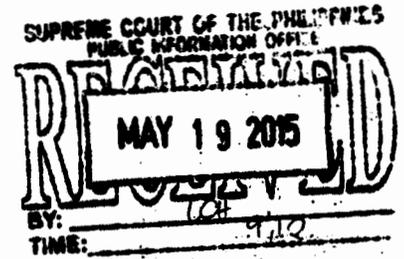


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REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Baguio City
SECOND DIVISION



NOTICE

Sirs/Mesdames:

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

“G.R. No. 202980 – *People of the Philippines, plaintiff-appellee v. Marvin Genteroles, accused-appellant*

Appellant Marvin Genteroles, together with his co-accused, Rodolf Adorador (Adorador), were charged with the crime of rape with homicide in an Information¹ that reads as follows:

That on or about August 5, 2001 in the Municipality of Miag-ao, Province of Iloilo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and working together, with deliberate intent and by means of force, threat and intimidation did then and there wilfully, unlawfully and feloniously have carnal knowledge of AAA,² a minor, 15 years of age, against her will and without her consent and on the occasion thereof, with deliberate intent and decided purpose to kill, did then and there wilfully, unlawfully and feloniously attack[,] assault and strike the victim with a bamboo pole causing multiple injuries on her head and body which caused her death thereafter.

CONTRARY TO LAW.

Appellant and Adorador pleaded not guilty when arraigned on April 4, 2002.³ Trial on the merits ensued. The prosecution first presented its evidence. However, when it was already the turn of the defense to present its evidence, it opted to file a Motion to Dismiss/Motion to Submit Case for Decision⁴ claiming that the evidence of the prosecution was grossly insufficient to prove their guilt. They also filed a Manifestation⁵ to the effect that they are waiving their right to present evidence in their favor. In a Resolution⁶ dated June 13, 2006, the Regional Trial Court (RTC) of Guimbal, Iloilo, Branch 67, denied the motion to dismiss, viz:

It is the submission of the prosecution that the Motion to Dismiss/Motion to Set Case for Decision, viewed in its totality, is in effect a Demurrer to Evidence. Hence, the applicable provisions of Sec. 23, Rule 19 of Criminal Procedure shall govern the same. It is the impression of the

¹Records, p. 1.

²“The real names of the victim and of the members of her immediate family are withheld pursuant to Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act) and Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004.)” *People v. Teodoro*, G.R. No. 175876, February 20, 2013, 691 SCRA 324, 326.

³Records, p. 44.

⁴Id. at 287-292.

⁵Id. at 295-296.

⁶Id. at 317-318; penned by Judge Teodulo A. Colada.

- more -

Adorador

Court that the remedy of a Motion to Dismiss was consciously adopted by the defense to circumvent the rule on Demurrer to Evidence.

The Court cannot give due course to the Motion to Dismiss/Motion to Submit Case for Decision. It is procedurally defective and infirm[ed]. Not only that it is defective and infirm[ed] but the remedy availed of by counsel will jeopardize the greater interest of his client[s] who will be deprived of the opportunity to defend themselves. It is not for counsel of the accused to conclude at this stage of the proceedings that the prosecution failed to prove by way of circumstantial evidence the guilt of the accused.⁷

The RTC thus ordered the defense to present its evidence.⁸ Despite the damaging testimonies against him, appellant did not testify to rebut the same on the pretext that he was not in his right mind. Only his co-accused, Adorador, testified for the defense. He claimed that he woke up late on August 5, 2001. After lunch, he went to the town proper to attend to his shoe repair business. He went home at around 4 p.m. He denied seeing appellant, his cousin, that day.

After hearing the versions of the parties, the RTC found the following facts to have been established:

AAA left their house at about 8:00 a.m. of August 5, 2001, a Sunday, upon instruction of her mother to deliver the rice ration of her grandmother which is less than two (2) kilometers away. At that time when she left, she was carrying with her an umbrella colored maroon with floral prints. Upon delivering the rice ration, she left her grandmother's house at around 10:00 a.m. On her way back home, she [used] the bamboo footbridge that connects the banks of a creek in Brgy. Kirayan Tacas. There she was blocked by her assailant attackers [who] assaulted her. The girl resisted by scratching the attackers and by striking [them] with her umbrella causing the umbrella to break. As a result, she fell off the bridge landing on the muddy creek and causing her slippers, hair clip, and broken umbrella to scatter below the bamboo foot bridge and causing injury to her head. Assailants followed her downward. Being injured on her head, the victim was weakened and there she was dragged 10 meters further with her back on the ground causing abrasions on her said body, passing the shrub and thick bushes along the creek. There, AAA was raped by her assailants. After she was raped, considering that the victim knows her attackers, they killed her by striking her with the use of a bamboo pole in order to silence her from their bestial acts perpetrated. The circumstantial evidence established undoubtedly pinpoints Marvin Genteroles as the perpetrator of the crime.⁹

In fine, the prosecution established that appellant was seen coming from the creek at approximately the same time the victim was raped and killed; appellant's shirt was covered with mud stains; upon physical

⁷Id. at 318.

⁸Id. at 322.

⁹Id. at 366-367.

examination, appellant was found to have sustained scratches and abrasions on his back, arm, elbow and legs which could have been caused by fingernails, shrubs and dried twigs found at the crime scene; appellant could not explain how he sustained those scratches and abrasions. The victim suffered fresh hymenal lacerations.

As regards Adorador, the trial court found “a hairline shortfall to determine his guilt beyond reasonable doubt. The scratches found on his body [were] not medically examined in order to scientifically determine the cause of such injur[ies].”¹⁰

Thus, on January 5, 2009, the RTC rendered its Decision,¹¹ disposing thus:

WHEREFORE, the Court finds accused Marvin Genteroles GUILTY beyond reasonable doubt of the crime of Rape with Homicide sentencing him to suffer the penalty of *Reclusion Perpetua*. Said accused is likewise ordered to pay unto the heirs of [AAA] an amount of One Hundred Thousand (₱100,000.00) Pesos by way of civil liability. Accused, Rodolf Adorador, on the other hand, is hereby ACQUITTED for failure of the prosecution to prove his guilt beyond reasonable doubt.

SO ORDERED.¹²

Appellant appealed to the Court of Appeals (CA). He claimed that the evidence presented by the prosecution was not sufficient to establish his guilt beyond reasonable doubt.

In its Decision¹³ dated May 27, 2011, the appellate court affirmed with modification the trial court’s Decision, thus:

WHEREFORE, the decision of the Regional Trial Court of Guimbal, Iloilo, Branch 67 dated January 5, 2009 in Criminal Case No. 1002, finding accused-appellant Marvin Genteroles GUILTY beyond reasonable doubt of the crime of Rape with Homicide, and imposing upon him the penalty of *reclusion perpetua*, is AFFIRMED with the MODIFICATION that he is ordered to pay the heirs of AAA the amount of Seventy-Five Thousand Pesos (₱75,000.00) as moral damages in addition to the civil indemnity awarded by the trial court in the amount of One Hundred Thousand Pesos (₱100,000.00).

It ratiocinated that -

¹⁰Id. at 366.

¹¹Id. at 351-357; penned by Judge Domingo D. Diamante.

¹²Id. at 357.

¹³CA *rollo*, pp. 88-101; penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justices Portia Alino-Hormachuelos and Nina G. Antonio-Valenzuela.

The prosecution of the complex crime of rape with homicide is particularly difficult since the victim can no longer testify against the perpetrator of the crime.

For an accused to be convicted of rape with homicide, the following elements must concur: (1) the accused had carnal knowledge of a woman; (2) carnal knowledge was achieved by means of force, threat or intimidation; and (3) by reason or occasion of such carnal knowledge by means of force, threat or intimidation, the accused killed the woman.

The requirements for the conviction based on circumstantial evidence to convict are: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. Circumstantial evidence presented and proved must constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person.

In convicting the accused-appellant, the trial court found that the following circumstances proved beyond reasonable doubt that he was guilty of rape with homicide:

- (1) Two (2) eyewitnesses saw accused-appellant, wet with mud, hurriedly coming out from the creek where the body of the victim was found in the early afternoon of August 5, 2001;
- (2) Physical examination on accused-appellant revealed that he sustained not only abrasions and scratches on his back, upper arms and forearms which may have been caused by fingernails but also scratches on his lower legs which could have been caused by shrubs in the crime scene. Accused-appellant offered no plausible explanation on how he sustained those injuries; and
- (3) Post-mortem examination on the victim revealed that she sustained fresh lacerated wounds on her vaginal orifice.

After a careful review of the facts established and the evidence adduced in the case, this Court finds that the trial court did not err in convicting the accused-appellant of the crime of rape with homicide. This Court agrees with the trial court that the abovementioned circumstances confirm and sufficiently establish the guilt of the accused-appellant beyond reasonable doubt. Although none of the prosecution witnesses actually saw the rape and killing of the victim, their separate and detailed accounts of the surrounding circumstances reveal only one conclusion – that it was accused-appellant who raped and killed the victim in the early afternoon of August 5, 2001. x x x¹⁴

x x x x

¹⁴Id. at 94-96.

It is worthy to note that accused-appellant failed or refused to testify to refute the destructive testimonies of the prosecution witnesses against him for the flimsy and unproven reason that he was not in his right mind. In *Yruma vs. People of the Philippines*, the Supreme Court held, to wit:

“Moreover, despite the damaging testimonies of the witnesses for the prosecution, petitioner did not testify to rebut them. Such posture is admission in silence.

Section 32, Rule 130 of the New Rules on Evidence provides:

Sec. 32. *Admission by silence.* - An act or declaration made in the presence and within the hearing or observation of a party who does or says nothing when the act or declaration is such as naturally to call for action or comment if not true, and when proper and possible for him to do so, may be given in evidence against him.”¹⁵

Hence, this appeal.

In a Resolution¹⁶ dated November 19, 2012, we required the parties to file their Supplemental Briefs; however, both opted to adopt the brief that they filed before the Court of Appeals.¹⁷

Appellant claims that the pieces of circumstantial evidence presented by the prosecution are insufficient to prove his guilt beyond reasonable doubt.

The appeal lacks merit.

“Circumstantial evidence is sufficient for conviction if: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.”¹⁸ In this case, it is beyond doubt that all the circumstances taken together point to the singular conclusion that appellant, to the exclusion of all others, committed the crime. As found by the trial court and affirmed by the appellate court, the appellant was seen coming out of the creek at approximately the same time the victim was killed and raped. His shirt was stained with mud. During physical examination, scratches and abrasions were found in different parts of appellant's body; however, he offered no plausible explanation on how he sustained those injuries. Moreover, the 15-year old victim was found to have suffered fresh hymenal lacerations.

¹⁵Id. at 98-99.

¹⁶*Rollo*, pp. 21-22.

¹⁷Id. at 26-37.

¹⁸RULES OF COURT, Rule 133, Section 4.

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As regards the penalty, Article 266-B of the Revised Penal Code provides that “[w]hen by reason or on the occasion of the rape, homicide is committed, the penalty shall be death.” Thus, both the trial court and the appellate court correctly sentenced appellant to *reclusion perpetua* in view of Republic Act No. 9346 (RA 9346), An Act Prohibiting the Imposition of Death Penalty in the Philippines. However, pursuant to Section 3 of RA 9346, appellant is without eligibility for parole. Both courts also properly awarded the heirs of AAA the amount of ₱100,000.00 as civil indemnity. However, the award of moral damages in the amount of ₱75,000.00 must be increased to ₱100,000.00. In addition, the heirs of AAA are entitled to an award of exemplary damages in the amount of ₱100,000.00, as well as temperate damages in the amount of ₱25,000.00. Finally, all damages awarded shall earn interest at the rate of 6% *per annum* in line with prevailing jurisprudence.

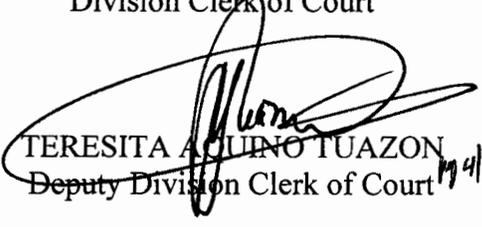
WHEREFORE, the May 27, 2011 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00996 affirming the January 5, 2009 Decision of the Regional Trial Court of Guimbal, Iloilo, Branch 67 finding appellant Marvin Genteroles guilty beyond reasonable doubt of rape with homicide and sentencing him to suffer the penalty of *reclusion perpetua* is **AFFIRMED** with **MODIFICATIONS** that appellant is without eligibility for parole; the award of moral damages is increased to ₱100,000.00; appellant is further ordered to pay the heirs of AAA ₱100,000.00 as exemplary damages and ₱25,000.00 as temperate damages; and interest at the rate of 6% *per annum* shall be imposed on all damages awarded from date of finality of this resolution until fully paid.

SO ORDERED. ”

Very truly yours,

MA. LOURDES C. PERFECTO
Division Clerk of Court

By:


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *mg 4/29*

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