



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 227698

Present:

CARPIO, J., Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA,
REYES, JR., JJ.

- versus -

Promulgated:

HERNANDO BONGOS,
Accused-Appellant.

31 JAN 2018

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Hernando Bongos y Arevalo

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DECISION

PERALTA, J.:

Before this Court is an appeal *via* Rule 45 from the Decision¹ dated October 16, 2015 of the Court of Appeals in CA-G.R. CR-HC No. 06774, affirming *in toto* the Decision² dated March 7, 2014 of the Regional Trial Court (RTC), Branch 10, Legazpi City in Criminal Case No. 11758, convicting accused-appellant Hernando Bongos y Arevalo of the complex crime of robbery with rape.

On October 14, 2010, the prosecution charged Hernando Bongos y Arevalo *alias* "Ando/Pat" and Ronel Dexisne y Altavano *alias* "Popoy" before the RTC, Legazpi City with the complex crime of robbery with rape.

¹ Penned by Associate Justice Ma. Luisa C. Quijano-Padilla, with Associate Justices Normandie B. Pizarro and Samuel H. Gaerlan, concurring; *rollo*, pp. 2-11.

² CA *rollo*, pp. 18-31.

Only accused Bongos was arrested, while co-accused Ronel Dexisne was at-large. The Information³ alleged –

That on or about the 8th day of June, 2010, in the City of Legazpi, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and helping one another for a common purpose, armed with a gun, did then and there willfully, unlawfully and feloniously with intent to gain and by means of violence and intimidation take, steal, and carry away cash money in the amount of ₱20,000.00 by destroying the lock of the drawer of spouses BBB and CCC without their knowledge and consent; that by reason or on occasion of said robbery, above-named accused conspiring, confederating and helping one another for a common purpose with lewd design, did then and there willfully, unlawfully and feloniously and by means of force and intimidation, have carnal knowledge of one [AAA] househelper of spouses BBB and CCC, against her will and without her consent, and to the damage and prejudice of the aforesaid victims.

CONTRARY TO LAW.

When arraigned on March 15, 2011, Bongos pleaded not guilty to the crime charged, while Dexisne remained at-large. Thereafter, trial on the merits ensued.

The facts are as follows:

At around 7 o'clock in the evening of June 8, 2010, at *Barangay* 123, Legazpi City, AAA, helper of BBB and CCC, was left to tend the house when CCC went to her mother's house. While AAA was washing dishes, two male persons entered the house through the kitchen. She identified them as Bongos, the one wearing bonnet up to his forehead, and Dexisne, the one wearing black short pants with red stripes on the side. She knew them because they are neighbors of her employers. Bongos pointed a gun at her, while Dexisne pointed his knife. They forced her to enter the room where the money of her employer was and demanded her to open the drawer. Since it was locked, Dexisne forced it open using a steel, while Bongos remained at AAA's side poking the gun at her neck. After they took the money, they forcibly dragged AAA outside the house until they reached a clearing on the lower level of the yard. There, armed with a knife and gun, both accused threatened and ordered AAA to undress herself. When she refused to do so, Dexisne got violent and slashed her leg and then hit her chest near her left breast which caused her to lose consciousness.⁴



³ Records, p. 1.

⁴ TSN, October 13, 2011, pp. 10-11.

When AAA woke up, she no longer had her clothes on and felt pain on her private part. She was afraid so she went to DDD, the grandfather of CCC and asked for help. DDD summoned someone to fetch CCC to come home. Together with CCC, AAA reported the robbery incident to the authorities the following day. However, AAA did not tell CCC of the rape incident because she was ashamed and afraid that accused would really make good of their threat to kill or harm her in case she makes a report about the incident.⁵

CCC confirmed that on June 8, 2010, at around 8 o'clock in the evening, the two maids of her grandfather went to the house of her mother and told her that an incident happened in her house. When she reached the house of her grandfather, she saw AAA crying. She asked AAA what happened and the latter told her that someone entered her house and took money. CCC testified that she immediately went to her house where she discovered that Php20,000.00 was indeed missing from the drawer. CCC also testified that on June 12, 2010, AAA told her that she was likewise raped by the accused. CCC knew accused "Poypoy" as Dexisne and "Ando" as Bongos since both were her neighbors. They had the incident blotted at the police station on June 14, 2010.⁶

In the Medico-Legal Report issued on June 17, 2010 by Dr. James Belgira,⁷ the genital examination upon AAA revealed that her hymen was dilated and there were deep-healed lacerations at 3 o'clock and 6 o'clock positions, which concluded that there were clear signs of blunt vaginal penetrating trauma. Later, Dr. Belgira testified that the approximate time wherein the deep-healed lacerations were inflicted was around three to five days prior to the examination day. He examined AAA on June 15, 2010. He further testified that the cause of the dilation and lacerations of the hymen may be due to a blunt protruding hard object inserted in the vagina which has a diameter sufficient enough to break the maximum elasticity of the hymenal body.

For its part, the defense alleged that around 1 o'clock in the afternoon of June 8, 2010, Bongos was at the house of his parents in *Barangay* 123, Legazpi City to fix the tricycle of his father. Those present at the house were his father and mother, Nimfa Bongos and Dexisne. Bongos claimed that he finished fixing the tricycle at around 8 o'clock in the evening and then he went directly to his house, about 150 meters away from his father's house, while Dexisne was left behind. He only knew of the case against him when he was summoned. Prior to June 8, 2010, he does not know any reason or ill-motive on the part of AAA or spouses BBB and CCC in indicting him

⁵ *Id.* at 15-21.

⁶ TSN, August 14, 2012, pp. 11-12.

⁷ Records, p. 14.



in the case. However, later on he was told by CCC that because he testified in favor of Dexisne, he would also be included in the case.

In a Decision⁸ dated March 7, 2014, the court *a quo* convicted Bongos of the complex crime of robbery with rape. The dispositive portion of the decision reads as follows:

Above premises considered, accused Hernando Bongos is hereby declared GUILTY of the complex crime of robbery with rape, as defined and penalized under Article 294 [1] of the Revised Penal Code. He is hereby sentenced to suffer the penalty of *reclusion perpetua*.

He is also ordered to return the amount of ₱20,000.00, which was proven by the prosecution to have been taken by Bongos and his co-accused, to [CCC] and to pay the latter the amount of ₱50,000.00 as moral damages for accused' act of having violated the sanctity of [CCC's] home. He is also ordered to pay exemplary damages in the amount of Thirty Thousand Pesos (₱30,000.00) to [CCC].

Also, accused is hereby ordered to pay [AAA] the following amounts: (i) ₱75,000.00 as civil indemnity; (ii) ₱75,000.00 as moral damages; and (iii) ₱30,000.00 as exemplary damages.

It is further understood that an interest rate of 6% *per annum*, reckoned upon the finality of this judgment, is imposed on all the damages awarded both to [CCC] and [AAA].

The case against Ronel Dexisne is hereby sent to the archives pending his arrest.

So Ordered.⁹

The court *a quo* rejected Bongos' defense of alibi and denial, and instead gave credence and probative weight to AAA's testimony. It held that although AAA did not witness the actual rape as she was unconscious when it happened, the circumstantial evidence taken all together proved that on the occasion of robbery, she was raped by the malefactors. It, likewise, found that there was also conspiracy between Bongos and Dexisne from their coordinated acts from the time they gained entry into BBB and CCC's house, until they have successfully taken the money from AAA through force and intimidation and the eventual rape of her.

Unperturbed, Bongos appealed the court *a quo*'s decision before the Court of Appeals. However, on October 16, 2015, in its disputed Decision,¹⁰ the Court of Appeals affirmed *in toto* the decision of the trial court.

⁸ CA rollo, pp. 18-31.

⁹ *Id.* at 30-31.

¹⁰ *Supra* note 1.

Hence, this appeal, raising the same issue brought before the appellate court, to wit:

WHETHER THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The appeal lacks merit.

Robbery with rape is a special complex crime under Article 294 of the RPC. To be convicted of robbery with rape, the following elements must concur: (1) the taking of personal property is committed with violence or intimidation against persons; (2) the property taken belongs to another; (3) the taking is characterized by intent to gain or *animus lucrandi*; and (4) the robbery is accompanied by rape.¹¹

For a conviction of the crime of robbery with rape to stand, it must be shown that the rape was committed *by reason or on the occasion* of a robbery and not the other way around. This special complex crime under Article 294 of the Revised Penal Code contemplates a situation where the original intent of the accused was to take, with intent to gain, personal property belonging to another and rape is committed on the occasion thereof or as an accompanying crime.¹²

After going over the records of the case, We find no compelling reason to disturb the findings of the trial court as affirmed by the appellate court. The prosecution was able to establish that Bongos and Dexisne entered the house of the victims armed with a handgun and knife and took spouses BBB and CCC's money amounting to ₱20,000.00 without consent and by means of violence and intimidation.

During trial, AAA testified as to the identity of Bongos and Dexisne as the perpetrators, as well as the events that transpired during the incident, to wit:

x x x x

ARP CALLEJA

Q And, could you please tell us who were those two persons who entered the house?

A Ronel Dexisne and Hernando Bongos y Arevalo.

¹¹ *People v. Suyu*, 530 Phil. 569, 596 (2006).

¹² *People v. Tamayo*, 434 Phil. 642, 654 (2002).



Q Is this Ronel Dexisne present in Court now?

A He is not in court.

Q How about Hernando Bongos?

A Yes, Sir.

Q Will you please point to him?

A (At this juncture the witness points to a man seated in front of the row of benches inside the court rooms wearing a yellow t-shirt and light blue pants with white stripes, who when asked of his name answered that he is Hernando Bongos)

Q Prior to June 8, 2010 are you familiar with Hernando Bongos?

A Yes, Sir.

Q Could you tell us the reason why you are already familiar with Hernando Bongos?

A He is a neighbor of my employer in Banquerohan.

Q You said that those two persons, Ronel Dexisne and Hernando Bongos, entered the house. After entering the house, what did they do?

A. The poked a gun and pointed a knife at me.

Q Who was the person who poked a gun at you?

A It was Hernando Bongos, Sir. (At this juncture the witness points to accused Hernando Bongos)

Q How about the person who pointed a knife at you?

A It was Ronel Dexisne, Sir.

Q After those two persons poked a gun and pointed a knife at you, what happened next?

A They forced me to enter the room.

Q And what happened next, after they forced you to enter the room.

A They were asking me to point where the money of my employer was.

Q Did you comply with that order?

A It took me quite a time before I pointed it to them.

Q After you pointed to them where the money was, what happened next?

A After they get (sic) the money they still wanted me to go with them outside.

Q Where was the money placed?

A. Inside the drawer.

Q Who opened the drawer?

A Ronel Dexisne.



x x x x

Q How was it opened by Dexisne?

A By a steel.

Q You mean he forcibly destroyed the lock then he opened the drawer?

A Yes, Your Honor.

x x x x

Q While Dexisne was opening the drawer what was Hernando Bongos [d]oing?

A He was poking a gun at me.

Q How far were you from Dexisne during that time?

A Just near.

Q On what part of your body was the gun poked?

A On my neck.

x x x x.¹³

ATTY. RAÑESES ON CROSS-EXAMINATION:

Q Your complaint states that on June 8, 2010 at about 7:00 o'clock in the evening, the two (2) accused with reference to Dexisne and Bongos, **Bongos now being present, entered the house where you were working. The house belonging to [BBB]. Is that true?**

A Yes, Sir.

Q At that time, Bongos was armed with a gun or a firearm?

A Yes, Sir.

Q And Dexisne was also with a knife

A Yes, Sir.

Q Bongos poked a gun at you?

A Yes, Sir.

Q While Dexisne pointed his knife at you also?

A Yes, Sir.

Q After that and while Bongos was still pointing a gun at you.... (interrupted)

ARP CALLEJA

Your Honor please may I just be clarified if the surname Bongos refers to the accused as the one arraigned?

ATTY. RAÑESES

He is not Atty. Bongos.



¹³ TSN, October 13, 2011, pp. 5-8. (Emphasis ours)

ARP CALLEJA

May we know from the defense counsel if that person he mentions as Bongos is the one arraigned and now present in court?

ATTY. RAÑESES

Admitted, Your Honor.

COURT

Atty. Raneses, you are not the counsel for accused Dexisne? Just for accused Bongos?

ATTY. RAÑESES

Yes, only for Bongos. I mentioned Dexisne Your Honor because at that time both of them were present and both of them are supposed to be examined in the rape of [AAA].

Q Now, while the accused Bongos poked a gun at you and Dexisne pointed his knife at you, they dragged you at a room in the house of your employer, is that correct?

A Yes, Sir.

Q And what did they do after they dragged you inside the room?

A They forced me to show to them where the money was kept.

Q Which money are you referring to?

A The money of [BBB].

Q Did you not ask them why they knew that there is money kept in the room of your employer?

A No, Sir.

Q And did you point to them where the money was kept?

A Yes, Sir

Q Where was the money kept?

A Inside the drawer.

Q Drawer of the table?

A Yes, Sir.

Q And what did they do after you pointed the place where the money was kept?

A They got it, Sir.

Q Both of them took the money?

A Yes, Sir.

Q How were they able to get the money?

A The drawer was locked. They used a piece of steel to destroy the lock.

Q You mean both of them used the steel to open the lock?

A Yes, Sir.



Q. Who was carrying the piece of steel which they forced to open the lock?

A. Dexisne Sir.

COURT (To the Witness)

Q. **He was the one who forced the lock of the drawer?**

A. **Yes, Your Honor.**

ATTY. RAÑESES

Q **And after Dexisne took the money, where did he place the money?**

A. **In a bag, Sir.**

Q. **Whose bag was it?**

A. **Dexisne Sir.**

COURT (To the Witness)

Q You mean when Dexisne and Bongos arrived at the house of [BBB], Dexisne had a bag with him?

A Yes, Your Honor.

COURT

Okay.

ATTY RAÑESES

Q. In other words, Dexisne had with him a bag and he was likewise armed with a knife?

A. Yes, Sir.¹⁴

Having established that the personal properties of the victims were unlawfully taken by the accused-appellant, intent to gain was sufficiently proven. Intent to gain, or *animus lucrandi*, as an element of the crime of robbery, is an internal act; hence, presumed from the unlawful taking of things. Thus, the first three elements of the crime were clearly established.

As to the last requirement, the courts *a quo* correctly held that although AAA did not exactly witness the actual rape because she was unconscious at that time, circumstantial evidence shows that the victim was raped by the appellant and his co-accused, to wit:

ARP CALLEJA ON DIRECT EXAMINATION OF AAA

X X X X

Q After the two, Dexisne and Bongos, got the money what did they do next?

A They brought me outside of our fence.



¹⁴ TSN, March 15, 2012, pp. 3-8. (Emphasis ours)

Q Could you tell us how were you brought outside of your fence?

A They pulled me.

Q And who was the person who pulled you?

A It was Ronel Dexisne, Sir.

Q And on what part of your body was being pulled by Ronel Dexisne?

A Here, Sir. (Witness holding her left arm near the elbow.)

Q And, while Dexisne was pulling you, what was Bongos doing then?

A He was pushing my back and at the same time poking the gun at me.

Q And after the two pulled you out of the fence what happened next?

A On the lower part of the place outside the fence that was where they raped me.

Q What do you mean by the word rape?

A Before they raped be (sic) they forced me to undress myself but I did not do it.

Q What was your position when you were being forced to undress?

A I was then standing Sir.

Q And did you undress yourself?

A No, Sir.

Q And what happened next after you did not comply with their order?

A Ronel Dexisne got mad at me and all I can remember is he hit me here? (Witness pointing at the left side of her body just beside her left breast)

Q After Dexisne hit you what happened next?

A I lost consciousness.

Q For how many minutes did you regain consciousness?

A I do not know, Sir.

Q After you regain (sic) consciousness what did you discover to (sic) your body?

A After I regained consciousness I found out that I have no longer my clothes on.

Q Are you telling us that when you regain (sic) consciousness you were totally naked?

A Yes, Sir.

Q Were you able to locate your dress after you regain (sic) consciousness?

A Yes, Sir.

Q In what particular place?
A A little far from where I was.¹⁵

x x x x

ATTY. RAÑESES ON CROSS-EXAMINATION OF AAA:

Q Actually it was Dexisne who dragged you by holding you by your left hand, is that not correct?

A Yes, Sir.

Q While the accused Bongos was pushing you from behind and at the same time pointing his gun at you?

A Yes, Sir.

Q When they reached the grassy patch with you did Dexisne and Bongos undress you?

A Yes, Sir.

Q And because you refused he delivered a fistic blow at the left side of your breast?

A Yes, Sir.

Q After that, the rape took place?

A I lost consciousness.

Q In other words, you are not sure whether or not you were raped because you were unconscious?

A When I regained my consciousness, I was already undressed Sir.

Q I am asking you whether or not you knew that you were raped not whether you were undressed or not after you regained your consciousness.

ARP CALLEJA

May I put into the records Your Honor that the witness is crying while being cross-examined.

COURT (To the Witness)

Q Okay, I think what the counsel wants to ask you is whether you knew that you were being raped actually because you said that you lost consciousness.

A Yes, Your Honor.

Q So you knew. How did you come to know that because you said earlier that you lost consciousness?

A When I regained consciousness, I felt pain in my

Q In your vagina?

A Yes, Your Honor.¹⁶

¹⁵ TSN, October 13, 2011, pp. 9-11. (Emphasis ours)

¹⁶ TSN, March 15, 2012, pp. 10-12. (Emphasis ours)

Circumstantial evidence, also known as indirect or presumptive evidence, refers to proof of collateral facts and circumstances when the existence of the main fact may be inferred according to reason and common experience. Circumstantial evidence is sufficient to sustain conviction if (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; (c) the combination of all circumstances is such as to produce a conviction beyond reasonable doubt. A judgment of conviction based on circumstantial evidence can be sustained when the circumstances proved form an unbroken chain that results in a fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the perpetrator.¹⁷

Here, the prosecution presented circumstantial evidence that when analyzed and taken together, lead to the obvious conclusion that Bongos and Dexisne also raped AAA on the occasion of the robbery: *first*, after appellant took the money, they forcibly dragged AAA outside of the house's fence;¹⁸ *second*, appellant forced AAA to undress; *third*, when AAA refused, co-accused Dexisne got mad and hit her at her chest causing her to lose consciousness; *fourth*, when AAA regained consciousness, AAA had no longer clothes on; and *fifth*, she felt pain in her private part.

In several decided cases, the victim was unconscious and was not aware of the sexual intercourse that transpired, yet the accused was found guilty on the basis of circumstantial evidence.

In *People v. Gaufo*,¹⁹ the victim was hit on her head by the accused when she fought back and asked for help. The accused then punched her abdomen causing her to lose consciousness. Upon regaining her bearings, she noticed that she had no more underwear, her private part was bleeding and her body was painful. The combination of these circumstances, among others, led the Court to adjudge the accused guilty of rape.

In *People v. Evangelio*,²⁰ when one of the robbers stripped off AAA's clothes and AAA resisted and fought back, appellant slammed her head twice against the concrete wall, causing her to lose consciousness. When she regained her senses, appellant and the other robbers were already gone, and she found herself lying on the side on the floor of the comfort room with her feet untied and her hands still tied behind her back. She saw her shorts and panty strewn at her side. She suffered pain in her knees, head, stomach, and her vagina, which was bleeding. The Court found that the accused raped the victim.

¹⁷ *People v. Evangelio*, 672 Phil. 229, 243 (2011).

¹⁸ TSN, October 13, 2011, pp. 9-10.

¹⁹ 469 Phil. 66 (2004).

²⁰ *Supra* note 17.

In *People v. Pabol*,²¹ the victim shouted for help and then accused covered her mouth and she fell unconscious. When she had woken up, she discovered that her ears had been sliced, her blouse opened and her underwear stained with her own blood. She also experienced pain in her private part after the incident. Given the foregoing circumstances, the Court found that the accused raped the victim.

Bongos, however, while he asserted that at the time of the incident, both him and Dexisne were in his father's house in Purok 2, Banquerohan, Legazpi City, he was unable to show that it was physically impossible for him to be at the scene of the crime considering that his father's house was just around 250 meters away from BBB's house.²² Basic is the rule that for alibi to prosper, the accused must prove that he was somewhere else when the crime was committed and that it was physically impossible for him to have been at the scene of the crime. Physical impossibility refers to the distance between the place where the appellant was when the crime transpired and the place where it was committed, as well as the facility of access between the two places. Where there is the least chance for the accused to be present at the crime scene, the defense of alibi must fail.²³

Thus, between the categorical statements of the prosecution witness, on one hand, and the bare denial of the appellant, on the other, the former must perforce prevail. An affirmative testimony is far stronger than a negative testimony especially when it comes from the mouth of a credible witness. Alibi and denial, if not substantiated by clear and convincing evidence, are negative and self-serving evidence undeserving of weight in law. They are considered with suspicion and always received with caution, not only because they are inherently weak and unreliable but also because they are easily fabricated and concocted.²⁴ Denial cannot prevail over the positive testimony of prosecution witnesses who were not shown to have any ill-motive to testify against the appellant.²⁵

We are also in concurrence with the findings of the courts *a quo* of conspiracy between Bongos and Dexisne. Conspiracy was shown by the coordinated acts of Bongos and Dexisne from the time they gained entry into BBB and CCC's residence, went to their room and forcibly opened the drawer of the bedroom table and took the money inside; and thereafter forcibly dragged AAA outside of the house and raped her. There can be no other conclusion than that the successful perpetration of the crime was done through the concerted efforts of Bongos and Dexisne.

²¹ 618 Phil. 533 (2009).

²² TSN, November 6, 2013, p. 15

²³ *People v. Ohayas*, G.R. No. 207516, June 19, 2017.

²⁴ *People v. Manchu, et al.*, 593 Phil. 398, 411 (2008).

²⁵ *Gan v. People*, 550 Phil. 133, 157 (2007).

Moreover, the rule in this jurisdiction is that whenever a rape is committed as a consequence, or on the occasion of a robbery, all those who took part therein are liable as principals of the crime of robbery with rape, although not all of them took part in the rape. Thus, in *People v. Verceles, et al.*,²⁶ We have ruled that once conspiracy is established between two accused in the commission of the crime of robbery, they would be both equally culpable for the rape committed by one of them on the occasion of the robbery, *unless any of them proves that he endeavored to prevent the other from committing the rape.* The immediately preceding condition is absent in the instant case.²⁷

We do not find it necessary anymore to belabor on the issue raised by the appellant on the probative value of the medico-legal report. A medico-legal report is not indispensable to the prosecution of the rape case, it being merely corroborative in nature.²⁸ At this point, the fact of robbery and rape and the identity of the perpetrators were proven even by the lone testimony of AAA. The credible disclosure of AAA that Bongos and Dexisne raped her on the occasion of the robbery is the most important proof of the commission of the crime.

Likewise, delay in reporting an incident of rape due to threats does not affect the credibility of the complainant, nor can it be taken against her. The charge of rape is rendered doubtful only if the delay was unreasonable and unexplained.²⁹ AAA explained that she did not immediately report that she was also raped during the occasion of the robbery incident because appellant, who was also a neighbor, threatened to kill her if she does.³⁰ Nonetheless, the 9-day delay in reporting the rape incident cannot be said to be unreasonable considering the shame and fear that AAA felt. Such delay does not affect the truthfulness of the charge in the absence of other circumstances that show the same to be a mere concoction or impelled by some ill motive.³¹

Finally, the Information should have alleged that the crime was committed inside the dwelling of the victims which was proven during the trial. We could not, therefore, consider this as an aggravating circumstance, although if alleged, it should have been admitted since the crime committed is robbery with violence and thus could have increased the penalty to death although it could not be imposed because of the provisions of RA 9346 and the accused could not be eligible for parole. However, as enunciated in

²⁶ 437 Phil. 323, 333 (2002).

²⁷ *People v. Belmonte y Sumagit*, G.R. No. 220889, July 5, 2017.

²⁸ *People v. Pamintuan* 710 Phil. 414, 424 (2013).

²⁹ *People v. Madsali*, 625 Phil. 431, 461 (2010).

³⁰ TSN, January 26, 2012, p. 17.

³¹ *People v. Sarcia*, 615 Phil. 97, 117 (2009)

*People v. Jugueta*³² citing *People v. Catubig*,³³ the said aggravating circumstance can be appreciated but only for determining the civil liability awarded. Accordingly, the award of civil, moral, and exemplary damages should be increased to ₱100,000.00 each.

In view of the foregoing, We find no basis to disturb the findings of the trial court as affirmed by the appellate court with regard to accused-appellant's guilt. The prosecution's evidence established with certainty that accused-appellant, together with Dexisne, conspired with each other in stealing the money of BBB and CCC through violence and intimidation by pointing the gun and poking the knife on AAA who was then left alone in the house at the time of the incident. Furthermore, the prosecution was able to show that, on the occasion of the robbery, AAA was also raped. We, thus, agree with the courts *a quo* in their appreciation that the original intent of Bongos and Dexisne was to take, with intent to gain, the personal effects of BBB and CCC, and rape was committed on the occasion thereof.

WHEREFORE, premises considered, the appeal is **DISMISSED**. The Decision of the Court of Appeals in CA-G.R. CR-HC No. 06774 is **AFFIRMED** with **MODIFICATIONS**. Accused-appellant Hernando Bongos is found **GUILTY** beyond reasonable doubt of the complex crime of **ROBBERY WITH RAPE**, and is sentenced to suffer the penalty of *reclusion perpetua*.

Accused-appellant is, likewise, **ORDERED TO RETURN** the amount of ₱20,000.00 which was stolen from Spouses BBB and CCC as proven during the trial.

Accused-appellant is further **DIRECTED TO PAY** the victim AAA the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages and ₱100,000.00 as exemplary damages. Interest at the rate of six percent (6%) *per annum* is imposed on all the damages awarded in this case from date of finality of this Decision until fully paid.

SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

³² G.R. No. 202124, April 5, 2016.

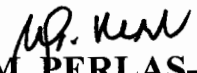
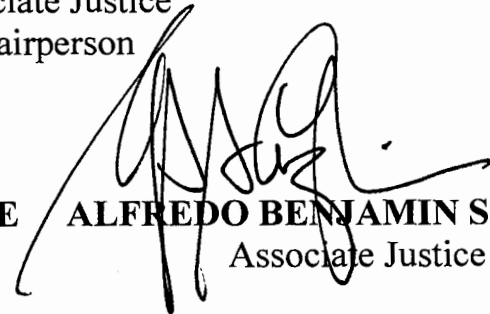

³³ 416 Phil. 102 (2001).

WE CONCUR:



ANTONIO T. CARPIO

Associate Justice
Chairperson


ESTELA M. PERLAS-BERNABE
Associate Justice
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
ANDRES B. REYES JR.
Associate Justice

ATTESTATION

I attest 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.



ANTONIO T. CARPIO

Associate Justice
Chairperson, Second Division

CERTIFICATION


Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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

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Division Clerk of Court
Second Division