



Republic of the Philippines
Supreme Court
Manila
THIRD DIVISION

Mis-DC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
Third Division

MAR 03 2021
SUPREME COURT OF THE PHILIPPINES
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PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 242513

- versus -

Present:

LEONEN, J., Chairperson,
GISMUNDO, *
HERNANDO,
DELOS SANTOS, and
ROSARIO, JJ.

Promulgated:

ARMANDO BUEZA Y RANAY,
Accused-Appellant.

November 18, 2020

Mis-DC Batt

X-----X

DECISION

HERNANDO, J.:

Accused-appellant Armando Bueza y Ranay (Bueza) assails the May 31, 2017 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07713 which affirmed with modifications the August 5, 2015 Joint Decision² of the Regional Trial Court (RTC) of Valenzuela City, Branch 172, in Criminal Case Nos. 1224-V-13 and 1225-V-13 finding him guilty beyond reasonable doubt of Robbery with Rape and Grave Threats, respectively.

In Criminal Case No. 1224-V-13, accused-appellant was charged with Robbery with Rape in relation to Republic Act No. (RA) 7610 (RA 7610),³ and with Grave Threats in relation to RA 7610 in Criminal Case No. 1225-V-13, which crimes he allegedly committed as follows:

* Designated as additional member per raffle dated November 11, 2020 vice J. Inting who penned the assailed Decision of the Court of Appeals.
¹ *Rollo*, pp. 2-13; penned by Associate Justice Henri Jean Paul B. Inting (now a Member of this Court) and concurred in by Associate Justices Ramon R. Garcia and Leoncia R. Dimagiba.
² *CA rollo*, pp. 20-26; penned by Judge Nancy Rivas-Palmones.
³ Special Protection of Children Against Exploitation, and Discrimination Act.

Criminal Case No. 1224-V-13 (Robbery with Rape):

The undersigned Associate Prosecution Attorney II accuses [ARMANDO BUEZA Y RANAY] of the crime of “Robbery with Rape in relation to R.A. 7610” committed as follows:

On or about August 31, 2013, in [REDACTED], and within the jurisdiction of this Honorable Court, the accused, by means of violence and intimidation employed on the victim [AAA],⁴ 17 years old, (DOB: November 28, 1995), did then and there willfully, unlawfully[,] and feloniously take, rob, and carry away with her one unit of Myphone Touch Screen worth P1,700.00, one unit of Cherry Mobile Q2 worth P1,000.00 and one wallet containing Cash amounting to P4,000.00, and by reason and on the occasion of the robbery, the accused, with lewd design and by poking a knife, did then and there willfully, unlawfully, feloniously have sexual intercourse with her against her will and without her consent, which acts necessarily include sexual abuse that debased, degraded and demeaned her intrinsic worth and dignity as a human being.

CONTRARY TO LAW.⁵

Criminal Case No. 1225-V-13 (Grave Threats):

The undersigned Associate Prosecution Attorney II accuses [ARMANDO BUEZA Y RANAY] of the crime of “Grave Threats in rel. to R.A. 7610”, committed as follows:

On or about September 4, 2013, in [REDACTED], and within the jurisdiction of this Honorable Court, the accused, without any justifiable cause, did then and there willfully, unlawfully[,] and feloniously threaten the life of [AAA], 17 years old, (DOB: November 28, 1995), by uttering the following words and expressions, to wit:

“HUMANDA KA SA SUSUNOD NATING PAGKIKITA, PAPTAYIN NA KITA.”

CONTRARY TO LAW.⁶

On October 1, 2013, accused-appellant pleaded not guilty to both charges during the arraignment.⁷

Version of the Prosecution:

AAA was born on November 28, 1995. She was a 17-year-old minor at the time of the complained incidents.

On August 31, 2013, at about 11:30 p.m., AAA was walking towards her boarding house after attending a birthday party when Bueza suddenly pulled her and pushed her to the ground. Thereafter, he pointed a knife at her side and declared a hold-up. Accused-appellant forcibly took her two (2) cellphones, each worth

⁴ Initials were used for the name of the victim pursuant to Supreme Court Amended Circular No. 83-2015 or Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders using Fictitious Names/Personal Circumstances issued on September 5, 2017.

⁵ Records (Criminal Case No. 1224-V-13), p. 1.

⁶ Records (Criminal Case No. 1225-V-13), p. 1.

⁷ Records (Criminal Case No. 1224-V-13), p. 20.

₱1,700.00 and ₱1,000.00, as well as her wallet containing cash amounting to ₱4,000.00.⁸

As there were several people congregating at a nearby bridge, Bueza instructed AAA to stand up, then placed his arm around her shoulder while his other hand poked a knife at her side. He instructed her to walk casually as they pass the bridge ahead. Accused-appellant then brought her inside a public restroom along a narrow alley. While still pointing his knife at her, he removed his shorts and brief. AAA tried to escape but was unsuccessful. She tried begging Bueza to stop but he merely cautioned her not to make a sound. Still at knifepoint, accused-appellant removed her clothes and underwear, kissed her breast and vagina, then inserted his penis into her vagina.⁹

After having carnal knowledge of private complainant, Bueza put on his clothes and told her not to leave the restroom until he was gone or he would kill her.

After accused-appellant had left, AAA went home and recounted the harrowing incident to her landlord, who in turn, accompanied her to the police station to report the incident.

At the police station, AAA reported only the robbery but refrained from disclosing the accompanying rape out of embarrassment. The police tried to look for Bueza but was unable to locate him.

A few days later, or on September 4, 2013, at around 11:00 a.m., AAA chanced upon the accused-appellant standing by the entrance of the grocery store where she was working. Out of fear, the victim immediately returned to her post.

When she noticed that Bueza was no longer at the entrance of the grocery store, she decided to go out to buy her lunch. However, accused-appellant suddenly approached her. When he eventually caught up with her, he held her hand and told her that he would kill her the next time he sees her.

Trembling with fear, she immediately went back to the grocery store and asked permission from her superior to leave. She proceeded to the police station to report that accused-appellant threatened, robbed, and raped her. Thereafter, two police officers accompanied her back to the grocery store where she worked. She then pointed to the accused-appellant which led to the latter's arrest.

Police Chief Inspector Gracia Catherine C. Guno, M.D. (Dr. Guno), conducted a physical and genital examination on the victim. In her Medico-Legal Report No. R13-256N,¹⁰ Dr. Guno's findings showed that AAA did not have evident signs of injuries at the time of the examination. Dr. Guno also opined that while there was no laceration on the victim's hymen at the time of the examination, it did not preclude the possibility of sexual abuse.

⁸ CA rollo, p. 21.

⁹ Id.

¹⁰ Records (Criminal Case No. 1224-V-13), p. 39.

Version of the Defense:

Accused-appellant denied the accusations against him. He claimed that on August 31, 2013, he worked as a barker for the passenger jeepneys plying the tollgate near Paso de Blas from 5:00 p.m. until 8:00 p.m. On September 4, 2013, at around 11:00 a.m., he was again in the same tollgate working as a barker.

He denied knowing the victim. However, when asked what moved the private complainant to file a case against him, he claimed that she was a prostitute who transmitted a sexually-acquired disease to his friend. AAA and his friend allegedly had an argument regarding this.

Ruling of the Regional Trial Court:

On August 5, 2015, the trial court found Bueza guilty beyond reasonable doubt of Robbery with Rape and Grave Threats. The RTC was convinced that the prosecution was able to establish that accused-appellant, who was then armed with a knife, robbed the victim of her personal belongings and raped her thereafter. Further, the trial court found that Bueza, in a separate occasion, had threatened to kill her.

The dispositive portion of the RTC's Joint Decision reads:

WHEREFORE, the court finds the accused guilty beyond reasonable [doubt] as principal for the crimes of robbery with rape and grave threats in relation to R.A. 7610, and he is hereby sentenced to suffer the following penalties:

1. In Criminal Case No. 1224-V-13, the penalty of *Reclusion Perpetua* without eligibility for parole, and to pay the victim the sums of [P]6,700.00 as actual damages, [P]50,000.00 as civil indemnity and [P]50,000.00 as moral damages;
2. In Criminal Case No. 1225-V-13, the penalty of four (4) years, two (2) months and one (1) day of *prision correccional*, as minimum, to six (6) years and one (1) day of *prision mayor*, as maximum, and to pay the victim the sum of [P]50,000.00 as moral damages.

All awards for actual damages, civil indemnity and moral damages shall bear 6% interest per *annum* from the finality of this decision until full payment thereof.

SO ORDERED.¹¹

Aggrieved by the RTC's Joint Decision, Bueza filed a Notice of Appeal.¹²

Ruling of the Court of Appeals:

On May 31, 2017, the CA affirmed the RTC's Joint Decision with modifications on the penalties imposed. In agreeing with the findings of the trial court

¹¹ CA *rollo*, p. 26.

¹² *Id.* at 27.

that accused-appellant had raped the victim, the appellate court held that the lack of hymenal laceration in the private complainant's sexual organ or the victim's delay in reporting the incident preclude the existence of rape. Here, the delay in this case was neither unreasonable nor unexplained.

With regard to the charge of Grave Threats, the appellate court found that the elements for its commission had been sufficiently established.

The dispositive portion of the CA's Decision reads as follows:

WHEREFORE, the August 5, 2015 Joint Decision of the Regional Trial Court in Criminal Cases Nos. 1224-V-13 and 1225-V-13 is AFFIRMED but MODIFIED as follows:

1. In Criminal Case No. 1224-V-13, accused-appellant is hereby ordered to pay AAA the following amounts: [P]100,000.00 as civil indemnity, [P]100,000.00 as moral damages, and [P]100,000.00 as exemplary damages.

2. In Criminal Case No. 1225-V-13, accused-appellant is hereby sentenced to suffer the penalty of imprisonment of two (2) months and one (1) day to four (4) months of *arresto mayor* and a fine of [P]200.00.

SO ORDERED.¹³

Dissatisfied with the CA's Decision, Bueza filed a Notice of Appeal.¹⁴

Issue

Whether or not accused-appellant is guilty of Robbery with Rape and of Grave Threats.

Accused-appellant argues that the trial court gravely erred in convicting him of Robbery with Rape and of Grave Threats since there were gross inconsistencies and contradictions in the prosecution's evidence which failed to definitively identify him as the victim's assailant.¹⁵ He argues that the medical examination conducted on the victim revealed no physical injuries inflicted on her, thus belying her accusations of Rape. He also claims that the RTC erred in convicting him of Grave Threats considering that there were several people present at the time the alleged threats were issued. Lastly, he characterizes the victim as lacking in credibility.

Our Ruling

The appeal lacks merit.

Both the trial court and the appellate court correctly found Bueza guilty beyond reasonable doubt of the special complex crime of Robbery with Rape and of Grave Threats.

¹³ *Rollo*, p. 12.

¹⁴ *Id.* at 14.

¹⁵ *CA rollo*, pp. 41-56.

Robbery with Rape is penalized under Article 294 of the Revised Penal Code (RPC), as amended by Section 9 of RA 7659.¹⁶ It 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.¹⁷

The following elements must concur in the crime of Robbery with Rape: (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.¹⁸

After a careful review of the records of the case, the Court agrees with the factual findings and conclusions of the trial court, which were affirmed by the appellate court. The prosecution sufficiently established the elements of the crime of Robbery with Rape, to wit: that on August 31, 2015, Bueza, while armed with a knife, forcibly took private complainant's two (2) cellular phones and wallet containing ₱4,000.00. Notably, he did not bother to dispute the Robbery. He only disputed the findings of Rape and Grave Threats.

In particular, accused-appellant points out that the results of the medical examination done on the victim showed that she did not suffer bodily injuries or external signs of trauma.¹⁹ He stresses that there were no hymenal lacerations nor traces of semen in her private parts.²⁰

Bueza's contentions fail to persuade.

The appellate court correctly held that:

[T]he absence of hymenal laceration does not exclude the existence of rape. Such explanation is also consistent with the well settled rule that in rape cases, the absence of lacerations in complainant's hymen does not prove that she was not raped. Neither does the lack of semen belie sexual abuse as it is equally settled that 'the absence of sperm samples in the vagina of the victim does not negate rape, because the [presence] of spermatozoa is not an element thereof.'²¹

*People v. Opong*²² held in no uncertain terms that:

An intact hymen does not negate a finding that the victim was raped, and a freshly broken hymen is not an essential element of rape.

x x x x

¹⁶ AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL LAWS, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES.

¹⁷ *People v. Belmonte*, 813 Phil. 240, 246 (2017).

¹⁸ *People v. Bragat*, 821 Phil. 625, 633 (2017).

¹⁹ CA rollo, p. 50.

²⁰ Id. at 51.

²¹ Rollo, p. 9.

²² 577 Phil. 571 (2008).

In *People v. Palicte* and in *People v. Castro*, the rape victims involved were minors. The medical examination showed that their hymen remained intact even after the rape. Even then, we held that such fact is not proof that rape was not committed.²³

More recently, the Court held in *People v. Pamintuan*²⁴ that:

The presence or absence of injuries would depend on different factors, such as the forcefulness of the insertion, the size of the object inserted, the method by which the injury was caused, the changes occurring in a female child's body, and the length of healing time, if indeed injuries were caused. Thus, the fact that AAA did not sustain any injury in her sex organ does not ipso facto mean that she was not raped.²⁵

Accordingly, the Court finds Dr. Guno's medical findings that there was no laceration on the victim's hymen insufficient to disprove the crime of Rape. The absence of hymenal laceration is inconsequential since it is not an element of the crime of Rape. The Court has consistently held that mere touching of the external genitalia by a penis capable of consummating the sexual act is sufficient to constitute carnal knowledge.²⁶ Thus, when a penis comes in contact with the lips of the victim's vagina, the crime of Rape is considered consummated.

As regards the charge of Grave Threats, the Court agrees with the appellate court that the crime was consummated as soon as the victim heard Bueza utter his threatening remarks.²⁷ Article 282 of the RPC holds liable for Grave Threats, "any person who shall threaten another with the infliction upon the person, honor, or property of the latter or of his family of any wrong amounting to a crime[.]" The crime is consummated as soon as the threats come to the knowledge of the person threatened.²⁸

In this case, it is clear that accused-appellant's threat to kill the private complainant is a wrong on the person amounting to, at the very least, homicide under the RPC. The felony of Grave Threats was consummated the moment she heard Bueza utter his threatening remarks. The appellate court correctly ruled that it was inconsequential that the threat was made in the presence of a number of people since the offense does not require that it be committed in private.

However, we note that Bueza was charged with and prosecuted for Robbery with Rape and Grave Threats "in relation to Republic Act No. 7610."²⁹ Pursuant to our ruling in *People v. Tulagan (Tulagan)*,³⁰ we find the need to fix the proper nomenclature of the crimes committed. *Tulagan* teaches that:

²³ Id. at 592-593.

²⁴ 710 Phil. 414 (2013).

²⁵ Id. at 423.

²⁶ *People v. Campuhan*, 385 Phil. 912, 920 (2000).

²⁷ CA rollo, p. 122.

²⁸ *Paera v. People*, 664 Phil. 630, 637 (2011).

²⁹ *Supra* notes 5 & 6,

³⁰ G.R. No. 227363, March 12, 2019.

‘[F]orce, threat or intimidation’ is the element of rape under the RPC, while ‘due to coercion or influence of any adult, syndicate or group’ is the operative phrase for a child to be deemed ‘exploited in prostitution or other sexual abuse,’ which is the element of sexual abuse under Section 5(b) of R.A. 7610. x x x

x x x x

Therefore, there could be no instance that an Information may charge the same accused with the crime of rape where ‘force, threat or intimidation’ is the element of the crime under the RPC, and at the same time violation of Section 5(b) of R.A. No. 7610 x x x.

x x x x

Assuming that the elements of both violations of Section 5(b) of R.A. No. 7610 and of Article 266-A, paragraph 1(a) of the RPC are mistakenly alleged in the same Information x x x the accused should still be prosecuted pursuant to the RPC, as amended by R.A. No. 8353, which is the more recent and special penal legislation that is not only consistent, but also strengthens the policies of R.A. No. 7610.

Thus, the Court fixes the error in the nomenclature of appellant’s crimes. As it should now stand, accused-appellant is to be held criminally liable for Robbery with Rape defined under **Article 294, Paragraph 1 of the RPC and of Grave Threats under Article 282 of the RPC. The correlation to RA 7610 is deleted.**

Based on the evidence on record, the Court finds no reason to reverse the Decision of the appellate court affirming the trial court’s Joint Decision in Criminal Case Nos. 1224-V-13 and 1225-V-13. The Court likewise affirms the modified penalties imposed since the same are in line with recent jurisprudence and the relevant provision of the RPC.³¹ However, there is a need to further modify the monetary awards in Criminal Case No. 1224-V-13. Pursuant to prevailing jurisprudence,³² the awards of civil indemnity, moral damages, and exemplary damages, are reduced to ₱75,000.00 each.

WHEREFORE, the appeal is **DISMISSED**. The May 31, 2017 Decision of the Court of Appeals in CA-G.R. CR-HC No. 07713 is **AFFIRMED with MODIFICATION**. Accused-appellant Armando Bueza y Ranay is hereby found **GUILTY** of Robbery with Rape under Article 294, Paragraph 1, and of Grave Threats under Article 282, of the Revised Penal Code. The correlation to Republic Act No. 7610 is **DELETED**. The awards of civil indemnity, moral damages, and exemplary damages in Criminal Case No. 1224-V-13 are **REDUCED** to ₱75,000.00 each.

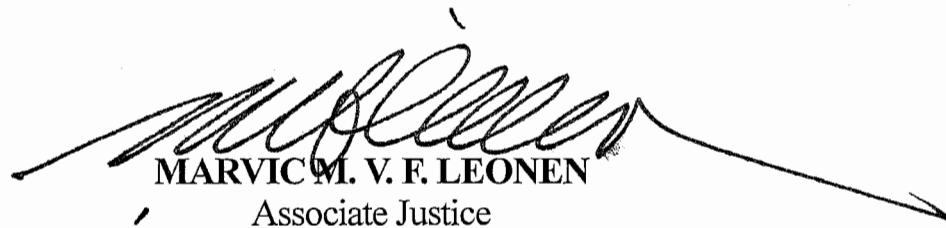
³¹ See *People v. Salen*, G.R. No. 231013, January 29, 2020.


³² Id. See also *People v. Jugueta*, 783 Phil. 806, 849 (2016).


SO ORDERED.

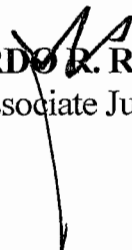

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


MARVIC M. V. F. LEONEN
Associate Justice
Chairperson



ALEXANDER G. GESMUNDO
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


RICARDO R. ROSARIO
Associate Justice

ATTESTATION

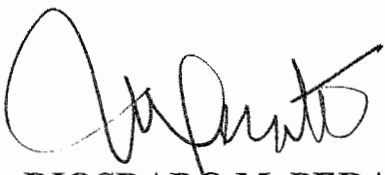
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M. V. F. LEONEN
Associate Justice
Chairperson

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.



DIOSDADO M. PERALTA
Chief Justice

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MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court
Third Division

MAR 03 2021