



Republic of the Philippines  
Supreme Court  
Baguio City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated April 12, 2023 which reads as follows:*

“**G.R. No. 260267 (*People of the Philippines v. XXX*<sup>1</sup>)**.—Before Us is an appeal<sup>2</sup> of the January 26, 2021 Decision<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 12155, which affirmed with modifications the November 6, 2018 Judgment<sup>4</sup> of the Regional Trial Court (RTC) of ██████████, ██████████,<sup>5</sup> Branch 37 in Criminal Case No. 25091-2015-C.

The trial court found accused-appellant XXX guilty beyond reasonable doubt for the crime of Rape under Article 266-A, paragraph 1 of the Revised Penal Code (RPC),<sup>6</sup> as amended by Republic Act No. (RA) 8353.<sup>7</sup>

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<sup>1</sup> Initials were used to identify the accused-appellant pursuant to the Supreme Court Amended Administrative Circular No. 83-2015 dated September 5, 2017 entitled “Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders using Fictitious Names/Personal Circumstances.”

<sup>2</sup> *Rollo*, pp. 3-5.

<sup>3</sup> *Id.* at 7-22. Penned by Associate Justice Florencio M. Mamauag, Jr. and concurred in by Associate Justices Japar B. Dimaampao (now a Member of this Court) and Pedro B. Corales.

<sup>4</sup> *Id.* at 24-33. Penned by Presiding Judge Caesar C. Buenagua.

<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 [THE REVISED PENAL CODE] (1930).” 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, OTHERWISE KNOWN AS THE REVISED PENAL CODE AND FOR OTHER PURPOSES [THE ANTI-RAPE LAW OF 1997] (1997).” Approved: September 30, 1997.

*mt*

## Factual Antecedents

Accused-appellant was charged with Rape committed against AAA.<sup>8</sup> The accusatory portion of the Information<sup>9</sup> reads:

That on or about March 14, 2015 at [REDACTED], and within the jurisdiction of the Honorable Court, [accused-appellant], with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of a thirteen (13) year old minor, [AAA], against her will and consent, to her damage and prejudice.

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

Upon arraignment on November 10, 2016, accused-appellant pleaded not guilty to the offense charged.<sup>11</sup> Pre-trial was conducted on November 17, 2016, wherein both parties stipulated on the following matters: (1) the identity of accused-appellant as the same person who was charged and arraigned before the RTC; (2) the incident occurred within the jurisdiction of the RTC; (3) the private complainant was a 13-year-old minor at the time of the incident, but subject to the presentation of her birth certificate; and (4) accused-appellant and private complainant are neighbors.<sup>12</sup> Thereafter, trial on the merits ensued.<sup>13</sup>

## Version of the Prosecution

Private complainant revealed in her direct testimony the identity of accused-appellant, and that accused-appellant had carnal knowledge of her through the use of force and intimidation, thus:

Q. Now, [private complainant], do you know a person by the name [accused-appellant]?

A. Yes, sir.

Q. Is he in the courtroom right now?

A. Yes, sir.

Q. Would you point him out among those men?

A. Yes, sir.

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<sup>8</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>9</sup> *Rollo*, pp. 8-9; records, p. 5.

<sup>10</sup> *Rollo*, pp. 8-9; records, p. 5.

<sup>11</sup> *Rollo*, p. 9.

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

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

INTERPRETER:

*(The witness pointed to a man in the gallery, when asked his name--*

INTERPRETER:

*Ano po ang pangalan niyo, sir?*

[ACCUSED-APPELLANT]:

[Accused-appellant], ma'am.

*. . . identified himself as [accused-appellant])*

[PROSECUTOR]:

Let it be indicated, your Honor, on the record, that **the [private complainant] has properly identified the [accused-appellant] in this case**, your Honor.

x x x x

Q. [Private complainant], on March 14, 2015 at around 3:00 o'clock in the afternoon, was there [an] unusual incident that happened between you and the [accused-appellant]?

A. Yes, sir.

Q. What is that unusual incident that happened?

A. He dragged me and then, he lay me down, sir.

Q. Before we continue, where did the incident happen?

A. In his hut, sir.

x x x x

Q. So, when he made you lie down, what did he do to you?

A. He undressed me, sir.

Q. **So, he undressed you. And after he undressed you, what happened next?**

A. **He inserted his penis into my vagina, sir.**

x x x x

Q. So, how did the [accused-appellant] insert his penis in your private part?

A. He raised my legs and then he inserted his private part.

Q. Now, what did you feel?

A. It was painful, sir.

Q. **And as he inserted his penis in your private part, what did you do?**

A. **I cannot do anything, sir, because he already threatened me.**

Q. **And how did the [accused-appellant] threaten you?**

A. **That according to him, he is going to kill me.**

- Q. So, according to you, the [accused-appellant] raised your legs and inserted his penis in your private part. How long did the [accused-appellant] stay on top of you?
- A. Around one (1) hour, sir.

x x x x

- Q. So, he was just on top of you, he was not doing anything? *Hindi siya gumagalaw?*
- A. He [was] moving, sir.

**Q: Okay. So, describe the movement of the [accused-appellant].**

**INTERPRETER:**

**The witness is demonstrating by using her hands in a push and pull movement[.]<sup>14</sup>**

To summarize private complainant's testimony, on March 14, 2015 at 3:00 p.m., accused-appellant dragged her inside his hut, made her lie down, undressed her and himself, raised her legs, and inserted his penis inside her vagina.<sup>15</sup> Private complainant felt pain, but could not do anything because accused-appellant threatened to kill her.<sup>16</sup> Accused-appellant stayed on top of her for more than one hour doing the push and pull movement.<sup>17</sup>

It was only when BBB, the father of private complainant, arrived and saw them that accused-appellant stopped.<sup>18</sup> In his anger, private complainant's father tried to hit accused-appellant, but the latter was able to parry the attack.<sup>19</sup> Thereafter, BBB accompanied private complainant to the police station and to the hospital.<sup>20</sup>

BBB corroborated private complainant's testimony on all material points when he took the witness stand on February 21, 2018.<sup>21</sup> Salient parts of BBB's testimony explained as follows:

- Q. Why were you in your [workplace], tell us if there [was] anything unusual in that place at that time?
- A. **When I was looking for my daughter, I saw that [accused-appellant] was already on top of my daughter and her lower garment was already pulled down, ma'am.**
- Q. Where did you see your daughter [private complainant]?
- A. At the *kubo* of [accused-appellant], ma'am.

<sup>14</sup> *Rollo*, p. 14; TSN, September 29, 2017, pp. 4-8.

<sup>15</sup> *Rollo*, pp. 9-10; TSN, September 29, 2017, pp. 5-7.

<sup>16</sup> *Rollo*, p. 10; TSN, September 29, 2017, pp. 5-7.

<sup>17</sup> *Rollo*, p. 10; TSN, September 29, 2017, pp. 5-7.

<sup>18</sup> *Rollo*, p. 10; TSN, September 29, 2017, p. 8.

<sup>19</sup> *Rollo*, p. 10; TSN, September 29, 2017, pp. 8-9.

<sup>20</sup> *Rollo*, p. 10; TSN, September 29, 2017, p. 9.

<sup>21</sup> *Rollo*, p. 10; TSN, February 21, 2018, p. 4.

x x x x

- Q. Can you describe what was their position when you found them there?**
- A. What I saw was that [accused-appellant] was on top of my daughter and the lower garment of both of them were lowered, ma'am.**<sup>22</sup>

BBB added that he instructed his wife to call the *barangay* captain immediately.<sup>23</sup> When the *barangay* captain arrived, BBB said that he will have accused-appellant sent to prison.<sup>24</sup>

### **Version of the Defense**

For his part, accused-appellant denied the commission of Rape against the private complainant and proffered an alibi.<sup>25</sup>

Accused-appellant explained that on March 14, 2015 at around 2:30 p.m., he was cleaning trucks in the garage.<sup>26</sup> He revealed that he knew private complainant because they stayed in one compound together,<sup>27</sup> and that private complainant's father is a *pahinante* like him.<sup>28</sup> He denied seeing the private complainant and her father on March 14, 2015 within the vicinity of the garage.<sup>29</sup> However, he admitted that he saw private complainant collecting merchandise within the vicinity of his house on said date, and greeted her while he was on his way home.<sup>30</sup>

At his house, accused-appellant was eating outside when private complainant approached him to ask for some water.<sup>31</sup> Accused-appellant let her inside his house.<sup>32</sup>

Moments later, private complainant's father, who was mad, arrived with an axe.<sup>33</sup> He was looking for private complainant, and was informed that she was inside the house.<sup>34</sup> He went inside the house, then went outside to tell accused-appellant that they will talk in the *barangay* hall.<sup>35</sup>

<sup>22</sup> *Rollo*, p. 10; TSN, February 21, 2018, pp. 3-4.

<sup>23</sup> *Rollo*, p. 10; TSN, February 21, 2018, p. 5.

<sup>24</sup> *Rollo*, p. 11; TSN, February 21, 2018, p. 5.

<sup>25</sup> *Rollo*, p. 11.

<sup>26</sup> *Rollo*, p. 11; TSN, July 27, 2018, p. 3.

<sup>27</sup> *Rollo*, p. 11; TSN, July 27, 2018, p. 3.

<sup>28</sup> *Rollo*, p. 11; TSN, July 27, 2018, p. 4.

<sup>29</sup> *Rollo*, p. 11; TSN, July 27, 2018, pp. 4-5.

<sup>30</sup> *Rollo*, pp. 11-12; TSN, July 27, 2018, p. 5.

<sup>31</sup> *Rollo*, p. 12; TSN, July 27, 2018, pp. 5-6.

<sup>32</sup> *Rollo*, p. 11; TSN, July 27, 2018, p. 6-7.

<sup>33</sup> *Rollo*, p. 11; TSN, July 27, 2018, p. 6.

<sup>34</sup> *Rollo*, p. 11; TSN, July 27, 2018, p. 6.

<sup>35</sup> *Rollo*, p. 11; TSN, July 27, 2018, p. 7.

When he was brought to the *barangay* hall, accused-appellant argued that he did not know why private complainant and her parents were angry at him.<sup>36</sup> Accused-appellant suspected that he was being framed because private complainant's father was laid off from work because of him.<sup>37</sup>

On August 16, 2016, he was arrested because private complainant's father told him something happened.<sup>38</sup> He later on found out that he was accused of raping private complainant, which surprised him.<sup>39</sup>

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

The Judgment<sup>40</sup> dated November 6, 2018 found accused-appellant guilty beyond reasonable doubt for the crime of Rape. All the elements of rape under Art. 266-A, par. 1 of the RPC were established by the prosecution.<sup>41</sup> The dispositive portion of the Judgment reads:

**IN VIEW OF THE FOREGOING**, the Court finds [**ACCUSED-APPELLANT**], **GUILTY BEYOND REASONABLE DOUBT** of the crime of **RAPE**, and is hereby sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. He is also ordered to pay [AAA] the amounts of [P]100,000.00 as civil indemnity, [P]100,000.00 as moral damages, and [P]100,000.00 as exemplary damages, plus legal interest at the rate of 6% per [*annum*] from the finality of Decision until the amounts due are fully paid.

**SO ORDERED.**<sup>42</sup>

The RTC found credence in private complainant's testimony, and likewise found the same to be consistent with her father's own testimony.<sup>43</sup> On the other hand, the trial court found no merit in accused-appellant's weak defenses of denial and alibi.<sup>44</sup>

Aggrieved, accused-appellant appealed to the CA.<sup>45</sup>

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

On January 26, 2021, the appellate court rendered its assailed Decision<sup>46</sup> and denied accused-appellant's appeal. However, pursuant to prevailing

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<sup>36</sup> *Rollo*, p. 11; TSN, July 27, 2018, p. 7.

<sup>37</sup> *Rollo*, p. 11; TSN, July 27, 2018, p. 8.

<sup>38</sup> *Rollo*, p. 11; TSN, July 27, 2018, p. 4.

<sup>39</sup> *Rollo*, p. 11; TSN, July 27, 2018, p. 4.

<sup>40</sup> *Rollo*, pp. 24-33.

<sup>41</sup> *Id.* at 12.

<sup>42</sup> *Id.* at 12-13.

<sup>43</sup> *Id.* at 30-32.

<sup>44</sup> *Id.* at 32-33.

<sup>45</sup> *Id.* at 13.

<sup>46</sup> *Id.* at 7-22.

jurisprudence,<sup>47</sup> the CA reduced each of the monetary awards to ₱75,000.00 instead of ₱100,000.00.<sup>48</sup>

Thus, the dispositive portion of the assailed CA Decision reads:

**WHEREFORE**, the appeal is **DENIED**. The Judgment dated November 6, 2018 of the [RTC], Branch 37, ██████████ in CRIM. CASE NO. 25091-2015-C finding the [accused-appellant] guilty beyond reasonable doubt of the crime of rape under [Art.] 266-A, [par.] 1 of the [RPC] is **AFFIRMED with MODIFICATION** in that: the accused-appellant is directed **TO PAY** private complainant [AAA] the amount of **SEVENTY-FIVE THOUSAND PESOS** (₱75,000.00) as civil indemnity, the amount of **SEVENTY-FIVE THOUSAND PESOS** (₱75,000.00) as moral damages and the amount of **SEVENTY-FIVE THOUSAND PESOS** (₱75,000.00) as exemplary damages, plus six percent (6%) interest [per] *annum* on all the damages awarded from the finality of this Decision until fully paid.

**SO ORDERED.**<sup>49</sup>

The appellate court found that the prosecution was able to establish that accused-appellant committed the crime of Rape by sexual intercourse beyond reasonable doubt through the testimonies of private complainant and her father.<sup>50</sup> The CA ruled that “[t]aken together, the testimonies of private complainant and her father produce a moral conviction that the accused-appellant committed the crime of rape through sexual intercourse.”<sup>51</sup>

The CA likewise did not give credence to accused-appellant’s defenses of denial and alibi.<sup>52</sup>

Aggrieved, accused-appellant filed a Notice of Appeal.<sup>53</sup>

### **Issue**

Is accused-appellant guilty of the crime of Rape under Art. 266-A, par. 1 of the RPC, as amended?

### **Our Ruling**

The appeal is without merit. Thus, accused-appellant’s conviction of guilt beyond reasonable doubt for Rape is affirmed.

<sup>47</sup> See *People v. Jugueta*, 738 Phil. 806, 849 (2016).

<sup>48</sup> *Rollo*, pp. 14-15.

<sup>49</sup> *Id.* at 21.

<sup>50</sup> *Id.* at 14.

<sup>51</sup> *Id.* at 15.

<sup>52</sup> *Id.* at 20-21.

<sup>53</sup> *Id.* at 3-5.

**Positive testimony prevails over  
the defenses of denial and alibi**

In rape cases, the credibility of the victim is almost always the single most important issue. It is settled in jurisprudence that when a woman says that she has been raped, she says in effect all that is necessary to show that rape has been committed, and that if her testimony meets the test of credibility, the accused may be convicted on the basis thereof.<sup>54</sup>

A woman's testimony passes the test of credibility when it is credible, natural, convincing, and consistent with human nature and the normal course of things.<sup>55</sup> Her testimony is also credible when she has no motive to testify against the accused.<sup>56</sup>

After an examination of the testimonies of the witnesses and the evidence adduced by the parties, We find no reason to overturn the factual findings of the RTC as affirmed by the CA. Settled is the rule that the evaluation of the credibility of a witness is "best left to the trial court because it has the opportunity to observe the witnesses and their demeanor during the trial."<sup>57</sup> This Court gives great respect to the findings of trial courts, especially when affirmed by the appellate court.<sup>58</sup>

In jurisprudence, We held that denial is inherently a weak defense which cannot outweigh positive testimony. A categorical statement that has the earmarks of truth prevails over a bare denial<sup>59</sup> which can easily be fabricated and is inherently unreliable.<sup>60</sup> For the defense of alibi to prosper, the accused must prove that he was at some other place at the time of the commission of the crime and it was physically impossible for him to be at the *locus delicti* or within its immediate vicinity. These requirements of time and place must be strictly met.<sup>61</sup>

We agree with the appellate court that the private complainant's testimony was positive, categorical, and straightforward. Through her positive and direct testimony, the private complainant identified accused-appellant as the perpetrator and established all the elements of Rape.

On the other hand, accused-appellant failed to prove that he was at some other place at the time of the commission of the crime and it was physically impossible for him to be at the *locus delicti* or within its immediate vicinity.

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<sup>54</sup> *People v. Cabilao*, 285 Phil. 815, 825 (1992).

<sup>55</sup> *People v. Descartin, Jr.*, 810 Phil. 881, 887 (2017).

<sup>56</sup> *People v. Aquino*, 724 Phil. 739, 755 (2014).

<sup>57</sup> *People v. Manalang*, G.R. No. 198015, January 20, 2021, citing *People v. Corpuz*, 812 Phil. 62, 88 (2017).

<sup>58</sup> *Id.*

<sup>59</sup> *People v. Moreno*, G.R. No. 191759, March 2, 2020, citing *People v. Mat-an*, 826 Phil. 512, 524 (2018).

<sup>60</sup> *Id.*, citing *People v. Pulgo*, 813 Phil. 205, 219 (2017).

<sup>61</sup> *People v. Cabilao*, *supra*.

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Therefore, private complainant's positive testimony prevails over the accused-appellant's weak defenses of denial and alibi.

**Accused-appellant is guilty beyond reasonable doubt of the crime of Rape under Art. 266-A, par. 1 of the RPC, as amended**

Art. 266-A, par. (1) of the RPC describes how the crime of Rape is committed, as follows:

[Art.] 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:

a) Through force, threat, or intimidation;

x x x x

Jurisprudence dictates that the elements of Rape by sexual intercourse under Art. 266-A, par. 1 of the RPC are: (1) the offender is a man; (2) the offender had carnal knowledge of a woman; and (3) the sexual act was accomplished by using force, threat, or intimidation.<sup>62</sup>

Carnal knowledge of a woman against her will, effected through force and intimidation is rape.<sup>63</sup> Force, as an element of rape, must be sufficient to consummate the purposes which the accused had in mind.<sup>64</sup> It need not be overpowering or absolutely irresistible.<sup>65</sup> The force or violence necessary in rape is naturally a relative term, depending on the age, size, and strength of the parties and their relation to each other,<sup>66</sup> as in a case where accused-appellant raped a woman who was heavily pregnant.<sup>67</sup>

On the other hand, intimidation must produce fear that if the victim does not yield to the bestial demands of the accused, something would happen to her at that moment or even thereafter as when she is threatened with death if she reports the incident.<sup>68</sup> Intimidation includes the moral kind as the fear caused by threatening the girl with a knife.<sup>69</sup> A rape victim, however, has no burden to prove that she did all within her power to resist the force or

<sup>62</sup> *People v. Salazar*, G.R. No. 239138, February 17, 2021, citing *People v. Tionloc*, 805 Phil. 907, 915 (2017). See also *People v. Corpuz*, 812 Phil. 62, 79 (2017).

<sup>63</sup> See *People v. Trayco*, 612 Phil. 1140, 1152 (2009).

<sup>64</sup> *People v. Amogis*, 420 Phil. 278, 292 (2001).

<sup>65</sup> *People v. Barangan*, 560 Phil. 811, 836 (2007), citing *People v. Villaflores*, 255 Phil. 776, 784-785 (1989).

<sup>66</sup> *People v. Savellano*, 156 Phil. 308, 317 (1974). See also *People v. Salome*, 532 Phil. 368, 378-379 (2006).

<sup>67</sup> See *People v. Dagsa*, 824 Phil. 704, 722 (2018).

<sup>68</sup> *People v. Frias*, 718 Phil. 173, 183 (2013), citing *People v. Sgt. Bayani*, 331 Phil. 169, 193 (1996).

<sup>69</sup> *Id.*

intimidation employed upon her.<sup>70</sup> Resistance is not an element of rape.<sup>71</sup> In rape cases alleged to have been committed by force, threat, or intimidation, what is imperative for the prosecution to establish is that the element of voluntariness on the part of the victim be absolutely lacking. The prosecution must prove that the force or intimidation was actually employed by accused upon his victim to achieve his end. Failure to do so is fatal to its cause.<sup>72</sup>

In the case at bar, the prosecution proved beyond reasonable doubt that accused-appellant committed Rape against the victim by having sexual intercourse with her through force, threat, or intimidation.

All the elements of Rape are present from the straightforward testimony of the private complainant. To recall, private complainant testified that accused-appellant dragged her inside his hut, made her lie down, undressed her and himself, raised her legs, and inserted his penis inside her vagina for more than one hour doing the push and pull movement. Although she felt pain, she was powerless because accused-appellant threatened to kill her.

Based on the foregoing, there is no doubt that accused-appellant is guilty as charged.

### **Imposable penalty**

With regard to the penalty, We rule that the penalty of *reclusion perpetua* without eligibility for parole was improperly imposed by the trial court<sup>73</sup> and affirmed by the appellate court.<sup>74</sup>

Art. 266-B of the RPC penalizes the crime of Rape as follows:

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

x x x x

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

x x x x

3) **When the rape is committed in full view of the spouse, parent, any of the children or other relatives within the third civil degree of consanguinity;** (Emphasis supplied)

<sup>70</sup> *People v. Japson*, 743 Phil. 495, 503-504 (2014).

<sup>71</sup> *People v. Durano*, 548 Phil. 383, 397 (2007).

<sup>72</sup> *Id.*

<sup>73</sup> *Rollo*, p. 23.

<sup>74</sup> *Id.* at 21.

The qualifying circumstance that the rape was committed in full view of a parent will justify the imposition of the death penalty under Art. 266-B of the RPC or *reclusion perpetua* (because of the prohibition on the imposition of death penalty)<sup>75</sup> under RA 9346.<sup>76</sup> However, such qualifying circumstance should be properly alleged in the Information.<sup>77</sup>

In the case at bar, the phrase “without eligibility for parole” should be deleted<sup>78</sup> because the qualifying circumstance that the rape was committed in full view of private complainant’s father was not specifically alleged in the Information.

Rule 110, Sections 8<sup>79</sup> and 9<sup>80</sup> of the Rules on Criminal Procedure provide that for qualifying and aggravating circumstances to be appreciated, it must be alleged in the complaint or information. This is in line with the constitutional right of an accused to be informed of the nature and cause of the accusation against him or her.<sup>81</sup> Even if the prosecution has duly proven the presence of the circumstances, the Court cannot appreciate the same for purposes of qualifying the crime committed and the penalty to be imposed if they were not alleged in the Information.<sup>82</sup>

In the case at bar, the qualifying circumstance of rape committed against private complainant in full view of her father was not alleged or specified in the Information.<sup>83</sup> Thus, the imposable penalty is *reclusion perpetua*.<sup>84</sup>

However, the qualifying circumstances of rape committed in full view of a parent may be considered in the imposition of the civil liabilities. Jurisprudence instructs that a qualifying circumstance although not alleged in the Information but proven during trial may be considered in awarding damages. Thus:

<sup>75</sup> *People v. XXX*, G.R. No. 238405, December 7, 2020. Citations omitted.

<sup>76</sup> Entitled “AN ACT PROHIBITING THE IMPOSITION OF THE DEATH PENALTY [DEATH PENALTY LAW] (2006).” Approved: June 24, 2006.

<sup>77</sup> See *People v. Flores*, 653 Phil. 313, 321 (2010).

<sup>78</sup> See A.M. No. 15-08-02-SC, entitled “GUIDELINES FOR THE PROPER USE OF THE PHRASE ‘WITHOUT ELIGIBILITY FOR PAROLE’ IN INDIVISIBLE PENALTIES.” Approved: August 4, 2015.

<sup>79</sup> See Sec. 8, Rule 110 of the Rules of Criminal Procedure. It states:

SECTION 8. *Designation of the Offense.*— **The complaint or information shall** state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and **specify its qualifying and aggravating circumstances.** If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it. (8a) (Emphasis supplied)

<sup>80</sup> See Sec. 9, Rule 110 of the Rules of Criminal Procedure. It states:

SECTION 9. *Cause of the Accusation.*— The acts or omissions complained of as constituting the offense and **the qualifying and aggravating circumstances must be stated in ordinary and concise language** and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment. (9a) (Emphasis supplied)

<sup>81</sup> *People v. Lapore*, 761 Phil. 196, 203 (2015). Citations omitted.

<sup>82</sup> *Id.*

<sup>83</sup> *Rollo*, pp. 8-9; records, p. 5.

<sup>84</sup> See also *People v. Tulagan*, 849 Phil. 197, 332 (2019).

Finally, the Information should have alleged that the crime was committed inside the dwelling of the victims which was proven during the trial. We could not, therefore, consider this as an aggravating circumstance, although if alleged, it should have been admitted since the crime committed is robbery with violence and thus could have increased the penalty to death although it could not be imposed because of the provisions of RA 9346 and the accused could not be eligible for parole. **However, as enunciated in *People v. Jugueta* citing *People v. Catubig*, the said aggravating circumstance can be appreciated but only for determining the civil liability awarded. Accordingly, the award of civil, moral, and exemplary damages should be increased to P100,000.00 each.**<sup>85</sup> (Emphasis supplied)

Here, the prosecution established beyond reasonable doubt that private complainant was raped in full view of her parent. In fact, accused-appellant only stopped the sexual congress when he sensed the presence of private complainant's father. In fine, this circumstance, although not specifically alleged in the Information but satisfactorily proven during trial, may be considered in the award of damages. Thus, the amounts of damages awarded by the appellate court should be modified to P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages.

Thus, We uphold the guilt beyond reasonable doubt of accused-appellant but with modifications.

**WHEREFORE**, the appeal is **DISMISSED**. The assailed January 26, 2021 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 12155 is **AFFIRMED** with **MODIFICATION** in that accused-appellant XXX is **GUILTY** beyond reasonable doubt of Rape under Article 266-A of the Revised Penal Code, and sentenced to suffer the penalty of *reclusion perpetua*. The phrase "without eligibility for parole" is **DELETED**. Accused-appellant is further ordered to pay AAA P100,000.00 as civil indemnity, P100,000.00 as moral damages, and P100,000.00 as exemplary damages.

All monetary awards shall earn legal interest rate of six percent (6%) per *annum* from the finality of this Resolution until fully paid.

The parties' compliance with the Resolution dated February 13, 2023 insofar as the submission of supplemental briefs is **DISPENSED WITH**.

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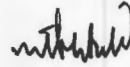
<sup>85</sup> *People v. Bongos*, 824 Phil. 1004, 1023-1024 (2018).

**SO ORDERED.”**

**By authority of the Court:**

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

by:



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

**450**

**APR 25 2023**

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

Court of Appeals (x)  
Manila  
(CA-G.R. CR-HC No. 12155)

The Hon. Presiding Judge  
Regional Trial Court, Branch 37  
Calamba City, 4027 Laguna  
(Crim. Case No. 25091-2015-C)

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