



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated July 27, 2022 which reads as follows:*

“**G.R. No. 257333** (*People of the Philippines v. XXX*<sup>1</sup>). — This is an appeal<sup>2</sup> assailing the October 23, 2020 Decision<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02058-MIN, which affirmed the July 16, 2018 Judgment<sup>4</sup> of the Regional Trial Court (RTC) of ██████████,<sup>5</sup> Branch 32, finding accused-appellant XXX guilty beyond reasonable doubt of Statutory Rape, defined and penalized under paragraph 1(d), Article 266-A of the Revised Penal Code<sup>6</sup> (RPC), as amended by Republic Act No. (RA) 8353,<sup>7</sup> otherwise known as the Anti-Rape Law of 1997.

**Antecedents**

In an Information,<sup>8</sup> accused-appellant was charged with Statutory Rape as follows:

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<sup>1</sup> Initials were used for the names of the accused-appellant, the victim, and the victim’s relatives pursuant to the Supreme Court Amended Administrative Circular No. 83-2015, with subject “PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES.” Approved: September 5, 2017. The personal circumstances of the victim, as well as the relevant geographic location, are also blotted out pursuant to the said circular.

<sup>2</sup> *Rollo*, pp. 4-6.

<sup>3</sup> *Id.* at 9-21. Penned by Associate Justice Richard D. Mordeno and concurred in by Associate Justices Edgardo T. Lloren and Loida S. Posadas-Kahulugan.

<sup>4</sup> *Id.* at 23-34. Penned by Presiding Judge Emilio D. Dayanghirang III.

<sup>5</sup> Geographical location is blotted out pursuant to Supreme Court Amended Administrative Circular No. 83-2015.

<sup>6</sup> Entitled “AN ACT REVISING THE PENAL CODE AND OTHER PENAL LAWS.” Approved: December 8, 1930.

<sup>7</sup> Entitled “AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE AND FOR OTHER PURPOSES.” Approved: September 30, 1997.

<sup>8</sup> Records, pp. 2-3.

That on or about January 2015 in [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, willfully, unlawfully and feloniously had carnal knowledge of private complainant [AAA],<sup>9</sup> a seven (7) year old minor, against her will by inserting his penis into her vagina.”

**CONTRARY TO LAW.**<sup>10</sup>

Accused-appellant pleaded not guilty during arraignment.<sup>11</sup> Pre-trial and trial ensued thereafter.<sup>12</sup>

The prosecution presented three witnesses: the victim AAA, her cousin CCC, and Dr. Belen Larrobis, the physician who examined AAA.<sup>13</sup> The defense, on the other hand, presented six witnesses: accused-appellant himself, his mother, his two sisters, his brother-in-law, and his daughter.<sup>14</sup> The facts, as culled from their testimonies, are succinctly summarized by the appellate court as follows:

AAA and accused-appellant are neighbors x x x and she used to watch television (TV) shows in the house of the latter. She was also the classmate of accused-appellant’s daughter.

In January 2015, while AAA was watching TV in the house of accused-appellant, the latter told her to lie down in his room. AAA obliged and as she lay down, accused-appellant took off her underwear. Accused-appellant likewise took off his undergarment and showed to AAA his genitalia. He told AAA to touch it, which she did, and he went on top of her. He then inserted his penis into AAA’s vagina and he made a push and pull movement. AAA felt pain in [her] vagina and she cried. She was then warned by accused-appellant not to tell anybody about it.

On 16 February 2015, despite accused-appellant’s warning, AAA told her cousin CCC about the molestation. She recounted to CCC how she was molested by accused-appellant and she cried while she narrated the incident. This prompted CCC to inform her mother about it and her mother decided to have AAA examined by a doctor the following day.

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<sup>9</sup> “The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, and for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and their Children, effective November 15, 2004.” (*People v. Dumadag*, 667 Phil. 664, 669 [2011]).

<sup>10</sup> *Rollo*, p. 2.

<sup>11</sup> *Rollo*, p. 10.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

Dr. Belen Larrobis (Dr. Larrobis) examined AAA on 17 February 2015, a month after the incident. Dr. Larrobis found “old healed hymenal laceration at 3:00 and 9:00 o’clock position[s].” She explained that these old healed laceration[s] or old healed hymenal scars could have been caused by a penetration of a hard, blunt object like an erected male genitalia. She further explained that since AAA was examined a month after the said molestation, only the old scars could be seen and no more fresh wounds and bleeding.

By way of defense, accused-appellant denied the allegations of AAA and claimed that he was somewhere else when the alleged molestation happened. He argued that he was in the house of his sister at x x x from 28 December 2014 until 06 January 2015. He also argued that from 07 January 2015 until March 2015, he was not home as he was driving for his sister peddling goods in different places. It was only in the evening of 30 March 2015 when he received a text message from his sister about the complaint of rape lodged against him.

He nonetheless admitted that AAA is their neighbor and a classmate of his daughter, and AAA usually passed by their house to fetch water. He also said that he scolded AAA once as she was not a good influence to his daughter. He likewise claimed that the family of AAA might had a grudge against him or his family because AAA’s uncle was stabbed by his sister’s live-in-partner and there was also an instance when his nephew mauled AAA’s cousin and the latter’s family suspected that he was the one who instructed his nephew to do the same.

The testimony of accused-appellant was corroborated by his sisters, brother-in-law and mother.<sup>15</sup> (Citations omitted)

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

The trial court found accused-appellant guilty of the crime charged, *viz.*:

**WHEREFORE**, premises considered, [XXX] is hereby found **guilty** beyond reasonable doubt of Rape, defined and penalized under Article 266-A (1) (d) in relation to Article 266-B of the Revised Penal Code, as amended, and is sentenced to suffer the penalty of reclusion perpetua without eligibility for parole, as provided for under R.A. No. 9346, and ordered to pay AAA, to be identified through the Information filed in Court, the amount of P75,000 as civil indemnity, P75,000.00 as moral damages, and P30,000.00 as exemplary damages.

SO ORDERED.<sup>16</sup>

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<sup>15</sup> Id. at 11-12.

<sup>16</sup> Id. at 34.

The trial court held that all the elements of Statutory Rape are present;<sup>17</sup> that the testimony of AAA deserves full weight and credit;<sup>18</sup> that accused-appellant's defenses of denial and alibi cannot prevail over the positive, categorical, and spontaneous testimony of AAA;<sup>19</sup> that while accused-appellant's family members corroborated his alibi, there was no showing that the family members executed a formal declaration in support of accused-appellant immediately upon knowledge of the charge;<sup>20</sup> that there was no showing that it was physically impossible for accused-appellant to commit the crime;<sup>21</sup> and that the precise time of the commission of the crime is not essential.<sup>22</sup>

Thus, accused-appellant's appeal<sup>23</sup> before the appellate court, where he mainly argued that the prosecution failed to prove the fact of sexual intercourse since the prosecutor did not use an anatomically-correct doll in taking AAA's testimony.<sup>24</sup>

### **Ruling of the Court of Appeals**

The appellate court denied accused-appellant's appeal, *viz.*:

WHEREFORE, the appeal is DENIED. The Judgment dated 16 July 2018 rendered by the Regional Trial Court, [REDACTED] in Crim. Case No. 1863-15 is hereby AFFIRMED with the MODIFICATION that accused-appellant is likewise ordered to pay legal interest six percent (6%) *per annum* on all damages awarded from the date of finality of this Decision until fully paid.

SO ORDERED.<sup>25</sup>

The CA agreed with the trial court that all the elements of Statutory Rape are present;<sup>26</sup> that the use of an anatomically-correct doll is not mandatory and is not an element of the crime;<sup>27</sup> that the

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<sup>17</sup> Id. at 30-32.

<sup>18</sup> Id. at 32.

<sup>19</sup> Id.

<sup>20</sup> Id. at 32-33.

<sup>21</sup> Id. at 33.

<sup>22</sup> Id.

<sup>23</sup> Records, p. 87.

<sup>24</sup> CA *rollo*, pp. 38-40.

<sup>25</sup> *Rollo*, p. 20.

<sup>26</sup> Id. at 15-16.

<sup>27</sup> Id. at 17.

defenses of denial and alibi cannot prevail over AAA's positive and credible testimony;<sup>28</sup> and that the element of physical impossibility was not sufficiently established.<sup>29</sup>

Thus, this appeal.<sup>30</sup>

### Issue

Did the appellate court err in sustaining the conviction of accused-appellant?

### Our Ruling

The appeal lacks merit.

Statutory Rape is defined and penalized under paragraph 1(d), Article 266-A of the RPC, as amended by RA 8353, as follows:

Article 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.

To support a conviction for Statutory Rape, the prosecution must prove three elements: (1) the age of the complainant, (2) the identity of the accused; and (3) the fact of sexual intercourse between the accused and the complainant.<sup>31</sup> Proof of force, intimidation, or consent is unnecessary.<sup>32</sup>

Here, the prosecution was able to establish all the elements.

**First**, AAA was only seven years old when the incident happened. This was admitted by the defense.<sup>33</sup>

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<sup>28</sup> Id. at 18.

<sup>29</sup> Id. at 19.

<sup>30</sup> Id. at 4-6.

<sup>31</sup> *People v. \_\_\_\_\_*, G.R. No. 229836, July 17, 2019, citing *People v. Cadano, Jr.*, 729 Phil. 576, 584-585 (2014).

<sup>32</sup> Id.

<sup>33</sup> TSN, March 22, 2016, p. 5.

**Second**, it was accused-appellant who committed the acts complained of. He was positively identified by AAA during trial.<sup>34</sup>

**Third**, there was sexual intercourse between accused-appellant and AAA. This was established after AAA narrated how she was instructed by accused-appellant to lie down in his room; how he pulled her underwear and removed his own; how he showed her his penis and told her to touch it; **how he went on top of her and inserted his penis into her vagina**; how he made a push and pull movement; and how she felt pain when her private part was penetrated.<sup>35</sup> Such fact of intercourse is further corroborated by Dr. Larrobis who stated that AAA had “old healed hymenal laceration at 3:00 and 9:00 o’clock position[s].”<sup>36</sup> As previously held by the Court, when the testimony of a rape victim is consistent with medical findings, there is sufficient basis to conclude that there has been carnal knowledge.<sup>37</sup>

The defense insists on accused-appellant’s innocence by pointing out that the prosecutor did not use an anatomically-correct doll in eliciting AAA’s testimony, as supposedly required under the Department of Justice’s Protocol for Case Management of Child Victims of Abuse, Neglect, and Exploitation.<sup>38</sup>

The relevant provision of the Protocol reads:

9. The use of testimonial aid (e.g., dolls, anatomically-correct dolls, puppets, anatomical drawings, and other appropriate demonstrative device) shall be **permitted** to facilitate child’s testimony. (Emphasis supplied)

From the express wording of the provision, the use of an anatomically-correct doll is merely **permitted**, and not required. Its use is not even an element of Statutory Rape. Hence, accused-appellant cannot be acquitted on this ground.

Similarly, accused-appellant cannot be acquitted based on his defenses of denial and alibi. For one, he failed to show that it was physically impossible for him to be at the crime scene during the

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<sup>34</sup> Id. at 10.

<sup>35</sup> Id. at 7-9.

<sup>36</sup> Records, p. 12.

<sup>37</sup> *People v. Manaligod*, 831 Phil. 204, 212-213 (2018), citing *People v. Mercado*, 664 Phil. 747, 751 (2011).

<sup>38</sup> CA rollo, p. 39.

incident; his brother-in-law even testified that the place accused-appellant was supposed to be was a mere 20 to 30 minutes travel to the crime scene.<sup>39</sup> For another, an inherently weak defense like alibi cannot prevail over a positive and credible testimony of a witness,<sup>40</sup> especially one that is corroborated by medical findings.

### Penalty and Damages

Article 266-B of the RPC, as amended by RA 8353, punishes the crime under paragraph 1 of Article 266-A with *reclusion perpetua*.<sup>41</sup> Considering that there is no aggravating or mitigating circumstance, the appellate court correctly affirmed the said penalty. However, the penalty need not be qualified with the phrase “without eligibility for parole” since the circumstances do not warrant the imposition of death penalty.<sup>42</sup>

For the damages, while the CA correctly affirmed the awards of ₱75,000.00 each for civil indemnity and moral damages, and included an award for legal interest, the exemplary damages should be increased from ₱30,000.00 to ₱75,000.00 in line with *People v. Jugueta*.<sup>43</sup> Such case instructs that when the penalty imposed is *reclusion perpetua*, as in here, the victim should be awarded civil indemnity and moral and exemplary damages of ₱75,000.00 each.<sup>44</sup>

In all, the appellate court correctly affirmed the RTC’s conviction of accused-appellant and the penalty against him. The award of ₱30,000.00 as exemplary damages should however be increased to ₱75,000.00.

**WHEREFORE**, the appeal is **DISMISSED**. The October 23, 2020 Decision of the Court of Appeals in CA-G.R. CR-HC No. 02058-MIN is **AFFIRMED WITH MODIFICATIONS**. For committing Statutory Rape under paragraph 1(d), Article 266-A of the

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<sup>39</sup> TSN, November 2, 2017, p. 9.

<sup>40</sup> See *People v. BBB*, G.R. No. 248023, June 17, 2020, citing *People v. Batalla*, G.R. No. 234323, January 7, 2019, where the Court reiterated that denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness.

<sup>41</sup> Paragraph 1, Article 266-B states:

Article 266-B. *Penalties*. — Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

<sup>42</sup> Administrative Matter No. 15-08-02-SC, or the “GUIDELINES FOR THE PROPER USE OF THE PHRASE “WITHOUT ELIGIBILITY FOR PAROLE” IN INDIVISIBLE PENALTIES.” Approved: August 4, 2015.

<sup>43</sup> 783 Phil. 806, 849 (2016).

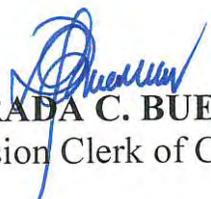
<sup>44</sup> *Id.*

Revised Penal Code, as amended by Republic Act No. 8353, accused-appellant XXX is **ORDERED** to suffer the penalty of *reclusion perpetua* and to pay AAA civil indemnity and moral and exemplary damages amounting to ₱75,000.00 each. Such monetary awards shall earn interest at the legal rate of 6% per *annum* from the date of finality of this Resolution until fully paid.

The Office of the Solicitor General's manifestation (re: supplemental brief), pursuant to the Resolution dated January 3, 2022; and the letter dated May 17, 2022 of CO3 Andrew John B. Villanueva, Asst. Chief, Inmate Documents and Processing Section, Davao Prison and Penal Farm, B.E. Dujali, Davao del Norte, in compliance with the Resolution dated January 3, 2022, informing the Court that the accused-appellant is presently confined in the said Prison, are both **NOTED**.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

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AUG 17 2022

The Solicitor General  
134 Amorsolo Street, Legaspi Village  
1229 Makati City

Court of Appeals  
9000 Cagayan de Oro City  
(CA-G.R. CR-HC No. 02058-MIN)

The Superintendent  
Davao Prison and Penal Farm  
B.E. Dujali, 8105 Davao del Norte

The Hon. Presiding Judge  
Regional Trial Court, Branch 32  
Lupon, 8207 Davao Oriental  
(Crim. Case No. 1863-15)

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No. 12-7-1-SC)

PUBLIC ATTORNEY'S OFFICE  
Regional Special and Appealed Cases Unit  
Counsel for Accused-Appellant  
2/F, BJS Building, Tiano Bros. cor. San Agustin  
Streets, 9000 Cagayan de Oro City

Philippine Judicial Academy (x)  
Supreme Court

XXX  
Accused-Appellant  
c/o The Superintendent  
Davao Prison and Penal Farm  
B.E. Dujali, 8105 Davao del Norte

Judgment Division (x)  
Supreme Court

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