Republic of the Philippines
Supreme Court
Manila

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
AUG 23 2018

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

-versus-

JOEL JAIME alias "TORNING,"
Accused-Appellant.

G.R. No. 225332
Present:

VELASCO, JR., *J.*, *Chairperson*
BERSAMIN,
LEONEN,
MARTIRES and
GESMUNDO, *JJ.*

Promulgated:

July 23, 2018

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

DECISION

MARTIRES, J.:

On appeal is the 29 May 2015 Decision[1] of the Court of Appeals in CA G.R. CR HC No. 05923 which affirmed with modification the 2 August 2012 Decision of the Regional Trial Court, Branch 169 [redacted], in Criminal Case No. 28080-MN finding accused-appellant Joel Jaime guilty beyond reasonable doubt of one (1) count of Simple Rape under Article 266-A, paragraph 1(a) of the Revised Penal Code, as amended by Republic Act No. 8353.

The Information, dated 17 December 2002, indicting the accused reads:

> The undersigned Asst. City Prosecutor accuses the above-named accused of the crime of Rape in Relation to R.A. No. 7610, committed as follows:

---

[1] CA *rollo*, pp. 81-93; penned by Associate Justice Zenaida T. Galapate-Laguilles with Associate Justices Mariflor P. Punzalan Castillo and Florito S. Macalino, concurring.

> That on or about the 14th day of December 2002, in [redacted] Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with AAA, a minor of 15 years old, by then and there inserting his sex organ to the said AAA, against her will and consent, which act debases, degrades or demeans the intrinsic worth and dignity of a child as a human being thereby endangering her youth, normal growth and development.
>
> CONTRARY TO LAW.[2]

Accused-appellant pleaded "not guilty" during arraignment. Thereafter, trial ensued.

Version of the Prosecution

During the presentation of evidence for the prosecution, AAA (the *victim*) and her mother, BBB, took the witness stand. The testimony of prosecution witness Police Senior Inspector Daileg, Duty Medico-Legal Officer of the Philippine National Police Crime Laboratory, Camp Crame, Quezon City, was dispensed with after counsel for the accused admitted the witness' proposed testimony.[3] PO1 Belany Dizon[4] of the [redacted] Police Station and Barangay Deputy Larito De Ocampo y Hernandez were likewise no longer presented before the court after the accused admitted the fact of arrest.[5]

The following is the narration of facts based on the testimonial and documentary evidence presented by the prosecution.

At around eight o'clock in the evening of 14 December 2002, the victim was on her way to buy medicine for her headache when the accused-appellant, who was then driving a tricycle "de padyak" or pedicab, stopped by her and introduced himself as "Torning." Accused asked her to board the pedicab or he would kill her parents if she refused to do so. Gripped with fear, she boarded.[6]

When they arrived at [redacted], accused-appellant stripped from the waist down, knelt on the victim's thighs while she was

---

2 Records, p. 2.
3 Id. at 41.
4 Id. at 43.
5 Id. at 53,98.
6 Id. at 4.

lying on her back, and removed her lower garment and panty, before forcibly inserting his penis into her vagina.[7]

Meanwhile, barangay Deputy Larito De Ocampo (*De Ocampo*), who was stationed at the barangay outpost, received a report from a fire volunteer that he saw a person atop another inside a pedicab at [redacted]. Together with two other barangay officers, De Ocampo went to investigate and at around five meters away from the pedicab, they saw it rocking. As De Ocampo was approaching the pedicab, accused-appellant and the victim got dressed and alighted therefrom. Accused-appellant told De Ocampo that he and his companion were just resting inside the pedicab. De Ocampo found out that the person with accused-appellant, AAA, was only 15 years old. Thinking that both were minors, De Ocampo brought them to the barangay outpost. There, the victim said that she was raped by accused-appellant. It was also at this point when they learned that the accused-appellant was already 20 years old.

A barangay tanod fetched BBB from their residence. After being informed of what happened to her daughter, BBB brought AAA to Camp Crame for medical examination and assisted her in filing a complaint against accused-appellant.

The Version of the Defense

The defense presented accused-appellant as its lone witness. He testified that on the night of the incident he was waiting for passengers when the victim hailed his pedicab. AAA boarded and told him to take her to the nearby church. Upon reaching their destination, the victim remained inside the pedicab and told him to continue driving because she wanted to "stroll around," otherwise she would report him to the barangay. Accused-appellant refused to do so and told her to get off. AAA alighted but shouted "Rape!" after which three barangay officers approached them and arrested accused-appellant.

The Ruling of the RTC

After trial, the RTC convicted accused-appellant of the crime of rape. The dispositive portion of its decision reads:

> WHEREFORE, premises considered, the Court finds accused **JOEL JAIME** @ TORNING **GUILTY** beyond reasonable doubt of the crime of Rape in relation to R.A. 7610. He is hereby sentenced to suffer the penalty of *reclusion perpetua* with all the accessory

[7] TSN, 13 November 2003, pp. 5-7.

> penalties provided by law, and to pay the costs. Accused is further ordered to indemnify the offended party in the sum of Fifty Thousand Pesos (Php 50,000.00) as civil indemnity; Fifty Thousand Pesos (Php 50,000.00) as moral damages; and Thirty Thousand Pesos (Php 30,000.00) as exemplary damages.
>
> SO ORDERED.[8]

The Ruling of the CA

On appeal, the CA found that the prosecution had fully discharged its duty of proving the guilt of accused-appellant. In its decision, the CA affirmed with modification the RTC decision to convict accused-appellant, thus:

> **WHEREFORE**, premises considered, this Court **AFFIRMS with MODIFICATION** the *Decision* dated 2 August 2012 of the Regional Trial Court [redacted], Branch 169 in Criminal Case No. 28080-MN. Accused-appellant Joel Jaime is hereby found **GUILTY** beyond reasonable doubt of one (1) count of *Simple Rape* under Art. 266-A, paragraph 1(a) of the Revised Penal Code, as amended by Republic Act No. 8353, and is sentenced to suffer the penalty of *reclusion perpetua*, without eligibility for parole, and to pay the victim, AAA, Php 50,000.00 as civil indemnity, Php 50,000.00 as moral damages, and Php 30,000.00 as exemplary damages. Interest at the rate of six percent (6%) per annum is likewise IMPOSED on all the damages awarded in this case from date of finality of this judgment until fully paid.
>
> SO ORDERED.[9]

Both the prosecution and the defense opted not to file any supplemental briefs and manifested the adoption of their arguments in their respective briefs before the CA.

ISSUE

> WHETHER OR NOT THE TRIAL COURT GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED NOTWITHSTANDING THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

---

8 RTC Decision folder, p. 15.

9 *Rollo*, pp. 13-14.

OUR RULING

The RTC found accused-appellant guilty beyond reasonable doubt of the crime of Rape in relation to R.A. No. 7610. On appeal, the CA found him guilty of one (1) count of simple rape under Article 266-A, paragraph 1(a) of the Revised Penal Code, as amended by Republic Act No. 8353. The difference in the terms used to designate the crime may have caused some confusion: we thus clarify the crime for which accused-appellant was charged and convicted by the RTC and the CA.

Under Article 266-A, paragraph 1 of the Revised Penal Code, the crime of rape is committed when a man shall have carnal knowledge of a woman under any of the following circumstances: (a) through force, threat, or intimidation; (b) when the offended party is deprived of reason or otherwise unconscious; (c) by means of fraudulent machination or grave abuse of authority; and (d) when the offended party is under twelve (12) years of age or is demented, even though none of the circumstances previously mentioned are present. It is penalized with *reclusion perpetua* as provided under Article 266-B of the Revised Penal Code, as amended by Republic Act No. 8353.

On the other hand, Section 5(b), Article III of Republic Act No. 7610 provides:

> Section 5. Child Prostitution and Other Sexual Abuse. – Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.
>
> x x x x
>
> (b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subject to other sexual abuse; Provided, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct as the case may be: Provided, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be reclusion temporal in its medium period; and
>
> x x x x

The essential elements of Section 5(b) are: (a) the accused commits the act of sexual intercourse or lascivious conduct; (b) the said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and, (c) the child whether male or female, is below 18 years of age.[10] The imposable penalty is *reclusion temporal* in its medium period to *reclusion perpetua*, except that the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be *reclusion temporal* in its medium period.

In *People v. Abay,*[11] the RTC found the accused "guilty beyond reasonable doubt of committing the crime of rape under Article 335 of the Revised Penal Code in relation to Section 5, Article III of R.A. No. 7610" and imposed upon him the death penalty; although, on appeal, the CA found the accused guilty only of simple rape and reduced the penalty imposed to *reclusion perpetua*. The Court instructs that if the victim is 12 years or older, the offender should be charged with either sexual abuse under Section 5(b) of R.A. No. 7610, or rape under Article 266-A (except paragraph 1(d)) of the Revised Penal Code; but, he cannot be accused of both crimes. Otherwise, his right against double jeopardy will be prejudiced. Neither can these two (2) crimes be complexed. The Court's disquisition in the *Abay* case reads:

> Under Section 5(b), Article III of RA7610 in relation to RA 8353, if the victim of sexual abuse is below 12 years of age, the offender should not be prosecuted for sexual abuse but for statutory rape under Article 266-A(1)(d) of the revised Penal Code and penalized with reclusion perpetua. On the other hand, if the victim is 12 years or older, the offender should be charged with either sexual abuse under Section 5(b) of RA 7610 or rape under Article 266-A (except paragraph 1[d]) of the Revised Penal Code. However, the offender cannot be accused of both crimes for the same act because his right against double jeopardy will be prejudiced. A person cannot be subjected twice to criminal liability for a single criminal act. Likewise, rape cannot be complexed with a violation of Section 5(b) of RA 7610. Under Section 48 of the Revised Penal Code (on complex crimes, a felony under the Revised penal Code (such as rape) cannot be complexed with an offense by a special law.
>
> In this case, the victim was more than 12 years old when the crime was committed against her. The Information against appellant stated that AAA was 13 years old at the time of the incident. Therefore, appellant may be prosecuted either for violation of Section 5(b) of RA 7610 or rape under Article 266-A (except paragraph 1[d])) of the Revised Penal Code. While the Information may have alleged the elements of both crimes, the prosecution's evidence only established that appellant sexually violated the person of AAA through force and intimidation by threatening her with a

---

[10] *People v. Abello*, 601 Phil. 373, 392 (2009).
[11] 599 Phil. 390, 394-396 (2009).

> bladed instrument and forcing her to submit to his bestial designs. Thus, rape was established.[12]

In *People v. Dahilig*,[13] "the accused can indeed be charged with either rape or child abuse and be convicted therefor. Considering, however, that the information correctly charged the accused with rape in violation of Article 266-A par. 1 in relation to Article 266-B, 1st par. of the Revised Penal Code, as amended by R.A. No. 8353, and that he was convicted therefor, the CA should have merely affirmed the conviction."

As in the case of *Abay*, the elements alleged in the information in this case may pertain to either rape in violation of Article 266-A (1) or sexual abuse under Section 5(b) of R.A. No. 7610. It must be noted though that according to the RTC, it was established during trial that the crime of rape was committed and thus it sentenced accused-appellant with the indivisible penalty of *reclusion perpetua* in accordance with Article 266-B of the Revised Penal Code, rather than impose upon him the penalty provided for under R.A. No. 7610. The CA decision made it clear when it stated that "[a]ccused-appellant Joel Jaime is hereby found **GUILTY** beyond reasonable doubt of one (1) count of *Simple Rape* under Art. 266-A, paragraph 1(a) of the Revised Penal Code, as amended by Republic Act No. 8353, and is sentenced to suffer the penalty of *reclusion perpetua* x x x x x."

The question before us is whether the CA erred in affirming the RTC decision finding accused-appellant guilty of the crime of rape.

According to accused-appellant, the prosecution's evidence itself indicates that the commission of the crime is highly improbable. He argues that the pedicab could have easily tipped over if it is true that he was on his knees and exerting effort to penetrate the victim's vagina. Accused-appellant also pointed out that he was not armed at the time of the incident; thus, he could not have posed an immediate threat to the life and safety of the victim leaving her no choice but to submit to his advances. He insists that nothing in the stipulated testimony of De Ocampo would show or even indicate that a crime of rape was committed. To him, De Ocampo's statement only reveals that the victim and the accused-appellant were brought to the barangay outpost since the two were thought to be minors.

The Court is not convinced.

The elements of rape under Article 266-A, paragraph (1)(a) of the RPC, as amended, are: (1) the act is committed by a man; (2) that said man

---

[12] Id. at 395-397.
[13] 667 Phil. 92, 103-104 (2011).

had carnal knowledge of a woman; and (3) that such act was accomplished through force, threat, or intimidation. Both the CA and the RTC found that these elements are present in this case. Accused-appellant had carnal knowledge of the victim through force, threat, and intimidation.

Accused-appellant's argument that the commission of the crime is highly improbable based on prosecution's evidence deserves scant consideration. Depraved individuals stop at nothing in order to accomplish their purpose. Perverts are not used to the easy way of satisfying their wicked cravings.[14] Thus, it cannot be gainsaid that commission of the crime of rape was highly improbable because the pedicab could have easily tipped over if the accused-appellant was on his knees and exerting effort to penetrate the victim's vagina.

Though it might be true that the stipulated testimony of De Ocampo does not categorically indicate that the crime of rape has been committed, it still establishes accused-appellant as the same man found with the victim inside the pedicab, prior to their being taken into custody.

As to what transpired inside the pedicab and the events leading thereto, the victim gave a consistent and spontaneous testimony which the RTC and CA found to have proven the elements of carnal knowledge accomplished through force and intimidation. The victim also identified accused-appellant in open court to be the perpetrator of the crime, recounting the events on the night of 14 December 2002, as follows:

> THE FISCAL:
>
> Q: Did Joel Jaime do something wrong [to] you?
> A: Yes, sir.
>
> Q: What did Joel Jaime did to you?
> A: He threatened me, sir.
>
> Q: He did not rape you?
> A: "Tinakot nya po ako bago nya ako ginalaw".
>
> THE FISCAL:
>
> Q: What do you mean "ginalaw ka?"
> A: "Binaboy po nya ako".
>
> THE FISCAL:
>
> May we put on record that the witness [has] started crying.

[14] *People v. Resurreccion*, 609 Phil. 726, 738 (2009).

THE FISCAL:

Q: When you said you were "binaboy" what do you mean by that?
A: I was raped, sir.

Q: When you said you were raped to my understanding the rape was the forcible insertion of male organ to female organ?
A: Yes, sir.

Q. Was that what Joel did to you?
A. Yes, sir.

THE FISCAL:

May we put on record that the witness is now crying.

THE FISCAL:

Q: And you said the accused threatened you before he rape you he forcibly entered his organ to your vagina. Did he [have] a weapon?
A: None, sir.

Q: How did he threaten you?
A: "Pag hindi daw ako sumama, papatayin daw nya ako."

Q. Did he exert physical force on you when he said this to you?
A. He kneeled on my thigh.

Q. Were you naked when he raped you?
A. Yes, sir.

Q. You said you were naked, all your clothing were taken off from your body?
A. My upper garment was there but my lower garment including my panty were removed.

Q: Who removed your lower garment and panty?
A. Joel, sir.

Q: Were you lying on your belly or on your back or you were lying sidewise?
A: I was lying on my back, sir.

Q: This rape perpetrated by the accused was committed to you happened in the tricycle.
A. Yes, sir.

x x x x

Q. This was night-time when this rape happened to you?
A. Yes, sir.

Q. Could you recall what time was that?
A. Yes, sir.

Q. What time was that?
A. 8:00 o'clock in the evening.

Q. Where was the tricycle then?
A. Right in the street.

Q. Do you know the street?
A. [redacted], sir.

Q. How far was this to your house?
A. That is far distance, sir.

Q. When you walked, how far was it from your house?
A. It is far from our house.

Q. How did you reach that place?
A. I boarded on a tricycle.

Q. When you boarded on his tricycle was it voluntary on your part or he forcibly pushed you inside his tricycle?
A. He forced me to board on his tricycle because he said if I will refuse, he will kill my parents.

Q. Where were you when you boarded on his tricycle?
A. I was in the corner near our residence because I asked money from my father to buy medicine.

Q. Who will take this medicine?
A. I am the one, sir. Because during that time, I was sick.

Q. What is your illness?
A. Headache, sir.

Q. And what about the accused, was he naked when he raped you?
A. Yes, sir.

Q. All over or from waist down?
A. He was naked from waist down.

Q. And he placed himself on your top is that what you described to us earlier?
A. Yes, sir.

Q. Did I hear you right he forced himself by inserting his penis to your vagina?
A. Yes, sir.

Q. Did you feel pain?
A. Yes, sir.

Q. Did you shout?
A. Yes, sir.

Q. Why did you shout?
A. Because I was calling for help.

Q. Did any one respond to your call?
A. Yes, sir, the barangay official.[15]

The testimony of the victim that her vagina has been penetrated is supported by the Initial Medico-Report[16] from the PNP Crime Laboratory prepared after examination of the victim on 16 December 2002.

FINDINGS:
Hymen: Elastic fleshy type w/presence of shallow healed lacerations at 6 & 7 o'clock positions

CONCLUSION:
Subject is non-virgin state physically.

The clear statement that the victim is already in a "non-virgin state" establishes that there was indeed carnal knowledge.

The finding of existence of the element of force, threat, and intimidation is not negated by the fact that accused-appellant was unarmed before and during the commission of the sordid act. In the case of *People v. Battad*,[17] the Court said thus:

> 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. As already settled in jurisprudence, not all victims react the same way. Some people may cry out; some may faint; some may be shocked into insensibility; 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. Besides, 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 force or intimidation was present, whether it was more or less irresistible, is beside the point.

It was found that the element of force, threat, and intimidation exists in this case. The victim did not board the vehicle of her own accord, but was forced to go with accused-appellant because of his threat to kill her parents. Also, right before penetrating the victim's vagina, accused-appellant made another threat, this time against the life of the victim. Accused-appellant also exerted physical force upon the victim to ensure consummation of the act.

All these taken together satisfy the requirements to establish that indeed the victim was raped by accused-appellant.

---

15 TSN folder, pp. 4-7.
16 Exhibit Folder p. 4, Exh. "D."
17 740 Phil. 742, 750 (2014).

Finding the accused guilty of the crime of rape, the appropriate penalty is *reclusion perpetua* as provided under Article 266-B of the Revised Penal Code, as amended by R.A. No. 8353. We, therefore, sustain the penalty imposed by the CA.

The CA sentenced accused-appellant "to suffer the penalty of *reclusion perpetua* without eligibility for parole." Section 2 of the Indeterminate Sentence Law (Act No. 4103 as amended by Act No. 4225) states that the Act "shall not apply to, among others, persons convicted of offenses punishable with the death penalty or life imprisonment." Although there was no reference to persons convicted of offenses punishable with *reclusion perpetua*, this Court has, time and again, considered the penalty of *reclusion perpetua* to be synonymous to life imprisonment for purposes of the Indeterminate Sentence Law, and has ruled that this law does not apply to persons convicted of offenses punishable with *reclusion perpetua*.[18]

It should be noted, however, that the Supreme Court En Banc issued A.M. No. 15-08-02-SC, the *Guidelines for the Proper Use of the Phrase "Without Eligibility for Parole" in Indivisible Penalties*. It aims to promote uniformity in the court's promulgated decisions and resolutions and thus prevent confusion. It provides that the phrase "without eligibility for parole" is to be used to qualify the penalty of *reclusion perpetua* when circumstances are present warranting the imposition of the death penalty but which penalty is not imposed because of R.A. No. 9346. The pertinent portion of the resolution is quoted:

> x x x x
>
> In these lights, the following guidelines shall be observed in the imposition of penalties and in the use of the phrase "without eligibility for parole":
>
> (1) In cases where the death penalty is not warranted, there is no need to use the phrase "without eligibility for parole" to qualify the penalty of reclusion perpetua; it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole; and
>
> (2) When circumstances are present warranting the imposition of the death penalty, but this penalty is not inposed because of R.A. No. 9346, the qualification of "without eligibility for parole" shall be used to qualify reclusion perpetua in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for R.A. No. 9346.

---

[18] *People v. Tuazon*, 563 Phil. 74, 91 (2007).

Since the death penalty is not warranted in this case, the phrase "without eligibility for parole" does not need to describe and be affixed to *reclusion perpetua*. It is understood that accused-appellant is not eligible for parole having been meted an indivisible penalty.

Finally, as to the award of damages, the Court increases the same in line with the rule enunciated in *People v. Jugueta*,[19] where the Court held that in the crime of rape where the imposable penalty is *reclusion perpetua*, the proper amounts of damages should be ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages.

WHEREFORE, premises considered, the 29 May 2015 Decision of the Court of Appeals is hereby **AFFIRMED with FURTHER MODIFICATIONS**. Accused-appellant Joel Jaime is hereby found **GUILTY** beyond reasonable doubt of one (1) count of Rape under Article 266-A, paragraph 1(a) of the Revised Penal Code, as amended by Republic Act No. 8353. He is sentenced to suffer the penalty of *reclusion perpetua* and is further ordered to pay the victim the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, with legal interest at the rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.

SO ORDERED.

SAMUEL R. MARTIRES
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

---

[19] 783 Phil. 806, 848 (2016).

LUCAS P. BERSAMIN
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

ALEXANDER G. GESMUNDO
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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third 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 Courts Division.

ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)

CERTIFIED TRUE COPY
WILFREDO V. LAPAN
Division Clerk of Court
Third Division
AUG 2018