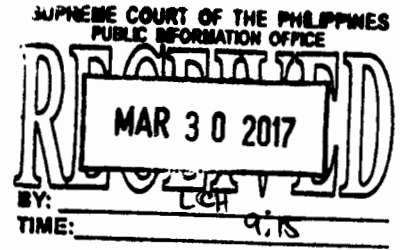




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 213390

Present:

- versus -

SERENO, *C.J., Chairperson,*
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 PERLAS-BERNABE, *and*
 CAGUIOA, *JJ.*

JESSIE GABRIEL y GAJARDO,
Accused-Appellant.

Promulgated:
MAR 15 2017

X-----X

RESOLUTION

DEL CASTILLO, J.:

This is an appeal from the March 25, 2014 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05147 which affirmed with modification the July 19, 2011 Decision² of the Regional Trial Court (RTC) of Dagupan City, Branch 43, in Criminal Case No. 2010-0118-D finding appellant Jessie Gabriel y Gajardo guilty of the crime of rape and imposing upon him the penalty of *reclusion perpetua*.

The facts of the case are as follows:

Appellant was indicted for rape in an Information which alleged:

That on or about the 17th day of February 2010, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused JESSIE GABRIEL y GAJARDO, with force and intimidation, did then and there, willfully, unlawfully and criminally, have carnal knowledge upon one

¹ CA rollo, pp. 122-132; penned by Associate Justice Melchor Q.C. Sadang and concurred in by Associate Justices Japar B. Dimaampao and Elihu A. Ybañez.

² Records, pp. 89-105; penned by Judge Caridad Villegas-Galvez.

["AAA"],³ a 17-year old minor, against her will and consent, to the damage and prejudice of the latter.

Contrary to Article 266-A par. 1-a, in relation to the 2nd par. of Article 266-B of the Revised Penal Code as amended by RA 8353.⁴

Arraigned thereon, appellant entered a negative plea.

"AAA" at the time material to this case is a 17-year old first-year nursing student at the Colegio de Dagupan and temporarily resides at the boarding house of appellant in Dagupan City. "AAA" testified that at about 6:00 p.m. of February 17, 2010, she, with her cousin and co-boarder "BBB," was inside their room at the second floor of the said boarding house when appellant suddenly entered their room and accused them of having stolen items of merchandise from his store located near the said boarding house. "AAA" and "BBB" vehemently denied this accusation, but appellant did not believe them. Instead, appellant directed them to see him in his room at the first floor of the boarding house to talk about the matter. When "AAA" went inside appellant's room, the latter renewed his insistence that "AAA" own up to having stolen the merchandise in question, otherwise he would bring her to the Police Station and have a theft case against her blotted. He then told her to sit on his lap and began caressing her back. "AAA" demanded that he stop what he was doing because she did not like it, but he paid no heed to her demand. When "AAA" stood up to leave, appellant pulled her back, compelled her to sit on his lap anew, and then proceeded to unhook her bra. What took place after this, "AAA" herself graphically recounted thus:

PROS. PERALTA:

X X X X

Q We go back to that incident when he removed the hook of your bra, what happened after that?

A He made me lie down, Madam.

Q What happened next?

A [T]hen he forced me, he raped me, Madam.

Q When you said he raped you, what do you mean by that?

A He made me lie down, he made me spread my legs and he undressed me, Madam.

³ 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, 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, or The Rule on Violence against Women and Their Children, effective November 15, 2004. *People v. Dumadag*, 667 Phil. 664, 669 (2011).

⁴ Records, p. 1.



- Q What were you wearing at that time?
A I was wearing t-shirt and pajama, madam.
- Q And x x x after spreading your legs, what did he do next?
A He x x x inserted his penis [into] my vagina, Madam.
- Q What happened when he inserted his penis [into] your vagina?
A I [cried] and I told him that I don't like [what he was doing] but he insisted, Madam.
- Q When you refused, what did he do, if any?
A I just cried, Madam.
- Q How about the accused?
A He continued what he was doing, Madam.
- Q What was he doing?
A He was raping me, Madam.
- Q For how long did it happen?
A Minutes, Madam.
- Q When you said minutes, you mean one (1) minute?
A Around thirty (30) minutes, madam.
- Q What was his position at that time?
A He was on top of me, madam.
- Q While he was on top of [you], what did [he] do?
A He raped me, Madam.
- Q When you said he raped you, what do you mean by that?
A He inserted his penis [into] my vagina, Madam.
- Q What did you feel at that time when he inserted his penis [into] your vagina?
A None, [M]adam.
- Q What, if any, did you feel or notice while his penis was inside your vagina?
A None, [M]adam.
- Q You said that you were crying while he was raping you, why were you crying?
A I was afraid and I don't like it, Madam.
- Q When he started to insert his penis [into] your vagina, did you feel anything?
A Yes, [M]adam.
- Q What did you feel?
A It was painful, [M]adam.



COURT:

Q Why did you not push him while he was on top of you?

A He was forceful, [M]adam.

Q What do you mean when you said her was forceful?

A He [was strong], [M]adam.⁵

Appellant's lecherous assault upon "AAA" ceased only when his child knocked on the door and called for him. When he heard his child's knocking, he released "AAA" from his clutches, told her to get dressed and leave the room. "AAA" then went to the bathroom to wash and then returned to her room at the second floor where she continued to cry. "BBB" asked her why she was crying but she could not tell her of her forcible violation. Later that evening, "AAA's" aunt, "CCC," and her husband "DDD," together with "BBB's" mother "EEE" (who was earlier texted by "BBB" to come to the boarding house) arrived. They confronted appellant about his accusation that "AAA" and "BBB" had stolen certain items from his store. It was then that "AAA" told "CCC" and "DDD" that she had been raped by appellant. A call was then made to the city police department which deployed SPO1 Esteban Martinez and PO1 Ramon Valencerina, Jr. who, upon reaching the boarding house, were informed that "AAA" had been raped by appellant. These police officers arrested appellant and brought him to the police station. After this, "AAA" submitted herself to physical examination at the Region 1 Medical Center in that city.

The other prosecution witnesses, namely "BBB," "EEE" and "CCC," not having actually witnessed "AAA's" violation, claimed that they came to know of "AAA's" rape from "AAA" herself. However, they were present just outside the boarding house when "CCC", "AAA's" aunt, exploded into hysterical outburst on hearing from "AAA" that she had been raped by appellant. The Medico-Legal Report issued by Dr. Marlene Quiramol moreover showed tell-tale evidence that "AAA" had indeed been sexually abused, as there were erythema and fossa navicularis at the external genitalia, as well as multiple *fresh* lacerations at the 3, 6, 9 and 12 o'clock positions in "AAA's" hymen.

Appellant denied that he raped "AAA". He claimed that on the morning of February 17, 2010, he noticed that some items of merchandise in his store were missing and he suspected that "AAA" and "BBB" were the culprits; hence, he went to their room to confront them. These two however denied his accusation, so he confronted them with the pictures of the missing items which he earlier took in the locker inside the room rented by "AAA" and "BBB."

Appellant nevertheless admitted that on said occasion, he talked with "AAA" inside his room at the first floor of the boarding house for some 15

⁵ TSN, September 3, 2010, pp. 17-20.

minutes, but stressed that after their conversation, “AAA” went outside while he proceeded to his store.

The only other witness presented by appellant, one Sandro Montañez, a boarder in the former’s boarding house, simply testified that on the day in question (February 17, 2010), he saw “AAA” doing her laundry and that he did not notice anything unusual in her appearance at all.

Ruling of the Regional Trial Court

Synthesizing the conflicting contentions of the prosecution and the defense, the RTC held:

The instant rape case is one of multifarious cases where there are no identified witnesses, and where the evidence effectively boils down to the complainant’s word against the accused’s. However, a pronouncement of guilt arising from the sole testimony of the victim is not unheard of, so long as her testimony meets the test of credibility. This is especially true in the crime of rape the evidentiary character of which demands so much on the part of the victim – it entails her to submit to an examination of her private parts, and to subject the sordid details of her story to a public trial and against a given presumption of the accused’s innocence.

To establish the crime of Rape under the article cited above, two elements must be shown to exist. And these are; ‘that the accused had carnal knowledge of the offended party; and that the coitus was done through the use of force or intimidation.’

AAA cried profusely while recounting her awful experience at the hands of her abuser. As has been repeatedly held, ‘no young girl would concoct a sordid tale of so serious a crime as rape, undergo medical examination, then subject herself to the stigma and embarrassment of a public trial, if her motive was other than a fervent desire to seek justice.’ AAA had revealed the incident to her relatives. If it is not rape, what is it?

Accused’s attempt to characterize the testimony of ‘AAA’ as incredible lacks merit. Accused[’s] defense of denial must crumble in light of AAA’s positive and specific testimony. It is an established jurisprudential rule that denial, like alibi, being negative self-serving defense, cannot prevail over the affirmative allegations of the victim and her categorical and positive identification of the accused as her assailant. ‘Denial must be proved by the accused with clear and convincing evidence otherwise they cannot prevail over the positive testimony of credible witnesses who testify on affirmative matters.’

Moreover, AAA’s testimony is corroborated by the findings of the examining physician, Dr. Marlene Quiramol x x x viz[.]; (+) Erythema at the peri hymenal and fossa navicularis; (+) Multiple fresh lacerations at 3, 6, 9 & 12 o’clock positions. Medical examination showed evidence of sexual abuse. ‘When a rape victim’s account is straightforward and candid, and is corroborated by the medical findings of the examining physician, the same is sufficient to



support a conviction for rape.’ As the Highest Court succinctly stated in *People vs. Borja*, ‘a victim who says she has been raped almost always says all there is to be said.’

The defense made it appear x x x that there were other people at the time of the incident. Granting *arguendo* that there were other people in the house when the rape was committed, rapists are not deterred from committing their odious act by the presence of people nearby or the members of the family. Lust, being a very powerful human urge is, to borrow from *People v. Virgilio Bernabe*, ‘no respecter of time and place.’ For the crime of rape to be committed, it is not necessary for the place to be ideal or the weather to be fine, for rapists bear no respect for locale and time when they carry out their evil deed. Rape can be committed in even the unlikeliest places and circumstances and by the most unlikely persons. The beast in a man bears no respect for time and place, driving him to commit rape anywhere – even in places where people congregate, in parks, along the roadsides, in school premises, in a house where there are other occupants, in the same room where other members of the family are also sleeping, and even in places which to many would appear unlikely and high risk venues for its commission. Besides, there is no rule that rape can be committed only in seclusion.

In stark contrast to AAA’s firm declaration, the defense of denial invoked by the accused rests on shaky grounds. The accused insists that ‘the accusation is a lie’ and claims that he did not rape the victim. It should be noted however that accused himself admitted having a one-on-one confrontation with AAA in his room about the alleged missing items as he required her to see him in his room and it lasted for around 15 minutes. Why would he require her to go to his room when he had already confronted them inside their room if not for his bestial desire and intention? Besides, he already went to the extent of taking pictures of the alleged missing items inside the locker of the victim and her cousin in their absence so as to compel them to admit the crime. Why did he not complain right away to the police if indeed his accusation against the victim is true?

Judicial experience has taught this Court that denial like alibi are the common defenses in rape cases. Denial is an intrinsically weak defense which must be buttressed with strong evidence of non-culpability to merit credibility. It is a negative self-serving assertion that deserves no weight in law if unsubstantiated by clear and convincing evidence. The barefaced denial of the charge by the accused even if one of his boarder had testified cannot prevail over the positive and forthright identification of him as the perpetrator of the dastardly act.

In rape, force and intimidation must be viewed in the light of the victim’s perception and judgment at the time of the commission of the crime. AAA’s failure to shout or to tenaciously resist accused should not be taken against her since such negative assertion would not *ipso facto* make voluntary her submission to accused’s criminal act. As already settled in our jurisprudence, not all victims react the same way. Some people may cry out, some may faint, some may be shocked into insensibility, while others may appear to yield to the intrusion. Some may offer strong resistance while others may be too intimidated to offer any resistance at all. Moreover, resistance is not an element of rape. A rape victim has no burden to prove that she did all within her power to resist the force or intimidation employed upon her. As long as the force or intimidation is present, whether it was more or less irresistible is beside the point. Though a man



puts no hand on a woman, yet if by the use of mental and moral coercion and intimidation, the accused so overpowers her mind out of fear that as a result she dare not resist the dastardly act inflicted on her person, accused is guilty of the crime imputed to him. In this case, the threat of reporting her to the police and have the incident blotted regarding his accusation of theft against her speaks loudly of accused's use of force and intimidation.

Moreover, AAA said she was not able to do anything to resist the accused [when] he was raping her. She told him to stop what he was doing [because] she didn't like it but he [persisted]. The most that she did was to cry. Owing to the minority of AAA and her physique as compared to her molester, the Court believes that she was cowed by the accused's act of forcing himself upon her especially so when he threatened to report them to the authorities. 'Physical resistance need not be established in rape when threats and intimidation are employed and the victim submits herself to her attacker because of fear - physical resistance is not the sole test to ascertain whether or not a woman involuntarily yielded to the lust of her attacker.'

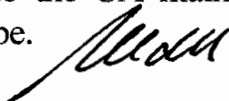
AAA's account evinced sincerity and truthfulness and she never wavered in her story, consistently pointing to accused as her rapist. Besides, no woman would willingly submit herself to the rigors, humiliation and stigma attendant in a rape case if she was not motivated by an earnest desire to punish the culprit. While there may be inconsistencies in AAA's testimony, they refer only to trivial matters which did not affect at all her account of the incident. 'Errorless recollection of a traumatic and agonizing incident cannot be expected of a witness when she is recounting details of an experience as humiliating and as painful as rape.'⁶

Against this backdrop, the RTC disposed thus –

WHEREFORE, in the light of the foregoing, judgment is hereby rendered finding accused JESSIE GABRIEL GUILTY beyond reasonable doubt of the crime of Rape, defined and penalized under Article 266-A (a) of the Revised Penal Code as amended by Republic Act No. 8353, or the Anti Rape Law of 1997 and is hereby imposed with the penalty of *Reclusion Perpetua*. He is ordered to pay AAA the sum of FIFTY THOUSAND PESOS (P50,000.00), by way of civil indemnity, FIFTY THOUSAND PESOS (P50,000.00), as moral damages and THIRTY THOUSAND PESOS (P30,000.00) as exemplary damages.

SO ORDERED.⁷

Ruling of the Court of Appeals

From this judgment, appellant appealed to the CA maintaining that the RTC erred in finding him guilty of the crime of rape. 

⁶ Records, pp. 101-104.

⁷ Id. at 105.

But the CA thumbed down the appeal, anchoring its verdict on the RTC's aforequoted ratiocination, and more particularly on "AAA's" testimony-in-chief relative to the actual assault on her person in the manner quoted. Indeed, the CA's findings that "AAA" was raped by appellant were a virtual reiteration of the RTC's own summation as regards the rape.

The CA characterized "AAA's" testimony in this wise:

The testimony of AAA is *simple, candid, straightforward, and consistent* on material points, detailing the act of rape against her by appellant. *It is corroborated by the physical evidence of fresh hymenal lacerations.* The medico-legal report revealed that AAA's perihymenal areal and fossa navicularis had erythema and her hymen had multiple fresh lacerations at 3, 6, 9 & 12 o'clock positions. In short, the medical examination showed evidence of sexual abuse. x x x⁸

After this, the CA addressed appellant's assault upon "AAA's" credibility, to wit:

Appellant, however, casts doubts on the credibility of AAA. He contends that AAA was motivated by revenge because he had accused her of stealing and insisted that she admit the act. He also assails the credibility of AAA's account of the rape by pointing out that: AAA offered no resistance; she first claimed that she did not feel appellant's penis inside her vagina but later abandoned her claim; x x x she did not tell her boardmate Montanez, "BBB", and her aunt "CCC" [about the alleged rape] but confided to them, except Montanez, that appellant was forcing her to admit to the theft; AAA did not immediately reveal the rape to the police but first talked to her uncle after which the latter confronted appellant.⁹

The CA however found appellant's contentions unconvincing:

It is highly improbable that a young, decent woman taking up nursing would concoct a rape story against a man who is accusing her of a petty crime which she denies. A woman who claims rape exposes herself to the spectacle of a public trial where she would recount the sordid details of her ordeal. Thus, it has been repeatedly ruled that no young and decent woman in her right mind would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being subjected to a public trial if she was not motivated solely by her desire to obtain justice for the wrong committed against her.

Even assuming that AAA did not tenaciously resist the sexual assault(,) that does not negate rape. In rape, the force and intimidation must be viewed in the light of the victim's perception and judgment at the time of the commission of the crime. It is settled that not all victims react the same way. Some victims may cry out, some may faint, some may be shocked into insensibility, while

⁸ CA rollo, p. 129.

⁹ Id.

others may appear to yield to the intrusion. Some may offer strong resistance while others may be too intimidated to offer any resistance at all. Moreover, resistance is not an element of rape. A rape victim has no burden to prove that she did all within her power to resist the force or intimidation employed upon her. *As long as the force or intimidation is present, whether it was more or less irresistible is beside the point.* In this case, what is important is that AAA did not consent to the intercourse. She cried as appellant ravished her and told her uncle about the rape at the first opportunity.

x x x x

That AAA did not immediately report the rape to the police when they came to the house but to her uncle enhances rather than weakens her testimony. It is consistent with human experience for a woman to prefer to reveal the assault on her honor to her kin first rather than to strangers, including the police.¹⁰

Expounding on the usual reason for the seeming inability of the prosecution to assemble a number of witnesses to establish a rape case, like the present case, the CA posited:

Inasmuch as the crime of rape is essentially committed in relative isolation or even secrecy, it is usually the victim alone who can testify on the forced sexual intercourse. Therefore, in a prosecution for rape, the credibility of the victim is almost always the single and most important point to consider. If the victim's testimony meets the test of credibility, the accused can justifiably be convicted on the basis of her lone testimony.¹¹

In the end, the CA sustained the factual underpinnings of the RTC's verdict, harking back to the well-settled dictum that the trial court is the best assayer and evaluator of witnesses and their testimonies, thus:

The trial court gave credence to AAA and her testimony. Since the trial court had the opportunity to examine her demeanor and conduct on the stand, We do not find any reason to depart from its findings. Time and time again, it has been ruled that the assessment of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique firsthand opportunity to observe them under examination. x x x

There is no showing that the trial court overlooked, misapprehended, or misinterpreted some facts or circumstances of weight and substance in convicting appellant. Its decision must be upheld. Besides, appellant's defense is in the nature of a denial which hardly creates reasonable doubt of his guilt in light of his testimony that he was at the place and time of the rape. Appellant's denial cannot prevail over AAA's direct, positive and categorical assertion that rings with truth. Denial is inherently a weak defense which cannot outweigh positive testimony. As between a categorical statement that has the earmarks of truth on

¹⁰ Id. at 129-130.

¹¹ Id. at 130.

the one hand and bare denial, on the other, the former is generally held to prevail.¹²

The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the Decision of the Regional Trial Court of Dagupan City, Branch 43, dated July 19, 2011, in Criminal Case No. 2010-0118-D is AFFIRMED with modification in that accused-appellant Jessie Gabriel is further ordered to pay interest on all damages awarded at the rate of 6% per annum from the date of finality of judgment until fully paid.

SO ORDERED.¹³

Our Ruling

We find no reason to disturb the CA's above-mentioned findings and conclusion, especially so because in the case at bench the CA and the RTC have uniformly given short shrift to appellant's bare denial.

In the 1901 case of *United States v. Ramos*,¹⁴ this Court had already declared that "[w]hen a woman testifies that she has been raped she says, in effect, that all that is necessary to constitute the commission of this crime has been committed. It is merely a question then, whether or not this court accepts her statement." Jurisprudence has clung with unrelenting grasp to this precept.

The trial court's assessment and evaluation of the credibility of witnesses vis-à-vis their testimonies ought to be upheld as a matter of course because of its direct, immediate and first hand opportunity to observe the deportment of witnesses as they delivered their testimonies in open court. Thus, the trial court's findings bearing on the credibility of witnesses on these matters are invariably binding and conclusive upon the appellate court unless of course, there is a showing that the trial court had overlooked, misapprehended or misconstrued some fact or circumstance of weight or substance, or had failed to accord or assign such fact or circumstance its due import or significance. Here, it bears stressing that the CA itself declared in its Decision that:

There is no showing that the trial court overlooked, misapprehended or misinterpreted some facts or circumstances of weight and substance in convicting appellant. Its decision must be upheld. Besides, appellant's defense is in the nature of a denial which hardly creates reasonable doubt of his guilt in light of his testimony that he was at the place and time of the rape. Appellant's denial cannot prevail over "AAA's" direct, positive and categorical assertion that rings

¹² Id. at 131.

¹³ Id. at 131-132.

¹⁴ 1 Phil. 81, 82 (1901).



with truth. Denial is inherently a weak defense which cannot outweigh positive testimony. As between a categorical statement that has the earmarks of truth on the one hand and bare denial, on the other, the former is generally held to prevail.¹⁵

To these postulations by the CA, we give our unreserved assent.

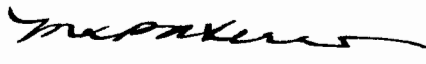
Nonetheless, we have to modify the awards for civil indemnity, moral damages, and exemplary damages. Conformably to this Court's holding in *People v. Jugueta*,¹⁶ the awards for civil indemnity, moral damages, and exemplary damages should be upgraded to ₱75,000.00 each. The CA, however correctly imposed interest at the rate of six percent (6%) *per annum* on all monetary awards.

WHEREFORE, the appeal is **DISMISSED**. The assailed March 25, 2014 Decision of the Court of Appeals in CA-G.R. CR-HC No. 05147 finding appellant Jessie Gabriel y Gajardo guilty of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua* is **AFFIRMED with FURTHER MODIFICATIONS** that the awards for civil indemnity, moral damages and exemplary damages are increased to ₱75,000.00 each.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:

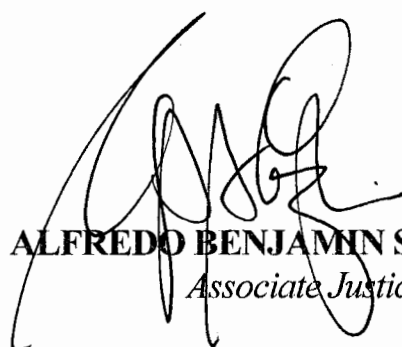

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

¹⁵ CA rollo, p. 131.

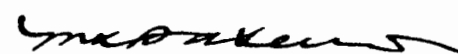
¹⁶ G.R. No. 202124, April 5, 2016.



ALFREDO BENJAMÍN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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