



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **January 30, 2023**, which reads as follows:*

“G.R. No. 260525 – PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. NELSON CAWAS UBAS, Accused-Appellant.

On appeal is the August 20, 2021 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR No. 03686, which affirmed the November 19, 2019 Decision of the Regional Trial Court, Branch ■■■, ■■■, Cebu City (RTC) in Criminal Case No. OS-14-982, finding accused-appellant Nelson Cawas Ubas (Nelson) guilty of the crime of Rape.

The Facts

On September 8, 2014, an Information² for Rape under Article 266-A of the Revised Penal Code (RPC), as amended, was filed against Nelson, the accusatory portion of which reads:

That on the 7th day of September 2014, at around 2:00 o’clock in the morning, more or less at Barangay ■■■, Province of ■■■, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and with force and intimidation, did then and there willfully, unlawfully and feloniously lie and succeed in having carnal knowledge with one AAA*, against her will and without her consent.

* In line with Amended Administrative Circular No. 83-2015, as mandated by the Revised Penal Code, Article 266-A, the names of the offended parties, along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.

¹ *Rollo*, pp. 9-23. Penned by Associate Justice Pamela Ann Abella Maxino, and concurred in by Associate Justices Lorenzo Redulla Bordios and Nancy C. Rivas-Palmones.

² *Id.* at 10.

CONTRARY TO LAW.³

At the arraignment, Nelson pleaded not guilty to the charge. Thereafter, trial ensued.

The Version of the Prosecution

The prosecution alleged that on September 7, 2014 at around 2:00 a.m., AAA was sleeping in her house with her daughter beside her. AAA's son was sleeping in another room, while her husband was working on board a ship at the time.⁴

AAA was awakened by Nelson, who held a knife against her neck. Nelson covered AAA's mouth, pulled her down, and let her lean against the wall. When Nelson removed his face covering to kiss AAA, she recognized him as the construction worker at the construction site beside her house.⁵

Nelson ordered AAA to undress and to keep quiet. Fearing for her life and that of her daughter's, AAA complied. While AAA was leaning against the wall, Nelson tried inserting his penis inside her vagina, but failed to do so. Thus, Nelson forced AAA to lie on the floor, where he succeeded to penetrate AAA's vagina by making a push and pull movement. Thereafter, Nelson left.⁶

AAA informed her neighbors about the incident, and the same was reported to the *Barangay Tanod* and the police. PO3 Sepjanrey Roda (**PO3 Roda**) and PO1 Sergeberth Hiramis (**PO1 Sergeberth**) and PO1 Jason John Hiramis (**PO1 Hiramis**) proceeded to AAA's house where they were informed that the latter was raped by Nelson. The police officers asked AAA if she knew where Nelson lived, and with the help of their neighbors, AAA and the police officers proceeded to Nelson's residence in [REDACTED], Cebu, where PO1 Roda saw him visibly intoxicated. AAA pointed to Nelson and identified him as her rapist. Thereafter, PO1 Roda approached Nelson, introduced himself as a police officer, and informed him that a complaint for rape has been filed against him. PO1 Roda then arrested Nelson and brought him to the police station.⁷

³ *Id.* at 25.

⁴ *Id.* at 12.

⁵ *Id.*

⁶ *Id.* at 11-12.

⁷ *Id.* at 12-13.

AAA was examined at the Vicente Sotto Medical Center, where it was found that no evident injuries were observed at the time of her examination, and no spermatozoa was detected. The doctor stated that the “initial findings are consistent of a parous woman but medical evaluation cannot exclude sexual abuse.”⁸

The Version of the Defense

For the defense, Nelson presented the Judicial Affidavits of BBB and CCC, who both stated that Nelson was extremely intoxicated during the night of September 6, 2014. Nelson also alleged inconsistencies in AAA’s testimony regarding her position when she was penetrated, and whether she already knew his identity at the time of the incident.

The Ruling of the RTC

In a Decision dated November 19, 2019, the RTC found Nelson guilty beyond reasonable doubt of the crime of rape:

WHEREFORE, foregoing considered, judgment is hereby rendered finding accused NELSON CAWAS UBAS **GUILTY** beyond reasonable doubt of the crime of RAPE and hereby imposes upon him the penalty of imprisonment of indeterminate penalty of thirteen (13) years, nine (9) months and eleven (11) days of *reclusion temporal*, as minimum, to sixteen (16) years, five (5) months and ten (10) days of *reclusion temporal*, as maximum, and to pay moral damages in the sum of Php 45,000.00, fine in the total amount of Php 45,000.00, civil indemnity in the total amount of Php 60,000.00 and exemplary damages in the sum of Php 60,000.

Let a mitimus be issued transferring his detention to Leyte Regional Prisons in Abuyog, Leyte.⁹ (Emphasis in the original)

In convicting Nelson, the RTC found that the prosecution witnesses sufficiently proved that the latter had carnal knowledge of AAA with the use of force and intimidation. The RTC gave credence to AAA’s positive testimony pointing to Nelson as the person responsible for her rape.¹⁰

Moreover, the RTC disagreed with the defense that the testimony of AAA was marred by inconsistencies. The RTC held that the credibility of a

⁸ *Id.* at 14.

⁹ *Id.* at 30.

¹⁰ *Id.* at 27.

rape victim cannot be diminished or impaired by minor inconsistencies in her testimony, as the same are inconsequential when they refer to minor details that do not pertain to the essential elements of the crime.¹¹

The RTC likewise held that the absence of spermatozoa is not material in the prosecution of rape, since the slightest penetration of the labia of the vagina is the gravamen of rape.¹²

Finally, the RTC ruled that Nelson's defense of denial cannot prevail over the testimonies of the credible witnesses of the prosecution.¹³

The Ruling of the CA

In a Decision¹⁴ dated August 20, 2021, the CA affirmed the conviction of Nelson, with modification as to the penalty and award of damages:

IN LIGHT OF ALL THE FOREGOING, the present appeal is DISMISSED. The Judgment dated November 19, 2019 of the Regional Trial Court, Branch ■, ■■■■■, Cebu, in Criminal Case No. OS-14-982, entitled "*People of the Philippines v. Nelson Cawas Ubas*," is AFFIRMED with MODIFICATION as to the penalty and award of damages.

Accused-Appellant Nelson Cawas Ubas is found GUILTY beyond reasonable doubt for the crime of rape, defined and penalized under Article 266-A of the Revised Penal Code. He is sentenced to suffer the penalty of *RECLUSION PERPETUA*. He is ordered to pay the victim the amount of SEVENTY-FIVE THOUSAND PESOS (Php 75,000.00) as civil indemnity the amount of SEVENTY-FIVE THOUSAND PESOS (Php 75,000.00) as exemplary damages, plus interest thereon at 6% per annum from finality of judgment until fully paid.

SO ORDERED.¹⁵

In affirming Nelson's conviction, the CA held that the testimonies of the prosecution witnesses clearly established beyond any reasonable doubt that Nelson had carnal knowledge of AAA through force and intimidation.

¹¹ *Id.*

¹² *Id.* at 28.

¹³ *Id.*

¹⁴ *Id.* at 9-23.

¹⁵ *Id.* at 23.

In addition, the CA held that the supposed inconsistencies between AAA's affidavit and testimony do not diminish the credibility of the same. The CA noted that if there is an inconsistency between the affidavit and the testimony of a witness, the latter should be given more weight since affidavits taken *ex parte* are usually incomplete and inaccurate.

The Issue

Is Nelson guilty of the crime of rape?

The Ruling of the Court

The Court sustains Nelson's conviction.

Nelson was correctly convicted of the crime charged. Article 266-A of the Revised Penal Code provides:

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;
 - b. When the offended party is deprived of reason or otherwise unconscious;
 - c. By means of fraudulent machinations or grave abuse of authority;
 - 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.
- 2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

In this case, the CA and the RTC correctly appreciated the testimony of AAA that on September 7, 2014, Nelson forcibly inserted his penis in her vagina, which she could not resist because he pointed a knife at her neck.

On the other hand, Nelson merely invoked the defense of denial. As to the argument of Nelson that AAA's testimony is inconsistent with her affidavit, the same is bereft of merit.

The alleged inconsistencies claimed by Nelson are minor inconsistencies in AAA's narration of facts which do not detract from her credibility. Rather, the minor inconsistencies enhance credibility as they manifest spontaneity and lack of scheming.¹⁶ Also, the court testimony prevails over the statements in the affidavit.

It is an established rule that rape may be proven by the sole uncorroborated testimony of the victim, provided that the testimony is clear, positive, and probable.¹⁷ In this case, great weight should be given to the RTC's observations regarding AAA's behavior while testifying:

Until the very end, AAA remained steadfast and unyielding throughout the direct and cross-examination that she was ravished and she positively identified the accused as her assailant. Notably, AAA could not contain her emotions and cried profusely in open court at certain points during her testimony. To echo human nature, the spontaneous and profuse expressions of lamentations by a victim in the course of recounting her heart-rendering experience is cogent evidence that speaks well of her credibility.¹⁸

It is well-settled that trial judges enjoy the advantages of observing the witness' behavior and manner of testifying. Thus, trial judges can better determine if such witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies. This rule finds an even more stringent application where the said findings are sustained by the CA.¹⁹

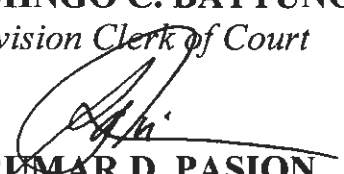
WHEREFORE, the appeal is **DISMISSED**. The Decision of the Court of Appeals, in CA-G.R. CR No. 03686, dated August 20, 2021, is **AFFIRMED**.

SO ORDERED."

By authority of the Court:

MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court

By:


RUMAR D. PASION
Deputy Division Clerk of Court

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¹⁶ *People v. Camat*, 692 Phil. 55, 74-75 (2012).

¹⁷ *People v. Barberan, et al.*, 788 Phil. 103, 109 (2016).

¹⁸ *Rollo*, p. 29.

¹⁹ *People v. Aguilar*, 540 SCRA, 509, 523 (2007).

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/s/

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