



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 4, 2022** which reads as follows:*

“G.R. No. 250181 (*People of the Philippines v. Ronald Boragay y Obias @ “Daying”*). — This resolves an Appeal¹ pursuant to Section 13(c) of Rule 124 of the Revised Rules of Criminal Procedure assailing the Decision² dated February 12, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09226. The CA earlier affirmed with modification the Decision³ dated November 10, 2016 of the Regional Trial Court, Branch 98 (formerly Branch 96) of Antipolo City (RTC), in Criminal Case No. 2011-42682, which found Ronald Boragay y Obias (*Boragay*), also known as “*Daying*,” guilty of rape under Article 266-A of the Revised Penal Code (RPC).

Antecedents

The instant case arose from an Information which reads:

Criminal Case No. 2011-42682

That on or about the 12th day of August 2011, in the Municipality of [REDACTED], Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, by means of force, did then and there willfully, unlawfully and feloniously have carnal knowledge of complainant, AAA,⁴ sixteen (16) years old minor, against her will and consent, to the damage and prejudice of the said complainant.

Contrary to law.⁵

¹ *Rollo*, pp. 10-11.

² Penned by Justice Victoria Isabel A. Paredes with Associate Justices Marlene B. Gonzales-Sison and Ruben Reynaldo G. Roxas concurring; *id.* at 3-9.

³ *Records*, p. 135-149.

⁴ 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 initial shall, instead, be used, in accordance with *People v. Cabalquinto*, 533 Phil. 703 (2006), and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

⁵ *Records*, p. 1.

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Upon arraignment on September 28, 2011, Boragay, assisted by counsel, entered a plea of “not guilty”⁶ to the crime charged. Following pre-trial,⁷ trial on the merits ensued.

The version of the prosecution, as summarized by the CA, established that on August 11, 2011, AAA, invited her friends, her boyfriend “██████████,” and her neighbor, Boragay, to her 16th birthday party. At the party, they consumed four bottles of *Emperador*.⁸ At around 1:00 a.m., AAA who felt tipsy after consuming six shots of alcohol, went to a room at the 2nd floor of their house to sleep. That evening, the room had no light as their house’s electricity was cut.⁹

At around 4:30 a.m., AAA was awakened when she felt someone kissing her on the lips. When she turned her back to sleep, she was again awakened when she felt someone from behind her, inserting his penis into her vagina. At the time, her shorts were already pulled off. Thinking it was her boyfriend, she asked, “*Ghie bakit mo ginagawa yan, di ba sabi nina nanay at tatay di puwede ang ganyan?*” During the act, the man was covering his face with his right elbow, so AAA forcibly moved the elbow to see his face. She was surprised to see, from the light coming from their neighbor’s house, that the man was not her boyfriend, but in fact Boragay, who hurriedly ran out of the room and down the stairs. AAA cried and relayed the incident to her brother as soon as he woke up. The latter then accompanied AAA to the police station where she executed her sworn statement.¹⁰

The prosecution also presented Police Officer 2 Benedict Harold Orfanel (*PO2 Orfanel*), who testified that on August 12, 2011, at around 7:00 a.m., he was stationed at the Cainta Police Station when AAA arrived with her brother and boyfriend. AAA reported that she was raped by Boragay. PO2 Orfanel recorded the incident in the blotter book and proceeded to the Barangay Hall, where he assisted the barangay *tanods* and AAA in locating and arresting Boragay.¹¹ After the arrest, Boragay was taken to the Takano Hospital for a physical examination and an alcoholic breath test. Thereafter, PO2 Orfanel endorsed AAA to the Women and Children Protection Desk for the filing of complaint against Boragay.¹²

Police Chief Inspector Ma. Anna Lissa Dela Cruz (*PC/Insp. Dela Cruz*) likewise took the witness stand. She was the medico-legal officer assigned at the Medico-Legal Crime Laboratory of the ██████████ Provincial Crime Laboratory in ██████████, who physically examined AAA. She identified the Sexual

⁶ See Certificate of Arraignment dated September 28, 2011; *id* at 16.

⁷ *Id.* at 27-29.

⁸ TSN, February 2, 2012, p. 7.

⁹ *Id.* at 9-12.

¹⁰ *Id.*

¹¹ See Affidavit of Arrest; records, p. 105.

¹² *Id.* at 139.

Crime Protocol, Initial Medico Legal Report, and Final Medico-Legal Report No. R11-040-RIZ which she issued, stating that “the medical evaluation shows remote and recent evidence of blunt penetrating trauma to the hymen” and that, “the hymen revealed the presence of deep healed laceration at the 5 o’clock position, shallow healed at 9 o’clock position.”¹³

On the part of the defense, the sole testimony of Boragay who interposed denial was presented.¹⁴ The version of the defense, as also summarized by the CA, shows that he and AAA were friends. On August 11, 2011, at around 7:00 p.m., he was invited by AAA to a drinking spree at her birthday. AAA, her boyfriend, and the latter’s friends were present. Boragay consumed 15 shots of liquor. Meanwhile, AAA left the party after she drank a little.¹⁵

Boragay became drunk and asked permission from AAA’s older brother if he could stay at their house for a while because he was already feeling drunk, to which her older brother agreed. He then laid down on the floor beside the stairway, where AAA, her brother and his wife were also sleeping. After a while, AAA’s older brother and his wife moved to another spot. Suddenly, AAA pulled Boragay’s hair and kissed him. While they were kissing, Boragay groped AAA’s vagina and she did not object.¹⁶

Subsequently, they had sexual intercourse.¹⁷ Boragay then proffered that AAA became hysterical and asked him why he ejaculated inside her. AAA then began shouting that she was raped, causing Boragay to run home as he feared her reaction and screams.¹⁸

The RTC rendered a Decision¹⁹ dated November 10, 2016, finding Boragay guilty of Rape under Article 266-A of the RPC. The *fallo* of the decision reads:

Wherefore, finding the guilt of the accused beyond reasonable doubt of the crime of rape as defined and penalized under Article 266-A of the Revised Penal Code, accused is hereby sentenced to suffer the penalty of *reclusion perpetua*. The accused is ordered to indemnify the victim in the amount of [P]50,000.00 as civil indemnity, [P]75,000.00 as moral damages in accord with prevailing jurisprudence (*People v. Soriano*, G.R. No. 142779-95, 29 August 2002, 388 SCRA 140) and the amount of P25,000.00 as exemplary damages pursuant also to prevailing jurisprudence (*People v.*

¹³ *Id.* at 8.

¹⁴ TSN, December 4, 2014, p. 5.

¹⁵ *Id.* at 7.

¹⁶ *Id.* at 9.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ See RTC Decision dated November 10, 2016, Appendix “A;” records, pp. 135-149.

Galigao, G.R. Nos. 140961-63, 14 January 2003, 395 SCRA) since the minority of AAA has been proven.

In addition, and in conformity with current policy, the court imposes interest on all monetary awards for damages at the rate of six per cent (6%) [*per annum*] from the date of finality of the decision until fully paid (*People v. Veloso, G.R. No. 188849, February 13, 2013, 690 SCRA 596*).

The period of time already served by the accused while under detention at the Cainta Municipal Jail, Cainta, Rizal, shall be credited to his favor.

Accused shall serve his sentence at the Bureau of Corrections National Bilibid Prison, Muntinlupa City, Metro Manila.

SO ORDERED.²⁰

The RTC sustained the version proffered by the prosecution declaring that the latter was able to establish that Boragay committed rape against AAA who was only 16 years old at the time of the commission of the crime. According to the RTC, such fact was established sufficiently through the credible testimony of the minor victim, AAA. The RTC also rejected the defense raised by Boragay as a mere self-serving assertion which cannot prevail over the positive and undeviating testimonies of the prosecution witnesses.

Aggrieved by the ruling, Boragay filed a Notice of Appeal.²¹

In his appeal, Boragay contended that the RTC erred in convicting him of rape based on AAA's testimony. It erroneously highlighted the weakness of his alibi instead of casting doubt over the credibility of AAA as prosecution witness. Aside from the improbabilities in AAA's testimony, Boragay further argued that while they indeed had sexual intercourse on the given date, AAA was neither forced nor intimidated to have sex with him, and the alleged incident was casual, consented, and mutually desired by both parties.²² According to him, it was in fact AAA who lured him to engage in sexual intercourse and after satisfying her sexual urges, she charged him with rape simply because he did not withdraw his penis from her vagina when the semen came out.²³ Boragay claimed that a second look at all his prevailing arguments would lead to no other conclusion but his acquittal.²⁴

In its Decision²⁵ dated February 12, 2019, the CA upheld the conviction of Boragay, but modified the civil liability imposed, *viz.* :

²⁰ *Id.* at 148-149.

²¹ *Id.* at 151-152.

²² CA *rollo*, p. 45.

²³ *Id.*

²⁴ *Id.*

²⁵ *Rollo*, pp. 3-9.

WHEREFORE, premises considered, the instant appeal is DENIED. The assailed Judgment dated November 10, 2016, of the Regional Trial Court, Branch 98, Antipolo City, in Criminal Case No. 2011-42682, is MODIFIED in that the awards of civil indemnity and exemplary damages are INCREASED to [P]75,000.00 EACH.

SO ORDERED.²⁶

In upholding the Decision of the RTC, the CA found no substantial error in the judgment to reverse Boragay's conviction as the prosecution was able to establish all the elements of the crime of rape. AAA was able to narrate in great detail the circumstances of the rape incident. The CA found that the age of AAA remained undisputed and supported by the evidence on record. Moreover, the CA found that AAA was able to positively identify Boragay as the person who committed rape against her. Lastly, the CA rejected the defense of denial and that the sexual intercourse was consented to by AAA for similarly being self-serving and without plausible proof.²⁷

Hence, this appeal. Later, both parties filed their Manifestations (in lieu of their Supplemental Briefs), adopting their arguments in the Appellant's and Appellee's Briefs respectively filed before the CA.²⁸

Issue

The issue for this Court's resolution is whether the CA erred in convicting accused-appellant and finding him guilty beyond reasonable doubt of the crime of rape under Article 266-A of the RPC.

Our Ruling

The appeal is bereft of merit.

Article 266-A, paragraph 1 of the RPC, as amended, provides:

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:
 - a) Through force, threat, or intimidation;
 - b) When the offended party is deprived of reason or is otherwise unconscious;

²⁶ *Id.* at 8-9.

²⁷ *Id.*

²⁸ *Id.* at 21-27.

- c) By means of fraudulent machination or grave abuse of authority; and
- 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.

The prosecution was able to provide evidence of the aforementioned elements that sufficiently and succinctly supports the conclusion that accused-appellant is guilty beyond reasonable doubt of rape.

As correctly held by the CA, the argument of accused-appellant that the prosecution failed to prove the employment of force and intimidation cannot be countenanced. The Information properly charged accused-appellant with raping AAA by its express averment that carnal knowledge of AAA had been "against her will and consent."²⁹ The essence of rape is carnal knowledge of a female either against her will (through force or intimidation) or without her consent (where the female is deprived of reason or otherwise unconscious, or is under 12 years of age, or is demented).³⁰

Herein, accused-appellant committed rape against the victim, AAA, when he had carnal knowledge of her while she was deprived of reason or was otherwise unconscious, by reason of being intoxicated and being fast asleep when he violated her person.

Moreover, the identity of the accused as the malefactor is the prosecution's primary responsibility. Thus, in every criminal prosecution, the identity of the offender, like the crime itself, must be established by proof beyond reasonable doubt. Indeed, the first duty of the prosecution is not to prove the crime but to prove the identity of the perpetrator, for even if the commission of the crime can be established, there can be no conviction without proof of identity of the culprit beyond reasonable doubt.³¹

In the case at bench, the prosecution's evidence on the identity of accused-appellant as the offender is clear and unmistakable.

During trial, AAA positively identified accused-appellant as her perpetrator. AAA was able to point to the person of accused-appellant as the one who committed the felonious act against her in open court. AAA candidly narrated in detail that accused-appellant committed carnal knowledge of her by inserting his penis into her vagina when she was deprived of reason or was otherwise unconscious. Further, AAA testified that she was again able to confirm his identity following the rape, as when accused-appellant ran away

²⁹ *Id.* at 7.

³⁰ *Id.*

³¹ *Id.*

and went down the stairs, she saw his face clearly illuminated from the light of the neighbor's house.³²

As correctly held by the CA, the prosecution was able to show that AAA, as a result of being intoxicated, was unconscious in her sleep, when accused-appellant forced himself on her.³³ She testified that she slept soundly resulting from her having imbibed six shots of *Emperador* and had been woken only by the fact that the penis of the accused-appellant had already entered into her vagina.³⁴ Thus, AAA was incapable of giving her consent to sexual intercourse. Such showing competently established the rape charge as defined under paragraph 1, Article 266-A, RPC. Indeed, this Court has uniformly held in several rulings that carnal knowledge of a female while she was asleep constituted rape.³⁵

In addition, AAA's testimony was corroborated by the medical findings of PC/Insp. Dela Cruz, who testified that when she conducted an examination of the genitalia of AAA, she found the presence of a "deep healed laceration." She explained that "there had been a blunt penetrating trauma to the area in the vagina at least more than seventy-two (72) hours or three (3) days prior to the incident, which reached the base of the hymen or the entire thickness of the hymen." According to PC/Insp. Dela Cruz, such medical findings highly suggest that AAA was raped. It has been said that when the testimony of a rape survivor is consistent with the medical findings, there is sufficient basis to warrant a conclusion that the essential requisite of carnal knowledge has thereby been established. Hence, said testimony of PC/Insp. Dela Cruz strengthens the claim of rape by committed by accused-appellant against AAA.

Verily, accused-appellant's mere defense of denial must be rejected as the same cannot prevail over AAA's testimony, the positive identification of him as the perpetrator, and other corroborating evidence presented.

Accused-appellant likewise raised that AAA's testimony were inconsistent and thus created serious doubt as to the truthfulness of the crime charged. This Court is not persuaded.

Time and again, this Court has emphasized that the manner of assigning values to declarations of witnesses on the witness stand is best and most competently performed by the trial judge who has the unique and unmatched opportunity to observe the demeanor of witnesses and assess their

³² TSN, February 2, 2012, p. 11.

³³ *Id.* at 9.

³⁴ Records, pp. 143-144.

³⁵ *People v. Lupac*, 695 Phil. 505, 514 (2012).

credibility. In essence, when the question arises as to which of the conflicting versions of the prosecution and the defense is worthy of belief, the assessment of the trial court is generally given the highest degree of respect, if not finality. The assessment made by the trial court is even more enhanced when the CA affirms the same, as in this case.³⁶

Moreover, inconsistencies in the testimony of the witness with regard to minor or collateral matters do not diminish the value of the testimony in terms of truthfulness or weight. Courts expect minor inconsistencies when a child-victim narrates the details of a harrowing experience like rape. Such inconsistencies on minor details are in fact badges of truth, candidness, and the fact that the witness is unrehearsed. These discrepancies as to minor matters, irrelevant to the elements of the crime, cannot, thus, be considered a ground for acquittal.³⁷

Further, accused-appellant failed to present any corroborative witness or evidence that could have proved that the alleged rape was not rape at all but, rather, consensual sexual intercourse. Consensual sexual intercourse is an affirmative defense that needs convincing proof. Having admitted to carnal knowledge of the complainant, the burden then shifted to the accused-appellant to prove his defense by substantial evidence. Yet, in the instant case, other than his lone testimony, no evidence was presented by accused-appellant to support his defense that AAA indeed consented to the act except brazen inferences and conclusions attacking the credibility of AAA's testimony.

Notably, the accused-appellant's brief³⁸ posits that:

It can be inferred from the instant case that the imputation of rape against the accused-appellant is concocted. It is a mere ploy to hide AAA's infidelity to her boyfriend due to her abrupt sexual urges by reason of her intoxication, and to blame the accused-appellant for her possible and unwanted pregnancy because he did not withdraw his penis when he climaxed during their casual and consensual sexual congress.³⁹

It is of no moment whether accused-appellant and the victim were casual lovers, for the crucial element of the crime of rape is carnal knowledge without the other party's consent, as in this case.

To reiterate, during trial, it was proven by the prosecution that during the commission of the act, AAA was asleep after being intoxicated from consuming six shots of alcohol. During the rape of AAA, she managed to wake, turn and face her perpetrator and remove accused-appellant's elbow

³⁶ *People v. AAA*, G.R. No. 247007, March 18, 2021.

³⁷ *People of the Philippines v. Balbu y dela Rosa*, G.R. No. 246586, October 6, 2021 (Notice).

³⁸ *CA rollo*, pp. 27-49.

³⁹ *Id.* at 45.

covering his face to uncover his identity. Evidently, AAA was in a state of shock following the incident, resulting in her yelling that she was raped. This caused accused-appellant to hurriedly flee from the scene because he was afraid of her reaction. The facts at hand do not align with the defense's theory that the sexual intercourse between AAA and accused-appellant was consensual, further proving that accused-appellant's declarations are baseless, unwarranted, and self-serving, as earlier held by the lower courts.

It is pertinent to note that at the time the rape was committed by accused-appellant against the victim, the prosecution proved that AAA was only 16 years old in age. The fact that AAA was a minor remains undisputed.

Recently, in *People v. Tulagan*,⁴⁰ this Court has ruled:

Testimonies of child-victims are normally given full weight and credit, since when a girl, particularly if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape has in fact been committed. When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true. Youth and immaturity are generally badges of truth and sincerity. A young girl's revelation that she had been raped, coupled with her voluntary submission to medical examination and willingness to undergo public trial where she could be compelled to give out the details of an assault on her dignity, cannot be so easily dismissed as mere concoction.⁴¹

In conclusion, we agree with the CA that the prosecution was able to establish all of the elements of the crime charged through the credible testimony of AAA and other corroborating evidence.

In terms of the penalty to be imposed upon the accused, the RPC is instructive. The 1st paragraph of Article 266-B of the RPC states that rape by sexual intercourse shall be punished by *reclusion perpetua*.

Finally, as regards the amount of damages, this Court deems the award of the CA proper and in accordance with prevailing law. Jurisprudence has settled that an award of civil indemnity *ex delicto* is mandatory upon a finding of the fact of rape, while moral damages may be automatically awarded in rape cases without need of proof of mental and physical suffering.⁴² The award of exemplary damages is also proper to set a public example and to protect the young from sexual abuse.⁴³

⁴⁰ G.R. No. 227363, March 12, 2019, 896 SCRA 307.

⁴¹ *Id.* at 356, citing *People v. Garcia*, 695 Phil. 576, 588-589 (2012).

⁴² *People v. Novido*, G.R. No. 240229, June 17, 2020.

⁴³ *Id.*

Consequently, as this case warrants a conviction of simple rape, the applicable civil liabilities of the offender, pursuant to *People v. Jugueta*⁴⁴ and *People v. Tulagan*⁴⁵ are as follows: (i) civil indemnity of ₱75,000.00; (ii) moral damages of ₱75,000.00; and (iii) exemplary damages of ₱75,000.00.⁴⁶

FOR THESE REASONS, the instant appeal is **DISMISSED**. The Decision dated February 12, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 09226 is hereby **AFFIRMED**. Accused-appellant Ronald Boragay y Obias @ “Daying,” is found **GUILTY** beyond reasonable doubt of the crime of Rape under Article 266-A (1) in relation to Article 266-B of the Revised Penal Code and is **SENTENCED** to suffer the penalty of imprisonment of *reclusion perpetua*. Accused-appellant is **ORDERED** to **PAY** AAA ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, in accordance with prevailing jurisprudence.

In addition, thereto and in conformity with current policy, all damages awarded shall earn interest at the rate of six percent (6%) *per annum* from the finality of this Resolution until fully paid.

The period of time already served by the accused-appellant, while under detention at the Cainta Municipal Jail, Cainta, Rizal, shall be credited in his favor.

SO ORDERED.”

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court^{mm/s/lc}

15 MAY 2023

⁴⁴ 783 Phil. 806, 848 (2016).

⁴⁵ *Supra* note 40.

⁴⁶ *Id.*

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HON. PRESIDING JUDGE (reg)
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