



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Baguio City

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **January 11, 2023** which reads as follows:*

**“G.R. No. 259740 (*People of the Philippines, plaintiff-appellee v. XXX259740, accused-appellant*)** — This appeal<sup>1</sup> seeks to reverse and set aside the Decision<sup>2</sup> dated December 15, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 02016-MIN finding appellant XXX259740 guilty of three counts of rape under Article 266-A in relation to 266-B of the Revised Penal Code, as amended.<sup>3</sup>

**Antecedents**

Appellant was charged with three counts of rape under Article 266-A in relation to 266-B of the Revised Penal Code, as amended by Republic Act No. 8353,<sup>4</sup> viz.:

**CRIMINAL CASE NO. 03-2017 NWB/FC**

That on or about 8:00 o'clock in the evening of July 25, 2017, in the [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who is the stepfather of the victim, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously succeed in having carnal knowledge with [AAA259740],<sup>5</sup> a seventeen (17) year old-minor, against her will, to the damage and prejudice of the offended party.

<sup>1</sup> *Rollo*, pp. 5-6.

<sup>2</sup> Penned by Associate Justice Lily V. Biton and concurred in by Associate Justices Oscar V. Badelles and Richard D. Mordeno; *rollo*, pp. 10-26.

<sup>3</sup> The Anti-Rape Law of 1997.

<sup>4</sup> The Anti-Rape Law of 1997.

<sup>5</sup> *People v. Manjares*, G.R. No. 185844, November 23, 2011, decreed: “In line with Section 29 of Republic Act No. 7610, Section 44 of Republic Act No. 9262, and Section 40 of AC 83-2015, 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. For purposes of discussion, the private offended party and her immediate family members shall be referred to using initials. See also *People v. Cabalquinto* (G.R. No. 157693, September 19, 2006, 502 SCRA 419) and *People v. Guillermo* (G.R. No. 173787, April 23, 2007, 521 SCRA 597).”

CONTRARY TO LAW.<sup>6</sup>

**CRIMINAL CASE NO. 04-2017 NWB/FC**

That on or about 10:00 o'clock in the evening of July 25, 2017, in the [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who is the stepfather of the victim, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously succeed in having carnal knowledge with [AAA259740], a seventeen (17) year old-minor, against her will, to the damage and prejudice of the offended party.

CONTRARY TO LAW.<sup>7</sup>

**CRIMINAL CASE NO. 05-2017 NWB/FC**

That on or about July 26, 2017, in the [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, who is the stepfather of the victim, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously succeed in having carnal knowledge with [AAA259740], a seventeen (17) year old-minor, against her will, to the damage and prejudice of the offended party.

CONTRARY TO LAW.<sup>8</sup>

On arraignment, appellant pleaded "not guilty" to all charges.<sup>9</sup>

Complainant AAA259740 testified for the prosecution while appellant XXX259740 testified for the defense.<sup>10</sup>

***Version of the Prosecution***

Seventeen (17) year old AAA259740 testified that her mother is an Overseas Filipino Worker (OFW) in Qatar while her biological father resides in [REDACTED] City. She lives with her stepfather appellant XXX259740 together with her siblings. On July 25, 2017, at around 7 o'clock in the evening, she was home and was about to sleep when appellant entered the room and offered her a massage because she was then feeling ill. She refused and instead moved to where her siblings were sleeping. Appellant then laid beside her.<sup>11</sup>

<sup>6</sup> *Rollo*, p. 11.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 12.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 30.

<sup>11</sup> *Id.* at 12.

After a while, she was awakened when she felt someone touching her vagina. When she saw it was appellant, she froze in shock and fear. But when he continued touching her, she started to resist. He then slapped and threatened her.<sup>12</sup> He later kissed her lips, touched her breast, and pulled her left nipple. He also removed his and her clothes, spread her thighs, and placed her legs on top of his shoulders.<sup>13</sup>

He inserted his penis into her vagina and made a push and pull movement. At that point, she felt pain but could not do anything but cry. He slept beside her afterwards.<sup>14</sup>

By 10 o'clock in the evening of the same day, he did the same thing to her for the second time and once again at 3 o'clock in the morning the following day.<sup>15</sup>

In the morning of July 26, 2017, she went to school and told her teacher about the bestial acts that appellant did to her. Consequently, she was brought to the [REDACTED] Municipal Police Station where her statement was taken. She was later on brought to the [REDACTED] Regional Medical Center for medical examination.<sup>16</sup>

Per Medical Certificate, Dr. Krishan Quico found AAA259740 to have suffered hymenal laceration at the 2 o'clock position.<sup>17</sup>

### *Version of the Defense*

Appellant interposed denial. He testified that on July 25, 2017, AAA259740 was suffering from an asthma attack so she asked him to massage her, which he heeded. He did not rape AAA259740 and her accusations were merely fabricated. She harbored ill feelings against him for not giving her enough attention as his stepdaughter.<sup>18</sup>

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

The trial court found appellant guilty of three counts of rape under Article 266-A of the Revised Penal Code and sentenced him to *reclusion perpetua* for each count. He was also ordered to pay AAA259740 Php75,000.00 as civil indemnity, Php75,000.00 as moral damages, and

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

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

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

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

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 13-11.

Php30,000.00 as exemplary damages for each count, as well as 6% interest *per annum* on all monetary awards.<sup>19</sup>

The trial court gave full weight and credence to the testimony of AAA259740. It held that her detailed narration of the events coupled with her positive identification of appellant as the culprit established his guilt beyond reasonable doubt. More, the fact that the rape incidents were committed inside the same room where AAA259740's siblings were sleeping did not negate the fact that AAA259740 was indeed ravished by appellant three times on July 25 and 26, 2017, respectively because rape is no respecter of time and place. Finally, it was not shown that AAA259740 was compelled by any ill-motive to falsely testify against appellant.<sup>20</sup>

The trial court, however, downgraded the crime from qualified rape<sup>21</sup> to rape. While AAA259740's minority was established, her relationship with appellant as her stepfather was not.

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

Under its assailed Decision<sup>22</sup> dated December 15, 2020, the Court of Appeals affirmed with modification as to the amount of exemplary damages.

The Court of Appeals, in accordance with prevailing jurisprudence, increased the amount of exemplary damages from Php30,000.00 to Php75,000.00.<sup>23</sup>

### **The Present Appeal**

Appellant now seeks affirmative relief from the Court and prays anew for his acquittal. In accordance with the Court's Resolution<sup>24</sup> dated July 6, 2022, both appellant<sup>25</sup> and the Office of the Solicitor General<sup>26</sup> manifested that in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.

<sup>19</sup> Penned by Presiding Judge Carmel Gil Grado; *id.* at 29-36.

<sup>20</sup> *Id.* at 74-76.

<sup>21</sup> The elements of qualified rape relevant are as follows: (i) carnal knowledge or sexual congress; (ii) with a woman; (iii) done by force and without consent; (iv) the victim is under eighteen (18) years of age at the time of the rape; and (v) the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim.

<sup>22</sup> Penned by Associate Justice Lily V. Biton and concurred in by Associate Justices Oscar V. Badelles and Richard D. Mordeno. *rollo*, pp. 10-26.

<sup>23</sup> *Id.* at 10-26.

<sup>24</sup> *Id.* at 38-39.

<sup>25</sup> *Id.* at 44-46.

<sup>26</sup> *Id.* at 40-43.

### Ruling

The Appeal must fail.

Under Article 266-A(1) of the Revised Penal Code, as amended by Republic Act No. 8353, rape requires the following elements:

- (1) the offender had carnal knowledge of a woman; and
- (2) the offender accomplished such act through force, threat, or intimidation.<sup>27</sup>

Here, the prosecution had sufficiently established appellant's guilt for the crimes charged through the straightforward testimony of the survivor herself. She categorically testified that on July 25, 2017, around 7 o'clock in the evening, she was sleeping beside her siblings when she was awakened by someone touching her vagina. When she saw it was appellant, she froze in shock and fear. But when appellant continued touching her, she started to resist. Appellant, however, slapped and threatened her.<sup>28</sup> He later kissed her on her lips, touched her breast and pulled on her left nipple. Thereafter, appellant had carnal knowledge of her.<sup>29</sup>

At 10 o'clock in the evening of the same day, appellant again ravished AAA259740 and another one at 3 o'clock in the morning of the following day.

The minority of the survivor and his or her relationship with the offender should both be alleged in the Information and proven beyond reasonable doubt during trial in order to qualify the rape charge as these circumstances have the effect of altering the nature of rape and its corresponding penalty. Otherwise, the death penalty cannot be imposed to the offender.<sup>30</sup>

As for AAA259740's minority, her age was properly alleged and had been sufficiently established by the prosecution during trial. The presentation of AAA259740's Certificate of Live Birth shows that she was less than 18 years old when the three rape incidents were committed against her by appellant.

As for relationship, the trial court correctly reduced the crime from qualified rape to rape.

<sup>27</sup> See *People v. XXX*, G.R. No. 232308, October 7, 2020.

<sup>28</sup> *Rollo*, p. 12.

<sup>29</sup> *Id.* at 13.

<sup>30</sup> *People v. Sariago*, 781 Phil. 659, 669 (2016).

In *People v. Begino*,<sup>31</sup> the Court held that qualifying circumstances must be properly pleaded in the indictment. If the same are not pleaded but proved, they shall be considered only as aggravating circumstances since the latter admit of proof even if not pleaded. It would be a denial of the right of the accused to be informed of the charges against him and consequently, a denial of due process, if he is charged with rape and be convicted of its qualified form, although the attendant circumstance qualifying the offense and resulting in the capital punishment was not alleged in the indictment on which he was arraigned.

The stepdaughter-stepfather relationship between AAA259740 and appellant as alleged in the Informations was not proven. A “stepfather” is the husband of one’s mother by virtue of a marriage subsequent to that of which the person spoken of is the offspring. It presupposes a legitimate relationship between appellant and the victim’s mother.

No evidence was adduced by the prosecution to prove the fact that appellant and AAA259740’s mother were legally married. At most, appellant is considered as the common-law spouse of AAA259740’s mother in the absence of proof of their marriage. Corollary thereto, the relationship of appellant as the common-law spouse of AAA259740’s mother cannot be appreciated to qualify the three counts of rape indicted against appellant as the same was not alleged in the Informations.

For failure of the prosecution to prove the relationship of AAA259740 and the appellant herein, he cannot be held liable for rape in its qualified form. The trial court, therefore, is correct in convicting him of three counts of rape which were duly proven during the trial.

### ***Penalty***

Article 266-B of the Revised Penal Code provides that rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*. Considering that the relationship of appellant as the stepfather of AAA259740 was not adequately proven, the trial court properly imposed the penalty of *reclusion perpetua* against appellant.

As for damages, in accordance of prevailing jurisprudence, the Court of Appeals correctly awarded in each case Php75,000.00 as civil indemnity, Php75,000.00 moral damages, and Php75,000.00 exemplary damages for each count. Too, applying *People v. Juguetta*,<sup>32</sup> six percent (6%) interest per annum on the total monetary award must be imposed from finality of this Resolution until fully paid.

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<sup>31</sup> 601 Phil. 182, 191 (2009).

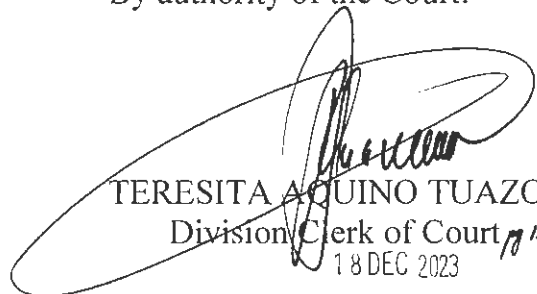
<sup>32</sup> 783 Phil. 806, 846 (2016).

**FOR THESE REASONS**, the appeal is **DISMISSED**. The Decision dated December 15, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 02016-MIN is **AFFIRMED**.

1. In Criminal Case No. **03-2017 NWB/FC**, appellant **XXX259740** is found **GUILTY of RAPE** and sentenced to *reclusion perpetua*. He is ordered to **PAY** Php75,000.00 as civil indemnity, Php75,000.00 as moral damages, and Php75,000.00 as exemplary damages. This amount shall earn six percent (6%) interest per annum from finality of this Resolution until fully paid.
2. In Criminal Case No. **04-2017 NWB/FC**, appellant **XXX259740** is found **GUILTY of RAPE** and sentenced to *reclusion perpetua*. He is ordered to **PAY** Php75,000.00 as civil indemnity, Php75,000.00 as moral damages, and Php75,000.00 as exemplary damages. This amount shall earn six percent (6%) interest per annum from finality of this Resolution until fully paid.
3. In Criminal Case No. **05-2017 NWB/FC**, appellant **XXX259740** is found **GUILTY of RAPE** and sentenced to *reclusion perpetua*. He is ordered to **PAY** Php75,000.00 as civil indemnity, Php75,000.00 as moral damages, and Php75,000.00 as exemplary damages. This amount shall earn six percent (6%) interest per annum from finality of this Resolution until fully paid.

**SO ORDERED.”**

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court *12/18*  
18 DEC 2023

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XXX259740 (reg)  
Prison No. D218P-0549  
Accused-Appellant  
c/o The Superintendent  
Davao Prison and Penal Farm  
B.E. Dujali, 8105 Davao del Norte

THE SUPERINTENDENT (reg)  
Davao Prison and Penal Farm  
B.E. Dujali, 8105 Davao del Norte

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 56  
██████████, Compostela Valley  
(Crim. Case Nos. 03-2017 NWB/FC, 04-2017 NWB/FC &  
05-2017 NWB/FC)

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Supreme Court, Manila

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*Please notify the Court of any change in your address.*  
GR259740. 01/11/2023(486)URES(m) *1/11/23*