Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee,	**G.R. No. 213216**
	Present:
- versus -	SERENO, *C.J.*, Chairperson, LEONARDO-DE CASTRO, BERSAMIN, PEREZ, and PERLAS-BERNABE, *JJ.*
RICKY ARGUTA alias "JOEL" and WILSON CAHIPE alias "SIWIT," Accused-Appellants.	Promulgated: APR 20 2015

x----------x

D E C I S I O N

PERLAS-BERNABE, *J.*:

Before the Court is an ordinary appeal[1] filed by accused-appellants Ricky Arguta alias "Joel" (Arguta) and Wilson Cahipe alias "Siwit" (Cahipe; collectively, accused-appellants) assailing the Decision[2] dated April 24, 2014 of the Court of Appeals (CA) in CA-G.R. CEB-CR HC No. 01462, which affirmed with modification the Decision[3] dated July 25, 2008 of the Regional Trial Court of Tacloban City, Branch 6 (RTC) in Crim. Case Nos. 97-02-76 and 97-02-77 finding accused-appellants guilty beyond reasonable doubt of one (1) count of Rape, defined and penalized under the Revised Penal Code (RPC), as amended.

---

1 See Notice of Appeal dated May 12, 2014; *rollo*, pp. 12-14.

2 Id. at 4-11. Penned by Associate Justice Ramon Paul L. Hernando with Associate Justices Ma. Luisa C. Quijano-Padilla and Marie Christine Azcarraga-Jacob concurring.

3 CA *rollo*, pp. 43-52. Penned by Judge Santos T. Gil.

The Facts

On January 30, 1997 two (2) criminal informations were filed before the RTC charging Cahipe with two (2) counts of Rape, and Arguta of one (1) count of the same crime, *viz.*:

Crim. Case No. 97-02-76

> That on or about the 5th day of December 1996 in the Municipality of Tanauan, Province of Leyte, Philippines and within the Jurisdiction of this Honorable Court, the above-named [accused-appellants], conspiring, confederating and mutually helping each other, motivated by lewd design, with the use of a bladed weapon, by means of force and intimidation, did then and there willfully, unlawfully and feloniously, have carnal knowledge of [AAA],[4] without her consent and against her will.
>
> Contrary to Law.
>
> Tacloban City, January 30, 1997.

Crim. Case No. 97-02-77

> That on or about the 5th day of December 1996, in the Municipality of Tanauan, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused [Cahipe], motivated by lewd design, by means of force and intimidation, did then and there willfully, unlawfully and feloniously, have carnal knowledge of [AAA], without her consent and against her will.
>
> Contrary to Law.
>
> Tacloban City, January 30, 1997.[5]

According to the prosecution, at around 8 o'clock[6] in the evening of December 5, 1996, AAA was instructed by her father to fetch her sister in school. However, AAA failed to find her sister and decided to go back home. On her way home, accused-appellants intercepted AAA, threatened her with a bladed weapon, dragged her to a cottage at a nearby beach resort, and bound her hands and feet. Thereafter, they removed her clothes and placed her on the floor. Arguta then mounted AAA and inserted his penis into her vagina. After Arguta satisfied his lust, Cahipe took over and raped her. Thereafter, accused-appellants left AAA at the cottage. An hour later,

---

4 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. (RA) 7610, entitled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES," approved June 17, 1992; RA 9262, entitled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE, AND FOR OTHER PURPOSES," approved March 8, 2004; 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. (See *People v. Cadano*, G.R. No. 207819, March 12, 2014; citations omitted).

5 See CA *rollo*, pp. 43-44. See also *rollo*, p. 5.

6 "7 o'clock" in the RTC Decision; CA *rollo*, p. 45.

Cahipe returned and dragged AAA to a store owned by a certain Lino Ostero[7] (Ostero). There Cahipe undressed her again, mounted her, and inserted his penis into her vagina. Afterwards, AAA was returned to the cottage. The next day, AAA's father found her crying at the cottage.[8]

Further, the prosecution offered the findings of the physical examination by a certain Dr. Eilleen Colaba on AAA, stating, *inter alia*, that: (*a*) AAA's genitalia was grossly normal, which means no abnormality; (*b*) AAA has complete healed hymenal lacerations at the 5 o'clock and 7 o'clock positions and a partially healed hymenal laceration at the 12 o'clock position; and (*c*) AAA's genitalia is negative for the presence of spermatozoa.[9]

In their defense, accused-appellants both denied the accusations leveled against them, and offered their respective alibis. Cahipe claimed that on the date and time of the alleged incident he was minding Ostero's store. On the other hand, Arguta averred that he was at Ostero's house watching television during the time that the incident supposedly occurred. They both asserted that they did not know why AAA would accuse them of raping her.[10]

The RTC Ruling

In a Decision[11] dated July 25, 2008, the RTC found accused-appellants guilty beyond reasonable doubt of the crime of Simple Rape in Crim. Case No. 97-02-76 and, accordingly, sentenced them to suffer the penalty of *reclusion perpetua* and ordered them to pay AAA, jointly and severally, the amounts of ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages. Further, the RTC found Cahipe not guilty of the crime of Rape in Crim. Case No. 97-02-77 and, accordingly, acquitted him due to insufficiency of evidence.[12]

In finding the guilt of accused-appellants, the RTC held that AAA's testimony, as well as the medico-legal report, established that on December 5, 1996, accused-appellants intercepted AAA, threatened her with a bladed weapon, dragged her to a nearby cottage, undressed her, bound her, and took turns raping her. The RTC did not lend credence to accused-appellants' defense of denial and alibi, in light of the positive assertions made by AAA, and considering that it was not physically impossible for them to have been at the place of the crime on the date of the incident.[13]

---

7 "Austero" in some parts of the records.
8 *Rollo*, pp. 5-6. See also CA *rollo*, p. 45.
9 CA *rollo*, pp. 45-46.
10 *Rollo*, p. 6.
11 CA *rollo*, pp. 43-52.
12 Id. at 52.
13 See id. at 49-51.

However, as regards the second count of Rape against Cahipe, the RTC opined that it would be unusual for AAA, who had just been raped and left alone in the cottage, to not attempt to escape or shout for help when she was being transported to Ostero's store and back to the cottage, observing that AAA had to pass Ostero's house before reaching the latter's store. According to the RTC, these pose serious doubts as to the existence of the second rape charge, thus, necessitating its dismissal.[14]

Dissatisfied, accused-appellants appealed their conviction to the CA.

The CA Ruling

In a Decision[15] dated April 24, 2014, the CA affirmed accused-appellants' conviction with modification ordering the accused-appellants to jointly and severally pay AAA the amount of ₱30,000.00 as exemplary damages, in addition to the other amounts already awarded, and imposed interest at the rate of six percent (6%) per annum on all the monetary awards from the date of finality of its Decision until fully paid.[16]

Agreeing with the RTC's findings, the CA ruled that AAA's categorical and straightforward testimony prevailed over accused-appellants' denial and alibi. It observed that accused-appellants were in the vicinity of the *locus criminis* at the time of the incident, and that the two could easily reach the cottage where the rape occurred.[17] Thus, it concluded that accused-appellants' actions fell squarely within the definition of Rape under Article 266-A of the RPC, noting that accused-appellants had carnal knowledge of AAA, and such was attained through force, threat, or intimidation.[18]

Aggrieved, accused-appellants filed the instant appeal.

The Issue Before the Court

The issue for the Court's resolution is whether accused-appellants' conviction for Rape should be upheld.

The Court's Ruling

The appeal is bereft of merit.

---

14 See id. at 51.
15 *Rollo*, pp. 4-11.
16 Id. at 10.
17 Id. at 8-9.
18 Id. at 9-10.

At the outset, it must be stressed that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors.[19] The appeal confers upon the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, **increase the penalty**, and cite the proper provision of the penal law.[20] Proceeding from the foregoing, the Court deems it appropriate to modify accused-appellants' conviction from Simple Rape to Qualified Rape, as will be explained hereunder.

In this case, the Court notes that the rape occurred during the effectivity of the old rape provision of the RPC, *i.e.*, Article 335,[21] and, thus, the latter provision is controlling in this case, to wit:

> Art. 335. *When and how rape is committed.* – Rape is committed by having carnal knowledge of a woman under any of the following circumstances:
>
> 1. By using force or intimidation;
> 2. When the woman is deprived of reason or otherwise unconscious; and
> 3. When the woman is under twelve years of age or is demented.
>
> The crime of rape shall be punished by *reclusion perpetua.*
>
> **Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death**.
>
> x x x x (Emphasis and underscoring supplied)

Under this provision, the elements of Rape are: (*a*) the offender had carnal knowledge of the victim; and (*b*) said carnal knowledge was accomplished through the use of force or intimidation; or the victim was deprived of reason or otherwise unconscious; or when the victim was under twelve (12) years of age or demented.[22] The provision also states that if the act is committed either with the use of a deadly weapon or by two (2) or more persons, the crime will be Qualified Rape, necessitating the imposition of a higher penalty.[23] In *People v. Lamberte*,[24] the Court clarified the legal effect of the presence of both circumstances, as follows:

---

19 *Luz v. People*, G.R. No. 197788, February 29, 2012, 667 SCRA 421, 428.

20 *Eusebio-Calderon v. People*, 484 Phil. 87, 98 (2004).

21 At the time the informations were filed before the RTC, or on January 30, 1997, RA 8353, 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, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES," was not yet in effect as it was only passed on September 30, 1997.

22 See *People v. Viojela*, G.R. No. 177140, October 17, 2012, 684 SCRA 241, 250.

23 Note that the same clause is reproduced *in toto* in Article 266-B of the RPC, as amended by RA 8353, otherwise known as "The Anti-Rape Law of 1997" and, thus, such circumstances still qualify the rape under the new rape law.

> The presence of either circumstance – "use of a deadly weapon" or "by two or more persons" – qualifies the crime. **If one is present, the remaining circumstance, if also attendant, is not a generic aggravating circumstance**. That was our ruling in *People vs. Garcia*, [192 Phil. 311, 342] (1981) reading:
>
> > In the prosecution of the cases at bar, two circumstances are present, namely. 1. use of a deadly weapon and 2. that two persons committed the rapes. The first was alleged in the information while the second was proved during trial. In both cases, the Court appreciated the first as a qualifying circumstance and the second as a generic aggravating circumstance, in accordance with settled jurisprudence according to the trial court.
> >
> > We do not agree. **Under the law above quoted, either circumstance is qualifying. When the two circumstances are present, there is no legal basis to consider the remaining circumstance as a generic aggravating circumstance for either is not considered as such under Article 14 of the Revised Penal Code enumerating what are aggravating circumstances**. Hence, the correct penalty is the lesser penalty, which is *reclusion perpetua*, there being no aggravating or mitigating circumstance, pursuant to Article 63, paragraph 2, No. 2, Revised Penal Code.[25] (Emphases and underscoring supplied)

In this case, records reveal that accused-appellants threatened AAA with a bladed instrument and tied her up before having carnal knowledge of her without her consent. Jurisprudence holds that force or intimidation, as an element of Rape, need not be irresistible; as long as the assailant's objective is accomplished, any question of whether the force employed was irresistible or not becomes irrelevant. Intimidation must be viewed from the lens of the victim's perception and judgment and it is enough that the victim fears that something will happen to her should she resist her assailant's advances.[26] In this regard, case law provides that the act of holding a bladed instrument, by itself, is strongly suggestive of force or, at least, intimidation, and threatening the victim with the same is sufficient to bring her into submission.[27]

In view of the foregoing, the Court finds no reason to deviate from the findings of fact made by the courts *a quo* that accused-appellants are guilty as charged, *i.e.*, of raping AAA with the use of a deadly weapon, as the same are supported by the records. It must be noted that the assessment and findings of the trial court are generally accorded great weight, and are conclusive and binding to the Court if not tainted with arbitrariness or

---

24 226 Phil. 581 (1986).

25 Id. at 590.

26 See *People v. Frias*, G.R. No. 203068, September 18, 2013, 706 SCRA 156, 165, citing *People v. Bayani*, 331 Phil. 169, 193 (1996).

27 See id. at 166.

oversight of some fact or circumstance of weight and influence,[28] as in this case. Nevertheless, considering that the crime was committed by two (2) persons, the accused-appellants herein, with the use of a bladed weapon, it is only appropriate to increase their conviction from Simple Rape to Qualified Rape.

Anent the proper penalty to be imposed, Section 3 of Republic Act No. 9346 [29] provides that "[p]ersons convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended." Pursuant thereto, accused-appellants should be sentenced with the penalty of ***reclusion perpetua*, without eligibility for parole**.[30]

Finally, to conform with prevailing jurisprudence, the Court increases the award of damages in favor of AAA to the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages, with six percent (6%) legal interest per annum on all the monetary awards from the date of finality of judgment until fully paid.[31]

WHEREFORE, the appeal is **DENIED**. The Decision dated April 24, 2014 of the Court of Appeals in CA-G.R. CEB-CR HC No. 01462 is hereby **AFFIRMED**, finding accused-appellants Ricky Arguta alias "Joel" and Wilson Cahipe alias "Siwit" (accused-appellants) **GUILTY** beyond reasonable doubt of the crime of Qualified Rape as defined and penalized under Article 335 of the Revised Penal Code with **MODIFICATION** sentencing accused-appellants to suffer the penalty of *reclusion perpetua*, without eligibility for parole, and ordering them to jointly and severally pay AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages, with legal interest at the rate of six percent (6%) per annum on all the monetary awards from the date of finality of this Decision until fully paid.

SO ORDERED.

ESTELA M. PERLAS-BERNABE
Associate Justice

---

28 See *People v. Manalili*, G.R. No. 191253, August 28, 2013, 704 SCRA 305, 315-316. See also *People v. Baculanta*, G.R. No. 207513, June 16, 2014.

29 Entitled "AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES," approved June 24, 2006.

30 See *People v. Gani*, G.R. No. 195523, June 5, 2013, 697 SCRA 530, 540.

31 See *People v. Traigo*, G.R. No. 199096, June 2, 2014, citing *People v. Amistoso*, G.R. No. 201447, January 9, 2013, 688 SCRA 376, 395.

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice