



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

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

“G.R. No. 247553 (*People of the Philippines v. Alexander Susmerano y Pontiga*). - This Court resolves the Appeal¹ from the Decision² dated November 29, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10260. The CA earlier affirmed the Decision³ dated September 4, 2017 of the Regional Trial Court, Branch 32, ██████████ City (RTC), which convicted accused-appellant Alexander Susmerano y Pontiga (*Alexander*) of Rape under Article 266-A of the Revised Penal Code (RPC).

Private complainant AAA⁴ and Alexander had known each other for 13 years, the latter being a good friend of AAA’s estranged husband. In 2011, after AAA separated from her husband, she and her two daughters rented a house in Barangay ██████████, where Alexander also resides.⁵

On November 18, 2012, at around 2:30 p.m., AAA received a text message from her lessor, Mommy Baby, inviting AAA to her house to eat grilled fish. When AAA arrived at Mommy Baby’s house, she saw that Mommy Baby was having a drinking session with her friends. Upon invitation, AAA joined and had drinks with them for more than two hours. At around 5 p.m., because she was already feeling tipsy, AAA said goodbye

* Also spelled “Susmirano” in some parts of the records.

¹ Rollo, pp. 21-22.

² Penned by Associate Justice Ramon R. Garcia (Chairperson), with Associate Justices Eduardo B. Peralta, Jr. and Geraldine C. Fiel-Macaraig concurring; *id.* at 3-20.

³ Penned by Presiding Judge Agripino G. Morga; CA rollo, pp. 55-71.

⁴ The identity of the victim or any information to 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, 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”; 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. Cabalquinto*, 533 Phil. 703 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, 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.

⁵ Rollo, p. 5.

to the group and walked home. When she arrived at her house, AAA realized that her children had already left for work, and that she did not have the keys to open the door. Since she was drunk already, AAA just slept on the chairs outside their house.⁶

At around 7 to 8 p.m., AAA was awakened by the presence of Alexander who was already seated beside her and watching her sleep. When Alexander saw that she was awake, he invited her to have a drink with him. AAA initially refused, but when Alexander asked her that they go back to Mommy Baby's house instead, AAA acceded.⁷

As they were walking together, AAA realized that they were not headed towards the house of Mommy Baby. When she pointed this out to Alexander, he said that he merely wanted to talk. Alexander, however, suddenly grabbed both of AAA's hands and dragged her towards a vacant, grassy lot, forcibly laid AAA down, and went on top of her. With one hand holding both of AAA's arms, Alexander removed AAA's blouse, leggings, and underwear. He kissed her all over her body and brought out his penis. All the while, AAA was struggling to free herself. And since AAA was small in stature and was drunk at the time, Alexander easily overpowered her. AAA also tried to shout for help, but Alexander covered her mouth, successfully inserted his penis in her vagina, and had sexual intercourse with her for 15 to 30 minutes.⁸

After the ordeal, AAA heard Alexander tell someone, "*sige[,] pare, ikaw na at [may] anak pa iyang dalawa[,] pag nagsalita siya iyon namang mga anak ang isusunod natin.*" It was only at this point that AAA realized that Alexander had a companion. Because the place was dark, AAA was unable to recognize the other individual, but she was certain that he was also male. Considering that AAA was really drunk at the time, coupled with the trauma over what just transpired, AAA was not sure if the other individual also took advantage of her.⁹

It took a while before Alexander and his companion left, but AAA stood up, pulled up her leggings, and went straight to Mommy Baby's house to narrate the incident. Mommy Baby then helped AAA report the incident to the authorities. They first went to the *barangay* and the local police, and thereafter, to the Municipal Health Office of [REDACTED] for a physical examination.¹⁰

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 6.

⁹ *Id.*

¹⁰ *Id.*

After due proceedings, an Information¹¹ for rape was filed against Alexander, viz.:

That on or about the 18th day of November, 2012, in the [REDACTED] Philippines, and within the jurisdiction of this Honorable Court, the said accused, actuated by lust, by means of force and violence, did then and there wilfully, unlawfully and feloniously have carnal knowledge on one [AAA], against her will.

Contrary to law.¹²

On arraignment, Alexander pleaded not guilty.¹³ Trial ensued.

The prosecution presented the testimonies of AAA and Municipal Health Officer Dr. Cynthia Quebrado (*Dr. Quebrado*), who performed the physical examination on AAA.

Dr. Quebrado testified that on November 18, 2012, AAA went to her for physical examination after she was raped by Alexander.¹⁴ AAA disclosed to her that there were two individuals during the incident, one was Alexander, and the other she could not identify. Unfortunately, AAA could not say with certainty if the individual also raped her.¹⁵

Dr. Quebrado further testified that during the physical examination, AAA was anxious and troubled.¹⁶ AAA also had fever and respiratory tract infections, and was suffering from bruises, abrasion, and hematoma in her upper and lower extremities. There was, however, no vaginal bruising or fresh hymenal laceration.¹⁷ Dr. Quebrado opined that AAA's injuries on her upper and lower extremities were consistent with her narration that she was dragged and held down while being raped. The absence of vaginal injuries or new hymenal lacerations, on the other hand, does not necessarily preclude rape.¹⁸ Considering AAA's age, and that she already gave natural birth more than twice, her vagina was unsurprisingly elastic, open, and wet.¹⁹ Moreover, the fact that AAA was drunk and weak at the time of the rape, and, thus, could not struggle with all her strength, may have been factors why she did not suffer from vaginal bruising and hymenal laceration.²⁰

¹¹ Records, p. 2.

¹² *Id.*

¹³ *Id.* at 12-13.

¹⁴ TSN, June 26, 2014, p. 3.

¹⁵ *Id.* at 9.

¹⁶ *Id.* at 3.

¹⁷ *Id.* at 4.

¹⁸ *Id.* at 5.

¹⁹ *Id.* at 8.

²⁰ *Id.*

For its part, the defense presented Alexander, Armando Molina (*Armando*), and Roger Pasino (*Roger*).

Alexander denied the accusations against him. He narrated that, on November 18, 2012, he was walking by the house of AAA, when he saw the latter seated outside with Mommy Baby. AAA was crying so he stopped to ask why, to which AAA answered that it was because her husband did not come home. At that point, Mommy Baby left. Alexander and AAA then talked about the latter's problems. After some time, he told AAA that he needed to leave to buy food for his children. When he stood up, AAA also stood up, but she lost her balance and fell down, probably because she was drunk. He helped her to her feet and led her to the door of the house, which, was locked.²¹

Alexander further testified that because they could not enter the house, he helped AAA sit on the chairs outside and left. AAA, however, tried to follow him, but again fell down. He then asked her where she was going, and she replied that she will go to her son. AAA was insistent on following him but she kept losing her balance so he was forced to help her walk. As they were walking, they passed by Roger, Armando, and Arman Rubin (*Arman*). He stopped to talk to Arman, and AAA continued walking to the direction of Mommy Baby's house. AAA's continuous crying awakened and irritated Mommy Baby's live-in partner, a certain Mang Elmo, who then slapped AAA on the face. It was when AAA proceeded home. Thus, he was surprised when he was arrested the following day, November 19, 2012, for allegedly raping AAA.²²

Armando testified that Alexander is the nephew of his wife. He said that on November 18, 2012, at around 7 p.m., he saw Alexander and an unidentified woman at a *halamanan*. The two were talking about one meter apart from each other. They did not notice him, so he left after a while.²³

Roger testified that on the evening of November 18, 2012, he went out to buy cigarettes and saw Alexander assisting AAA, who appeared to be very drunk, and walking her to her house. He left after that.²⁴

²¹ TSN, April 23, 2015, pp. 3-4.

²² *Id.* at 4-8.

²³ TSN, July 19, 2015, pp. 4-5.

²⁴ TSN, April 14, 2016, pp. 2-3.

After trial, the RTC rendered its Decision²⁵ dated September 4, 2017, finding Alexander guilty of rape. The dispositive portion of the decision states:

WHEREFORE, judgment is hereby rendered finding the **accused ALEXANDER SUSMERANO y PONTIGA guilty** beyond reasonable doubt of the crime of rape as charged in the Information, and hereby sentences him to a penalty of *reclusion perpetua*.

The accused is hereby also directed to pay the victim the following:

- a. ₱50,000.00, for and by way of civil indemnity;
- b. ₱75,000.00, for and by way of moral damages;
- c. ₱25,000.00, for and by way of exemplary damages; and
- d. To pay the costs of the suit.

The accused is hereby ordered committed to the National Bilibid Prisons (*sic*) immediately.

SO ORDERED.²⁶

On appeal, the CA, in its Decision²⁷ dated November 29, 2018, affirmed the RTC's conviction of Alexander, but modified the award of damages, thus:

WHEREFORE, premises considered, the instant appeal is hereby **DENIED**. The Decision dated September 4, 2017 of the Regional Trial Court, Branch 32, ██████████ City is **AFFIRMED with MODIFICATION** in that accused-appellant Alexander Susmerano y Pontiga is ordered to pay private complainant AAA Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity, Seventy-Five Thousand Pesos (P75,000.00) as moral damages, and Seventy-Five Thousand Pesos (P75,000.00) as exemplary damages. All damages awarded shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this judgment.

SO ORDERED.²⁸

Hence, the instant appeal, raising the issue of whether the CA erred in convicting Alexander of the crime of rape.

We deny the appeal.

²⁵ Penned by Presiding Judge Agripino G. Morga; CA *rollo*, pp. 55-71.

²⁶ *Id.* at 70-71.

²⁷ *Rollo*, pp. 3-20.

²⁸ *Id.* at 20.

To support a conviction of rape, the following elements must be proved: (1) the offender had carnal knowledge of a woman; and (2) the offender accomplished such act through force or intimidation, or when the victim was deprived of reason or otherwise unconscious, or when she was under twelve (12) years of age or was demented.²⁹

In the present case, the prosecution established with moral certainty the elements of carnal knowledge and force or intimidation. AAA positively identified Alexander as the man who, through force and intimidation, had carnal knowledge of her against her will, thus:

PROSECUTOR CO

Q You mentioned when you woke up you saw the accused na nakahubad, and invited you to drink, again what was your response[,] if any?

A Sabi ko nga ay ayaw [ko] nang uminom, tapos ang sabi niya ay punta kami sa bahay ni mommy Baby and then it turned out na hindi naman pala doon papunta.

Q What did you do when you noticed that the way is not the right way you are supposed to go?

A Tinanong ko siya bakit doon ang punta namin. Ang sinabi niya mag-uusap lang kami, siyempre tiwala naman ako sa kanya dahil parang ang turing ko sa kanya ay kapatid dahil kaibigan siya ng tatay ng mga anak ko.

Q Did he tell (sic) what you are going to talk about?

A He held my hands and then hinila ako sa damuhan.

Q What did you do when you were in the grassy place?

A Nagpupumiglas po at dahil hawak po ako sa dalawang kamay hindi rin ako nakakalas sa paghawak sa akin at saka ako ay medyo nakainom na rin.

Q Was he able to drag you or take you to the grassy portion?

A Yes, sir.

Q What happened there?

A Hinubaran niya ako ng aking blouse at leggings.

Q How did he undress you?

A Tinanggal po niya ang pangbaba ko at hawak hawak niya ang braso [ko] ng isa niyang kamay at tinanggal din niya ang leggings at hinawakan ang braso ko. Habang ako ay nakahiga ako ay nanlalaban pero wala akong magawa.

²⁹ *People v. XXX*, G.R. No. 232308, October 7, 2020.

- Q When he was removing your leggings you mentioned you were already lying down? How did he lay you down to the grassy place?
- A He forced me to lay (sic) down.
- Q You mentioned you were [lying] down while he was removing your leggings after that what did you do?
- A Pinaghahalikan niya ang buo kong katawan at ipinapasok niya ang ari niya sa ari ko.
- Q When did he remove your underwear?
- A It was removed when my leggings was removed.
- Q After that what did he do next?
- A Hinahalikan po niya ako at pilit na ipinapasok ang ari niya sa ari ko.
- Q Paano niya naipasok?
- A Iyong suot niyang short pants nakalabas po ang ari niya.
- Q You mentioned he was able to insert his penis to your private parts, would you please tell us was it hard or soft?
- A Medyo malambot po.
- Q How did you come to know that he was able to insert his penis?
- A Naramdaman ko po kasi hindi na po ako virgin dahil me dalawa na akong anak.
- Q What is your position when he inserted his penis?
- A Siya po ay nasa ibabaw, hawak niya ang dalawa kong braso at me kasama po siya, hindi ko kilala dahil madilim ang lugar.³⁰

The RTC found AAA's testimony as "plain; direct, candid and straightforward," as well as "honest and unrehearsed."³¹ The CA agreed with the RTC on this point and found no reason to rule otherwise. It is settled that the RTC's findings on the credibility of witnesses and their testimonies are entitled to great weight and respect, and the same should not be overturned on appeal in the absence of any clear showing that the trial court overlooked, misunderstood, or misapplied some facts or circumstances which would have affected the case. Questions on the credibility of witnesses are best addressed to the trial court due to its unique position to observe the witnesses' deportment on the stand while testifying.³² The assessment made by the trial court is even more enhanced when the CA affirms the same, as in this case.³³

In an attempt to discredit AAA's testimony and exculpate himself, Alexander asserts that the medical report issued by Dr. Quebrado stated that

³⁰ TSN, October 3, 2013, pp. 3-5.

³¹ CA rollo, p. 61.

³² *People v. Avelino, Jr.*, G.R. No. 231358, July 8, 2019, 908 SCRA 37, 44.

³³ *People v. AAA*, G.R. No. 247007, March 18, 2021, citing *People v. Garcia*, 695 Phil. 576, 587 (2012).

there were no signs of trauma or new hymenal lacerations found in AAA's genitalia, nor were there physical injuries found in her breasts.³⁴ According to him, the fact that there were a few bruises on AAA's arms is not a valid inference of forced sexual intercourse.³⁵

It has been established, however, that the absence of external signs or physical injuries on the complainant's body does not necessarily negate the commission of rape, hymenal laceration not being an element of the crime of rape.³⁶ The prime consideration in the prosecution of rape is the victim's testimony, not necessarily the medical findings; a medical examination of the victim is not indispensable in a prosecution for rape. The victim's testimony alone, if credible, is sufficient to convict.³⁷ As discussed above, the RTC and the CA both found AAA's testimony as credible and worthy of belief. This Court finds no reason to deviate from their findings. Nevertheless, Dr. Quebrado sufficiently explained that the absence of vaginal injuries does not necessarily preclude rape. Considering AAA's age, and the fact that she already gave natural birth more than twice, her vagina was unsurprisingly elastic, open, and wet.³⁸

In the same vein, Alexander's contention that AAA did not resist his alleged sexual advances, or at least attempted to defend her virtue, even if true, would not merit his acquittal. It must be stressed that the resistance of the victim is not an element of the crime of rape, and the law does not impose on the prosecution the burden of establishing the same. As long as the force or intimidation is present, whether it was more or less irresistible is beside the point.³⁹ In any case, AAA testified that she indeed tried to resist the advances of Alexander. She struggled to free herself from his grasp when she was being dragged to the grassy area and during the entire ordeal.⁴⁰ As she was very drunk at the time and was feeling very weak, however, she could not escape from his hold. AAA also tried to shout for help, but was only unsuccessful because Alexander, who was pinning her down, kept putting his fingers in her mouth.⁴¹

Against AAA's credible and straightforward testimony, Alexander could only offer the defense of denial. He testified that on November 18,

³⁴ CA rollo, p. 42.

³⁵ *Id.*

³⁶ See *People v. XXX*, G.R. No. 248370, October 14, 2020; *People v. ZZZ*, G.R. No. 229862, June 19, 2019, 905 SCRA 377, 394; *People v. Austria*, 820 Phil. 747, 767 (2017); *People v. Buclao*, 736 Phil. 325 (2014); *People v. Otos*, 661 Phil. 724 (2011); *People v. Llanas, Jr.*, 636 Phil. 611 (2010); *People v. Arujo*, 616 Phil. 275 (2009).

³⁷ See *People v. Deliola*, 794 Phil. 194 (2016); *People v. Suarez*, 750 Phil. 858 (2015); *People v. Penilla*, 707 Phil. 130 (2013); *People v. Perez*, 673 Phil. 373 (2011).

³⁸ TSN, June 26, 2014, p. 8.

³⁹ *People v. Nachor*, 652 Phil. 756, 774 (2010); See also *People v. Rupal*, 834 Phil. 594 (2018); *People v. Palanay*, 805 Phil. 116 (2017); *People v. Bacatan*, 718 Phil. 187 (2013).

⁴⁰ TSN, October 3, 2013, p. 4.

⁴¹ *Id.* at 11.

2012, he saw AAA crying outside her house. He then comforted her and stayed with her for a while, but afterwards left to buy food for his children. According to Alexander, AAA followed him but kept falling down because she was drunk. He initially assisted her to walk until she went to her lessor's house on her own.⁴²

Denial is an inherently weak defense and is generally viewed with disfavor, because it is easily concocted but difficult to disprove. Thus, denial will not prevail over the positive identification of the accused.⁴³ In the present case, Alexander tried to substantiate his denial by presenting two witnesses, Armando and Roger.

Armando testified that on November 18, 2012, at around 7 p.m., he saw Alexander and an unidentified woman at a *halamanan*. The two were talking, about one meter apart from each other. They did not notice him so he left after a while.⁴⁴ Roger testified that on the evening of November 18, 2012, he went out to buy cigarettes. He saw Alexander assisting AAA, who appeared to be very drunk, and walking her to her house. He left afterwards.⁴⁵

On this score, it should be noted that the testimony of both Armando and Roger are not inconsistent with AAA's narration that she was raped by Alexander. Essentially, they only testified that they saw Alexander with AAA on the night of November 18, 2012. Their respective accounts of what they saw do not establish that Alexander could not have taken advantage of AAA that night. On the contrary, their testimonies establish that Alexander was indeed at the scene of the crime and did not have an alibi. In contrast, therefore, with AAA's direct, positive, and categorical testimony, Alexander's denial will not prevail.

As to penalty, the RTC and the CA correctly imposed the penalty of *reclusion perpetua* in accordance with Article 266-B of the Revised Penal Code. Moreover, the CA correctly awarded civil indemnity in the amount of ₱75,000.00, moral damages in the amount of ₱75,000.00, and exemplary damages in the amount of ₱75,000.00, in line with *People v. Jugueta*.⁴⁶

The monetary award for damages shall earn interest at the rate of six percent (6%) *per annum* to be reckoned from the date of finality of this Resolution until their full satisfaction.

⁴² TSN, April 23, 2015, pp. 3-8.

⁴³ *People v. Salazar*, G.R. No. 239138, February 17, 2021, citing *People v. Pancho*, 462 Phil. 193, 206 (2003).

⁴⁴ TSN, July 19, 2015, pp. 4-5.

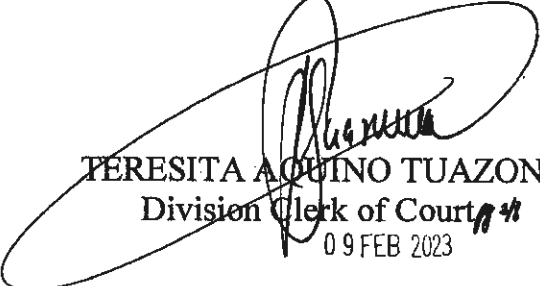
⁴⁵ TSN, April 14, 2016, pp. 2-3.

⁴⁶ 783 Phil. 806 (2016).

FOR THESE REASONS, the appeal is **DENIED**. The Decision dated November 29, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 10260, finding accused-appellant Alexander Susmerano y Pontiga guilty beyond reasonable doubt of rape is **AFFIRMED**. Accused-appellant Alexander Susmirano y Pontiga is **SENTENCED** to suffer the penalty of *reclusion perpetua* and is **ORDERED** to **PAY** the victim AAA (a) ₱75,000.00 as civil indemnity; (b) ₱75,000.00 as moral damages; and (c) ₱75,000.00 as exemplary damages. All damages shall earn interest at the rate of six percent (6%) *per annum* computed from the date of finality of this Resolution until their full satisfaction.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
 Division Clerk of Court *TT*
 09 FEB 2023

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THE DIRECTOR (reg)
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HON. PRESIDING JUDGE (reg)
 Regional Trial Court, Branch 32
 San Pablo City, Laguna
 (Crim. Case No. 19793-SP)

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