willingness to undergo public trial where she could be compelled to give out the sordid details of the assault on her dignity cannot be so easily dismissed as mere concoction.²⁸ It is highly improbable that a young girl like AAA would have known and narrated the sordid details of her sexual ravishment if she did not truly experience the same in the hands of appellant.

Although Dr. Castillo's found no evident injury at the time of the examination, she noted that such findings cannot exclude sexual abuse, especially since she examined AAA on January 17, 2008 or a

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²⁷ CA rollo, pp. 56-59.

²⁸ *People v. Cadano, Jr.*, 729 Phil. 576, 585 (2014).

month after the incident. There would have therefore been sufficient time for complete healing to take place. She also emphasized that in child sexual abuse cases, 96% of children do not show any physical indications of such abuse.²⁹

*People v. Nical*³⁰ elucidates:

It is settled that the absence of physical injuries or fresh lacerations does not negate rape, and although medical results may not indicate physical abuse or hymenal lacerations, rape can still be established since medical findings or proof of injuries are not among the essential elements in the prosecution for rape.

Appellant, nevertheless, assails AAA's credibility because the medico-legal report contradicts her allegation that she was boxed in the arm and raped thereafter; the identified man supposedly responded to her cries despite her claim that she failed to shout for help; and two young girls joining a stranger for a meal was improbable.³¹

We disagree.

Inconsistencies in the testimony of a victim do not necessarily render the same incredible.³² On the contrary, they strengthen the credibility of the witness because this shows that his or her testimony is not fabricated. Besides, minor inconsistencies may be expected from children who are not accustomed to public trial. What is decisive is the positive identification of the accused as malefactor.³³

Here, whether appellant did box the victim in the arm, whether the stranger who came to the rescue of the two girls really heard their cries for help or whether the girls did in fact cry for help involve trivial matters which do not affect the victim's positive identification of appellant as the one who, by force and intimidation, succeeded in having carnal knowledge of her. The same goes true for appellant's claim that it was improbable for the girls to have easily gone with a stranger for a meal. Suffice it to state that being of tender age, children are actually prone to easily trust strangers who seemed kind to them and quickly fall prey to these strangers' sweet talk and offer of food or money.

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²⁹ *Rollo*, p. 10.

³⁰ Phil. 357, 364-365 (2015).

³¹ *CA rollo*, pp. 47-49.

³² See *People v. Udtohan*, 815 Phil. 449, 463 (2017).

³³ *Udtohan*, citing *People v. Cabigting*, 397 Phil. 944, 982 (2000).

In light of AAA's positive identification of appellant as the person who sexually ravished her, appellant's denial and alibi must fail. Denial and alibi, being negative self-serving evidence, cannot prevail over affirmative allegations of the victim. For they easily crumble in the face of her positive and categorical identification of the appellant as her molester.³⁴ Too, denial and alibi are the weakest of all defenses. For this defense to prosper, it is not enough for the accused to prove that he was in another place when the crime was committed as 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. As it was, appellant failed to convincingly substantiate his alibi.

Indeed, the trial court's factual findings on the credibility of witnesses are accorded high respect, if not conclusive effect. This is because the trial court is able to observe up close the manner by which these witnesses testified, as well as their demeanor while testifying.³⁵ This rule becomes even more compelling when the factual findings carry the full concurrence of the Court of Appeals, as here.³⁶

Penalty

The courts below correctly sentenced appellant to *reclusion perpetua* for statutory rape in accordance with *Tulagan*. The Court of Appeals, too, correctly increased the monetary awards of civil indemnity, moral damages, and exemplary damages to ₱75,000.00 each, as decreed by the Court in *Jugueta*.³⁷ These monetary awards shall earn six percent (6%) interest per annum from finality of this resolution until fully paid.

WHEREFORE, the appeal is **DISMISSED**. The Decision of the Court of Appeals dated December 20, 2018 in CA-G.R. CR-H.C. No. 09744 is **AFFIRMED**.

ERNANI VILLANUEVA y VALDEZ "Nanie" is found **GUILTY** of **Statutory Rape** and sentenced to **Reclusion Perpetua**. He is further ordered **TO PAY** ₱75,000.00 as civil indemnity; ₱75,000.00 as moral damages; and ₱75,000.00 as exemplary damages. These amounts shall earn six percent (6%) interest per annum from finality of this resolution until fully paid.

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³⁴ *People v. Gabriel*, 807 Phil. 516, 522 (2017).

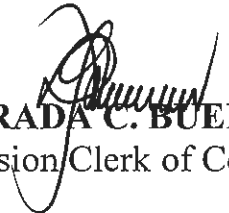
³⁵ *Sps. Guidangen v. Wooden*, 682 Phil. 112, 129 (2012).

³⁶ *People v. Amarela and Racho*, 823 Phil. 1188, 1201 (2018), citing *People v. Pareja*, 724 Phil. 759, 773 (2014) and *People v. Sanchez*, 681 Phil. 631, 635-636 (2012).

³⁷ *People v. Jugueta*, 783 Phil. 806, 846 (2016).

SO ORDERED.” *Peralta, C.J., took no part; Gesmundo, J., designated Additional Member per Raffle dated September 9, 2020; Rosario, J., designated Member per Special Order No. 2794 dated October 9, 2020.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *1214*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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Court of Appeals (x)
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(CA-G.R. CR HC No. 09744)

The Hon. Presiding Judge
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