



Republic of the Philippines  
**Supreme Court**  
 Manila

CERTIFIED TRUE COPY  
*Wilfredo V. Lapitan*  
**WILFREDO V. LAPITAN**  
 Division Clerk of Court  
 Third Division

JUL 31 2017

**THIRD DIVISION**

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

**G.R. No. 219615**

Present:

VELASCO, JR., J.,  
*Chairperson,*

- versus -

BERSAMIN,  
 REYES,  
 PERLAS-BERNABE\*, and  
 TIJAM, JJ.

**RAFAEL AGUDO y DEL VALLE,**  
 Accused-Appellant.

Promulgated:

June 7, 2017

*Wilfredo V. Lapitan*

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**DECISION**

**TIJAM, J.:**

This is an appeal from the Decision<sup>1</sup> dated October 24, 2014 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06229, which affirmed the conviction of accused-appellant Rafael Agudo y Del Valle for the crime of Qualified Rape by the Regional Trial Court (RTC), Branch 71, of Iba, Zambales, in its Decision<sup>2</sup> dated May 2, 2013 in Criminal Case No. RTC-5339-1.

\*Designated as an additional member as of Raffle dated March 15, 2017.

<sup>1</sup>Penned by Court of Appeals Associate Justice Japar B. Dimaampao and concurred in by Associate Justices Elihu A. Ybañez and Carmelita S. Manahan, *Rollo*, pp. 2-16.

<sup>2</sup>Penned by Judge Consuelo Amog-Bocar, *CA rollo*, pp. 59-70.

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### The Factual and Procedural Antecedents

Accused-appellant was charged with the crime of rape committed against his daughter (AAA)<sup>3</sup> in the following manner:

That in or about the period from the year 2005 to 11<sup>th</sup> day of September 2008, in Barangay Simminublan, Municipality of San Narciso, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with lewd design, through threat, force, and intimidation, did then and there willfully, unlawfully and feloniously have (*sic*) sexual intercourse and carnal knowledge with his own daughter 16-year old (*sic*), (AAA), which degraded and demeaned the latter of her intrinsic worth and dignity, to the damage and prejudice of said minor (AAA).

CONTRARY TO LAW.<sup>4</sup>

Upon arraignment, accused-appellant pleaded not guilty to the charge.<sup>5</sup> Pre-trial was held and, after which, trial on the merits ensued.

As found by the RTC, victim AAA, born on May 18, 1992, is accused-appellant's youngest daughter. She and her family lived in a small hut with merely a curtain as a makeshift door. Their small hut could not accommodate all of them so AAA slept inside the hut while her parents stayed on a bamboo bed outside.<sup>6</sup>

It was sometime in 2005 when accused-appellant first sexually abused AAA, who was 13 years old then. Early morning, AAA was awakened by accused-appellant when he entered their hut and climbed under the mosquito net where AAA slept. Surprised, she shouted and called her mother, BBB, telling her that her father was inside their hut. BBB was awakened and asked why accused-appellant was inside their hut at that time of the day. Accused-appellant responded that he was just looking for something and then went back to bed. Several moments later, accused-appellant went back inside their hut and this time, succeeded in placing his hands inside AAA's underwear to touch her vagina. Accused-appellant was also able to lift AAA's shirt, hold her breasts, and also insert his penis inside AAA's vagina, which caused her pain. AAA pleaded to her father saying "*Papa, huwag po, papa, huwag po*" but this did not stop accused-appellant from continuing

<sup>3</sup> 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 initials shall instead be used in accordance with *People v. Cabalquinto*, 533 Phil. 703 (2006) and A.M. No. 04-11-09 SC dated September 19, 2006.

<sup>4</sup> *Supra* note 1, at 3.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

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with his bestial act. AAA did not tell her mother about the incident as the accused-appellant threatened to kill her and her mother if she did so.<sup>7</sup>

This incident happened several more times when they moved to a new house adjacent to their hut. AAA testified that she was repeatedly raped by her father inside her room on different occasions. Despite the door being closed, accused-appellant managed to enter her room through the opening above the door or by climbing through the window.<sup>8</sup>

AAA narrated the rape incident on September 11, 2008. She was still asleep early morning when she felt someone pulling down her shorts. She saw accused-appellant and started crying. Accused-appellant started licking her vagina.<sup>9</sup>

Another rape incident happened on September 15, 2008. Again, AAA was asleep in her room when accused-appellant entered therein to sexually abuse his daughter. She cried for help but accused-appellant was still able to consummate the bestiality. The next morning, AAA's aunt, who lived nearby, went to AAA and asked her what happened last night as she heard cries for help. Her mother likewise asked AAA about what happened that night. AAA then revealed to them that her father had been sexually abusing her. They immediately accompanied AAA to Barangay Captain Luis Famanilay to report the same.<sup>10</sup> BBB and AAA's aunt testified to corroborate this narration.

Police Superintendent Medico-Legal Officer Jude Doble, MD (PSI Doble) physically examined AAA. The result of the examination revealed that AAA was no longer a virgin and that her hymen had shallow healed lacerations. No external signs of trauma or injury was, however, noted.

Accused-appellant, the defense's sole witness, denied the accusations against him. He alleged that on September 11, 2008, at about six o'clock in the morning, he drove his wife to the market and spent the entire morning working as a tricycle driver until lunch time. After lunch, he took a nap and then went around collecting scrap materials to be sold to the junk yard until nine o'clock in the evening. Thereafter, he went home and slept.<sup>11</sup>

On September 15, 2008, accused-appellant averred that he accidentally dropped his cellphone in the fields. Badly wanting to talk to his son in Manila, he went to AAA to borrow her phone but the latter refused. He then went back out to look for someone who could lend him a phone. He

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<sup>7</sup> Id. at 4.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Accused-appellant's Brief, CA *rollo*, pp. 43-58.

passed by the house of a certain Fermin Valdez and had a drinking spree. Thereafter, he went home and immediately slept.<sup>12</sup>

On September 18, 2008, accused-appellant averred that when he was on his way home, police officers stopped and accosted him. When he asked what his offense was, they merely told him to explain at the police station. Upon getting at the station, he was immediately placed in jail. The following day, he was transferred to the Zambales Provincial Jail, where he later learned that he was being charged with raping AAA.<sup>13</sup>

### **The Ruling of the Regional Trial Court**

The RTC ruled that AAA's testimony clearly established all the elements of carnal knowledge perpetrated by the accused-appellant against his minor daughter for the first time in 2005.<sup>14</sup> The RTC, however, found that there was no testimony on the details of the subsequent rape incidents alleged except that on September 11, 2008, AAA testified that her father licked her vagina.<sup>15</sup> The September 15, 2008 rape incident, likewise, cannot be considered as this incident was not alleged in the Information.<sup>16</sup>

The court noted that for the most part of her testimony, AAA was emotional and in tears while narrating the horrifying ordeal she went through with the accused-appellant.<sup>17</sup> It also noted that accused-appellant himself testified that his wife and daughter had no quarrel with him; hence, there was no reason for them to make up such imputations against him.<sup>18</sup> The RTC also found the Medico-Legal Report, stating that AAA had shallow healed hymenal lacerations and is no longer a virgin, to be consistent with AAA's testimony.<sup>19</sup>

Convinced, thus, that the accused-appellant committed the crime as charged, the RTC ruled:

**WHEREFORE**, judgment is hereby rendered finding accused guilty beyond reasonable doubt of qualified rape and he is hereby sentenced to suffer the penalty of *reclusion perpetua*. Accused is also ordered to pay the offended party the amount of Php75,000 as civil indemnity, the amount of Php75,000 as moral damages, and the amount of Php30,000.00 as exemplary damages.

**SO ORDERED.**<sup>20</sup>

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<sup>12</sup>Id. at 49.

<sup>13</sup>Id.

<sup>14</sup>Supra note 2, at 67.

<sup>15</sup>Id.

<sup>16</sup>Id. at 68.

<sup>17</sup>Id. at 69.

<sup>18</sup>Id.

<sup>19</sup>Id.

<sup>20</sup>Id. at 70.

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### The Ruling of the CA

In its assailed Decision, the CA upheld the credibility of AAA's testimony and, thus, affirmed the accused-appellant's conviction<sup>21</sup>. The CA, however, modified the award of damages by imposing an interest of six percent per annum on the civil indemnity and all the damages awarded from the date of finality of the judgment until full payment.<sup>22</sup> The CA disposed, thus:

**WHEREFORE**, the *Decision* dated 2 May 2013 of the Regional Trial Court, Third Judicial Region, Branch 71 of Iba, Zambales, in Crim. Case No. RTC-5339-1, is hereby **AFFIRMED with MODIFICATION** in that the awards of civil indemnity and damages are subject to interest at the rate of six percent (6%) per annum from the date of finality of this judgment until full payment.

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

Hence, this Appeal.

The Office of the Solicitor General (OSG), for the People, and the accused-appellant both manifested before this Court that they find it unnecessary to file a supplemental brief considering that the same will merely be a reiteration of the arguments in their respective Briefs filed with the CA.<sup>24</sup>

### The Issue

Whether or not the accused-appellant is guilty of qualified rape beyond reasonable doubt.

### This Court's Ruling

The Court sustains the conviction.

For the prosecution of the crime of rape under Article 266-A (1)(a) of the Revised Penal Code, the following elements must be proved, to wit: (1) the offender had carnal knowledge of a woman; and (2) he accomplished this act through force, threat, or intimidation.<sup>25</sup>

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<sup>21</sup>Supra note 1.

<sup>22</sup>Id. at 15.

<sup>23</sup>Id.

<sup>24</sup>*Rollo*, pp. 25-28 and 29-33.

<sup>25</sup>*People of the Philippines v. Leonardo Battad and Marcelino Bacnis*, G.R. No. 206368, August 6, 2014.

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We find no cogent reason to deviate from the ruling of the RTC and the CA that the prosecution positively established the aforesaid elements.

First, that the accused-appellant had carnal knowledge of AAA was established by the latter's clear and categorical testimony, found credible by the RTC, that accused-appellant inserted his penis in her vagina.

AAA's testimony was corroborated by the testimonies of her mother and aunt on material facts, as well as by the Medico-Legal Report stating that AAA had shallow healed hymenal lacerations and is in a no-virgin state.

The second element of the crime that the bestial act was accomplished through force, threat, and intimidation was also clearly established through AAA's testimony that the accused-appellant threatened to kill her and her mother if she would reveal that accused-appellant raped her. Besides, jurisprudence is to the effect that when the offender is the victim's father, there need not be actual force, threat, or intimidation.<sup>26</sup> Accused-appellant is AAA's father and his moral ascendancy over his minor daughter is sufficient to take the place of actual force, threat or intimidation.<sup>27</sup> Former Chief Justice Renato S. Puno succinctly explained the reason for this rule in *People v. Chua*<sup>28</sup> and We quote:

In Philippine society, the father is considered the head of the family, and the children are taught not to defy the father's authority even when this is abused. They are taught to respect the sanctity of marriage and to value the family above everything else. Hence, when the abuse begins, the victim sees no reason or need to question the righteousness of the father whom she had trusted right from the very start. The value of respect and obedience to parents instilled among Filipino children is transferred into the very same value that exposes them to risks of exploitation by their own parents. The sexual relationship could begin so subtly that the child does not realize that it is abnormal. Physical force then becomes unnecessary. The perpetrator takes full advantage of this blood relationship. Most daughters cooperate and this is one reason why they suffer tremendous guilt later on. It is almost impossible for a daughter to reject her father's advances, for children seldom question what grown-ups tell them to do.

In an attempt to escape conviction, accused-appellant questions the RTC's reliance on AAA's story that she was raped inside their small hut while her mother BBB was sleeping just outside their hut. Accused-appellant essentially argues that such story is incredible considering that BBB could have been easily awakened in such situation.

Moreover, accused-appellant questions the fact that the doctor who conducted the physical examination on AAA and issued the report, PSI

<sup>26</sup>*People of the Philippines v. Jesus Burce*, G.R. No. 201732, March 26, 2014.

<sup>27</sup>*Id.*

<sup>28</sup>418 Phil. 565, 582 (2001).

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Doble, was not presented in court and that in his stead, P/Insp. Maria Angela Guise testified on the medical report.<sup>29</sup> Thus, according to the accused-appellant, such evidence has no probative value as it was not properly identified.<sup>30</sup>

It is also the accused-appellant's theory that the healed hymenal lacerations found on AAA's vagina, assessed to be more than seven days old, belied AAA's allegation of being raped on September 11 and 15, 2008, as the said days are merely seven and three days from the date of examination on September 18, 2008.<sup>31</sup>

We are not swayed.

There is nothing more settled in case law than this:

Jurisprudence is replete with cases where the Court ruled that questions on the credibility of witnesses should best be addressed to the trial court because of its unique position to observe that elusive and incommunicable evidence of witnesses' deportment on the stand while testifying, which is denied the appellate courts. The trial judge has the advantage of actually examining both real and testimonial evidence including the demeanor of the witnesses. Hence, the judge's assessment of the witnesses' testimonies and findings of fact are accorded great respect on appeal. In the absence of any substantial reason to justify the reversal of the trial court's assessment and conclusion, as when no significant facts and circumstances are shown to have been overlooked or disregarded, the reviewing court is generally bound by the former's findings. The rule is even more stringently applied if the appellate court has concurred with the trial court.<sup>32</sup>

We have carefully reviewed the instant case and found no reason to deviate from the credence given by the RTC to the testimonies of the prosecution witnesses, especially that of AAA's.

Records show that AAA's narration of her horrifying experience in the hands of her father was candid and certain.<sup>33</sup> The fact that AAA was in tears while testifying is also telling.<sup>34</sup> Moreover, time and again, this Court has held that testimonies of rape victims who are young and immature deserve full credence, considering that no young woman, especially of tender age, would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being subject to a public trial, if she was not motivated solely by the desire to obtain justice for the wrong committed against her.<sup>35</sup> It is highly improbable for a girl of tender years to

<sup>29</sup>Supra note 11, at 55.

<sup>30</sup>Id.

<sup>31</sup>Id.

<sup>32</sup>*People of the Philippines v. Floro Buban Barcelá*, G.R. No. 208760, April 23, 2014.

<sup>33</sup>Supra note 1, at 8-10.

<sup>34</sup>Id. at 9.

<sup>35</sup>*People of the Philippines v. Jose Perez @ Dalegdeg*, G.R. No. 182924, December 24, 2008.

impute to any man such a crime so serious as rape if what she claims is not true.<sup>36</sup>

Accused-appellant's argument that AAA's rape story is unbelievable as her pleas could have been easily heard by her mother considering that the latter slept just nearby, deserves scant consideration. This situation is not a novel one. Rapists are not deterred from committing the odious act of sexual abuse by the mere presence of people nearby or even family members; rape is committed not exclusively in seclusion.<sup>37</sup> Several cases instruct us that lust is no respecter of time or place and rape defies constraint of time and space.

This Court does not find it necessary to discuss accused-appellant's submission as regards the 7-day old lacerations found in AAA's vagina, considering that the only rape incident proven in this case for which accused-appellant was convicted, was the first incident which occurred back in 2005. Besides, a medico-legal report is not indispensable to the prosecution of the rape case, it being merely corroborative in nature.<sup>38</sup> For the same reason, We also do not find it necessary to belabor on the issue raised by the accused-appellant on the probative value of the medico-legal report due to the non-presentation of the doctor who issued the same in court.

At this juncture, let it be stated that the fact of rape and the identity of the perpetrator may be proven even by the lone uncorroborated testimony of the victim.<sup>39</sup> The credible disclosure of AAA that the accused-appellant raped her is the most important proof of the commission of the crime.<sup>40</sup>

The accused-appellant's uncorroborated denial and alibi cannot prevail over the credible and positive testimony of AAA. The unbroken line of jurisprudence states that such defenses of denial and alibi, when unsubstantiated by clear and convincing evidence, constitute negative self-serving evidence which deserve no greater evidentiary value than the testimony of a witness who testified on affirmative matters.<sup>41</sup>

We also sustain the penalty imposed by the RTC as affirmed by the CA. The qualifying circumstances of relationship (father and daughter) and minority (AAA was 13 years old when the first rape incident occurred) were duly alleged in the Information and proved during the trial. The penalty of *reclusion perpetua* in lieu of death, pursuant to Article 266-B(1) of the

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<sup>36</sup>Id.

<sup>37</sup>*People of the Philippines v. Dione Barberan and Dione Delos Santos*, G.R. No. 208759, June 22, 2016, citing *People of the Philippines v. Diosdado Corial y Requez*, 451 Phil. 703, 709-710 (2003).

<sup>38</sup>*People of the Philippines v. Ricardo Pamintuan y Sahagun*, G.R. No. 192239, June 5, 2013.

<sup>39</sup>*People of the Philippines v. Dione Barberan and Dione Delos Santos*, supra note 37.

<sup>40</sup>*People of the Philippines v. Anastacio Amistoso y Broca*, G.R. No. 201447, January 9, 2013.

<sup>41</sup>*People of the Philippines v. Alejandro Rellota y Tadeo*, G.R. No. 168103, August 3, 2010.

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Revised Penal Code<sup>42</sup>, in relation to Republic Act No. 9346<sup>43</sup> for the crime of qualified rape is therefore proper.

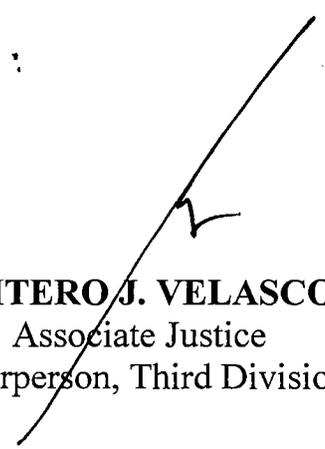
Pursuant to the prevailing jurisprudence, however, We increase the civil indemnity and damages awarded to PhP100,000 each.<sup>44</sup>

**WHEREFORE**, premises considered, the instant Appeal is **DISMISSED**. Accordingly, the assailed Decision dated October 24, 2014 of the Court of Appeals in CA-G.R. CR-HC No. 06229 is hereby **AFFIRMED WITH MODIFICATION**, thus, accused-appellant is found guilty beyond reasonable doubt of qualified rape and is hereby sentenced to suffer the penalty of *reclusion perpetua* in lieu of death and ordered to pay the victim civil indemnity, moral damages, and exemplary damages in the amount of **PhP100,000 each**, subject to interest at the rate of six percent per annum from the date of finality of this judgment until full payment.

**SO ORDERED.**

  
**NOEL GIMENEZ TIJAM**  
 Associate Justice

**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
 Associate Justice  
 Chairperson, Third Division.

<sup>42</sup>ART. 266-B. Penalties. - Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

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

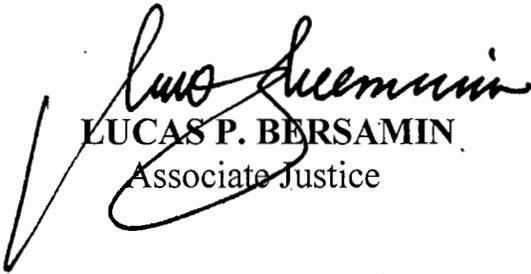
- 1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

<sup>43</sup>SEC. 2. In lieu of the death penalty, the following shall be imposed.

(a) the penalty of *reclusion perpetua*, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code;

<sup>44</sup>*People of the Philippines v. Ireneo Jugueta*, G.R. No. 202124, April 5, 2016.



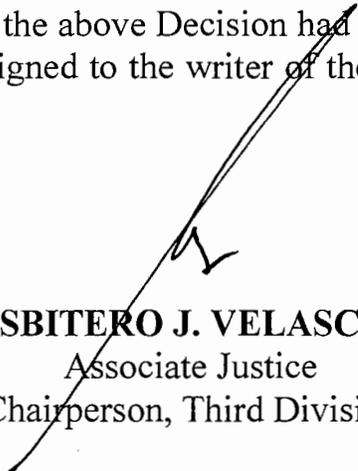
  
**LUCAS P. BERSAMIN**  
 Associate Justice

  
**BIENVENIDO L. REYES**  
 Associate Justice

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

**ATTESTATION**

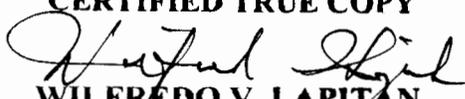
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**PRESBITERO J. VELASCO, JR.**  
 Associate Justice  
 Chairperson, Third Division

**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.

  
**MARIA LOURDES P. A. CERENO**  
 Chief Justice

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**WILFREDO V. LAPITAN**  
 Division Clerk of Court  
 Third Division

JUL 31 2017