



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 239334

Present:

- versus -

LEONEN, J., *Chairperson*,
HERNANDO,*
INTING,
DELOS SANTOS,
LOPEZ, J., *JJ.*

JOVIC PANTANOSAS AMPER,
Accused-Appellant.

Promulgated:

June 16, 2021

Mis-DCBatt

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DECISION

LOPEZ, J., J.:

This is an appeal from the Decision¹ dated March 21, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 01672-MIN, affirming the conviction of accused-appellant Jovic Pantanosas Amper for the crime of rape under Article 266-A, paragraph 1(a) of the Revised Penal Code (*RPC*), as amended.

The Facts

In an Information dated August 10, 2015, accused-appellant Jovic Pantanosas Amper was charged for the crime of rape, the accusatory portion of which reads:

* On leave.

¹ Penned by Associate Justice Ruben Reynaldo G. Roxas, and concurred in by Associate Justices Edgardo T. Loren and Walter S. Ong; *rollo*, pp. 3-13.

That on or about August 5, 2015, at more or less 1:05 dawn at P-3, Lower Boguyon, Barangay Duka, Medina, Misamis Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, through force, threat or intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of Agnes Cabiltes y Zaragoza, to her damage and prejudice.

Contrary to and in violation of Paragraph 1(a), Article 266-A of the Revised Penal Code.

Upon arraignment, accused-appellant with assistance of counsel, pleaded not guilty to the crime as charged.

After pre-trial, trial on the merits ensued.

Prosecution's Evidence

For the prosecution, the following witnesses were presented: (1) Agnes Z. Cabiltes, private complainant; and (2) SPO2 Alvin T. Tejano

Their salient testimonies, intertwined together, established the following:

On August 4, 2015, Agnes Zaragoza Cabiltes (*Agnes*), together with her husband and their two minor children, travelled from Davao City to Purok 3, *Barangay* Boyugon, Medina, Misamis Occidental. The purpose of their visit was to take care of Agnes' ailing father-in-law, who at that time was confined in a hospital.²

Upon their arrival in Medina, they were fetched by Jovic Amper (*Jovic*), a close friend of Agnes' husband. Jovic accompanied them to the house of Agnes' father-in-law and prepared lunch for them. After eating, Agnes and her husband visited her father-in-law in the hospital in Gingoog City.³

At around 5 o'clock in the afternoon, they went back home where Jovic helped Agnes prepare dinner. Jovic also fixed the ceiling fan in the room where Agnes and her family will be staying. Jovic, likewise, stayed for the evening to join the conversation of Agnes' husband, Tatay Lino, and an unidentified man – who were all drinking liquor at the terrace of the house.⁴

At around 10 o'clock in the evening, Agnes received a call from a doctor informing her that her father-in-law had already died. Despite being drunk, Agnes' husband immediately proceeded to the hospital leaving Agnes and her two minor children at home.⁵

² TSN, January 14, 2016, pp. 5-6.

³ *Id.* at 6-7.

⁴ *Id.* at 7-8.

⁵ *Id.* at 8-9.

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At past midnight, Agnes texted her husband to come home because she felt that there was someone outside their house. At around 1:05 o'clock in the early morning of August 5, 2015, she was surprised when she saw a man inside the house, whose face was covered with a t-shirt, exposing only his eyes. The man switched off the lights in the living room and in the bedroom.⁶ Suddenly, the man grabbed Agnes' hair and while this was happening, Agnes pulled her children to the center of the bed. Agnes then asked the intruder, "*What do you want Kuya? You want to steal, just get what you want and please don't hurt me and my children.*" Instead of answering, the man just said, "*What took you so long to come back, I have been waiting for you.*" Agnes tried to fight back while she was being dragged by the man from the bedroom to the sala. However, Agnes stopped resisting when she felt a sharp object pointed at her back and when the man said, "*Fight back, run and ask for help, I will kill your children.*"⁷

Agnes was then forcibly dragged out of the house until they reached a place near the mango trees. Thereat, the man took off her shorts and panty, and ordered her to bend over. Agnes told the man, "*This is all you want? You should only tell me. If it is lust you are looking for, I will satisfy you so please throw your weapon and don't stab me.*" The man replied, "*Keep quiet and don't tell your husband because we are closed (sic) friends.*" Agnes replied, "*Yes, I know that you are closed (sic) friends with my husband, so that is why (sic) that is all you want, I will satisfy your lust and please throw your weapon.*" Instead of throwing the weapon, the man used the same to play with Agnes' vagina and then inserted his penis into her vagina. Unsatisfied, the man dragged Agnes near the septic tank and forced her to lie down. Thereafter, the man inserted his penis inside Agnes' vagina for the second time. The man told Agnes that it was good timing because her husband was not around. At this juncture, the shirt, which concealed the face of the man was slowly removed thereby exposing his face. Agnes then recognized that it was Jovic (herein accused-appellant), the close friend of her husband.⁸

After Jovic left, Agnes immediately entered the house to check on her children. She also called her Auntie Nining Lago (*Nining*) to come to the house. When Auntie Nining arrived, Agnes told her that she was raped, but she did not tell the identity of the assailant because of fear that Jovic will kill her husband and children.⁹

The matter was, thereafter, reported to the police. To help Agnes identify her rapist, the police organized a police line-up, wherein Agnes identified a different person – a certain Noel Cabiltes, as her rapist. Agnes explained that she did not identify Jovic, who at that time was standing behind her husband, because of fear that he might make good his threat of killing her husband.¹⁰

⁶ *Id.* at 10-11.

⁷ *Id.* at 11-12.

⁸ *Id.* at 12-15.

⁹ *Id.* at 16.

¹⁰ *Id.* at 17-18.

The following day, or on August 6, 2015, Agnes decided to positively identify Jovic as her rapist. She filed a case against him to ensure the safety of her children. On the same day, SPO2 Alvin T. Alejano arrested Jovic at Sitio Boyugon, Purok 3, Duka, Medina.¹¹

Evidence for the Defense

For the defense, Jovic Pantanosas Amper, the accused-appellant and Jessica B. Valiente, a common cousin of Jovic and Agnes' husband, were presented as witnesses.

Their material testimonies are as follows:

Jovic Pantanosas Amper vehemently denied the accusations hurled against him. He claimed that on August 4, 2015, he met Agnes Cabiltes and her husband, Jonas Cabiltes (*Jonas*), on the street. Thereafter, he went with them to their house and cooked lunch for them. After eating, he asked permission to go home.¹²

At around 5 o'clock in the afternoon, he went back to the house of Agnes. Thereat, Jonas and two other persons were having a drinking spree, but he did not join them. At around 6 o'clock in the evening, he again asked permission to go home.¹³

At 6 o'clock in the morning, the following day, he went to the house of his cousin, Anabel, to eat breakfast. Suddenly, he was arrested by a policeman who brought him to the police station. Thereat, he was subjected to a police line-up. Included in the said line-up were the following: Triffon Tagaro, Noel Cabiltes, Carlito Mandin and Paulino Dagatan. Agnes categorically pointed to Noel Cabiltes, as the person who raped her. However, the following day, or on August 6, 2015, he was arrested for allegedly raping Agnes.¹⁴

On cross-examination, he claimed that from 6:00 p.m. of August 4, 2015 to 6:00 a.m. of August 5, 2015, he was at home with the son of his live-in partner. He, however, admitted that the distance of his house and the house of Agnes was only 500 meters away, or 2 to 3 minute walk.¹⁵

Jessica B. Valiente, a common cousin of accused-appellant and Agnes' husband, testified that on August 5, 2015, at around 7 o'clock in the morning, she saw several policemen in the house of Agnes. After Agnes talked to a policeman, she followed her inside the house. She asked Agnes what

¹¹ *Id.* at 6-7; 10-11.

¹² *Id.* at 4-5.

¹³ *Id.* at 5-6.

¹⁴ *Id.* at 6-9.

¹⁵ *Id.* at 12-14.

happened and the latter informed her that she was raped by Noel Cabiltes. She then asked how she knew that it was Noel Cabiltes, to which Agnes replied that it was because of his smell. Hence, she was surprised when Jovic was arrested and charged with rape, the following day.¹⁶

The Trial Court's Ruling

On March 7, 2017, the trial court rendered a Decision¹⁷ finding accused-appellant guilty beyond reasonable doubt for the crime of rape, the dispositive portion of which reads:

WHEREFORE, since there is proof beyond reasonable doubt, accused JOVIC PANTANOSAS AMPER is found GUILTY of the crime of RAPE, as provided under Article 266-A, paragraph 1, of the Revised Penal Code, as amended, for having unlawful carnal knowledge with Agnes Z. Cabiltes on August 5, 2015 at around 1:05 o'clock dawn at Purok 3 Lower Boyugon Duka Medina Misamis Occidental, and sentenced to serve the penalty of *Reclusion Perpetua*.

Further, accused JOVIC PANTANOSAS AMPER is ordered to pay [the] victim Agnes Z. Cabiltes the following:

Civil Indemnity *Ex Delicto* – Seventy-Five Thousand Pesos
(Php75,000.00)
Moral Damages – Seventy-Five Thousand Pesos
(Php75,000.00) &
Exemplary Damages – Seventy-Five Thousand Pesos
(Php75,000.00),

all with interest at the rate of 6% per annum from the date of finality of this judgment until the amount is paid in full. This is pursuant to the Ulanday ruling.

Costs against accused JOVIC PANTANOSAS AMPER.

In convicting accused-appellant, the trial court ratiocinated that all the elements of the crime of rape are present. Agnes was penetrated twice by accused-appellant against her will – *first*, near the mango trees, and *second*, near the septic tank. The unlawful carnal knowledge was made possible by accused-appellant when he threatened Agnes and pointed a sharp object at her back.

The trial court also opined that Agnes positively identified accused-appellant as her assailant. According to the trial court, her initial mistake in not identifying him should not be taken against her, considering the harrowing experience she went through, especially the threats made against her and the fact that accused-appellant is someone close to her family, most especially to her husband. The trial court was also convinced that Agnes pointed to Noel

¹⁶ TSN, September 1, 2016, pp. 4-7.

¹⁷ *Rollo*, pp. 62-52.

Cabiltes as her rapist because she was afraid that accused-appellant would make good his threat of killing her husband, who was standing behind him during the police line-up.

As to accused-appellant's defense of denial and alibi, the trial court debunked the same for being unsubstantiated. Accused-appellant failed to present Anabel, from whose house he alleged he was eating breakfast at the time of his arrest, or the son of his live-in partner, whom he claimed was with him from 6:00 p.m. on August 4, 2015 to 6:00 a.m. on August 5, 2015. Neither was there any showing that it was physically impossible for him to be at the crime scene, considering that his house is only 500 meters away, or 2 to 3 minute walk, from the house of Agnes.

At odds with the ruling, accused-appellant elevated the matter to the Court of Appeals.

The Court of Appeals' Ruling

On March 21, 2018, the Court of Appeals rendered the assailed Decision,¹⁸ affirming the conviction of accused-appellant for the crime of rape, the dispositive portion of which reads:

WHEREFORE, foregoing premises considered, the instant appeal is DENIED. The Decision dated 07 March 2017 of the Regional [Trial] Court, Branch 26, Medina, Misamis Oriental is AFFIRMED.

SO ORDERED.

Similar to the trial court, the Court of Appeals held that all the elements of the crime of rape have been sufficiently established. Further, the fact that Agnes did not immediately point to accused-appellant as her assailant did not affect the prosecution's case. It is not incomprehensible for a rape victim like Agnes to remain fearful for her safety and the safety of her family. Accused-appellant was also behind her husband during the police line-up, which prompted her to point to someone else instead of accused-appellant. For the Court of Appeals, her reaction adds to her credibility buttressing the veracity of her account on the night she claimed to have been raped by accused-appellant. The Court of Appeals also rejected accused-appellant's contention that the sexual intercourse was consensual. The utterances made by Agnes was only to convince accused-appellant to throw his bladed weapon and not an indication of her consent to the sexual intercourse.

Thus, in his quest for acquittal, accused-appellant lodged this present appeal.

¹⁸ *Id.* at 3-13.

In a Resolution dated July 4, 2018, the Court directed the parties to file their respective Supplemental Briefs. However, both the accused-appellant and plaintiff-appellee through the Office of the Solicitor General (*OSG*) filed their respective Manifestations stating that they would no longer file Supplemental Briefs and, instead, adopt their Briefs filed before the Court of Appeals.

Issue

The threshold issue to be resolved is whether or not the guilt of accused-appellant for the crime of rape was proven beyond reasonable doubt.

The Court's Ruling

Primarily, in reviewing rape cases, this Court is guided with three settled principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the person accused, although innocent, to disprove; (2) considering the intrinsic nature of the crime, only two persons being usually involved, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense.¹⁹

Rape is a serious transgression with grave consequences both for the accused and the complainant. Using the above guiding principles in the review of rape cases, this Court is thus duty-bound to conduct a thorough and exhaustive evaluation of a judgment of conviction for rape.²⁰

After a painstaking scrutiny of the entire records, the Court finds no compelling reason to deviate from the uniform findings of the lower courts.

Accused-appellant was charged for the crime of rape under Article 226-A paragraph 1(a) of the RPC, as amended by R.A. No. 8353,²¹ which states:

Article 266-A. Rape; Rape; When and How Committed. – Rape is committed.

1) By a man who have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat or intimidation;

¹⁹ *People v. Mendoza*, G.R. No. 239892, June 10, 2020.

²⁰ *People v. Celocelo*, 653 Phil. 251, 261 (2010).

²¹ *The Anti-Rape Law of 1997*.

x x x.

For a charge of rape under the above-mentioned provision to prosper, the prosecution must establish the following elements: (1) that the offender had carnal knowledge of a female, and; (2) the same was committed by using force, threat or intimidation.²²

In this case, all the foregoing elements are present.

As to the *first* element, the categorical and steadfast testimony of Agnes has sufficiently established that accused-appellant succeeded in having carnal knowledge of her, when he inserted his penis in her vagina on two instances. *First*, near the mango trees, and *second*, near the septic tank, to wit:

Q – After the accused played the bladed weapon on your vagina, what else did he do?

A – He inserted his penis into my vagina.

Q – And after that you mentioned also that he was not satisfied, he brought you to the septic tank, when he brought you to the septic tank, what did he do?

A – He forced me to lie down and continued to inserted (sic) his penis into my vagina and he said, “It was good timing because my husband was not around.”²³

By declaring that the appellant inserted his penis into her vagina, the victim said all that was necessary to prove rape.²⁴ It is well-entrenched in jurisprudence that the lone testimony of the victim in a prosecution for rape, if credible, is sufficient to sustain a verdict of conviction. The rationale is that, owing to the nature of the offense, the only evidence that can be adduced to establish the guilt of the accused is usually only the offended party’s testimony.²⁵ Thus, when a woman says she was raped, she says in effect all that is necessary to show that a rape was committed, and if her testimony meets the test of credibility, conviction may issue on the basis thereof.²⁶

Anent the *second* element, records disclose that accused-appellant employed force and intimidation to carry out his salacious desires. Accused-appellant forcibly dragged Agnes out of the house and pointed a sharp object at her back to intimidate her. Accused-appellant also threatened to kill Agnes and her minor children if she fights back, run or ask for help.²⁷ Feeling hapless, Agnes could only recoil in fear and succumb to the beastly demands of accused-appellant.

²² *People v. Polonio*, 786 Phil. 825, 838 (2016).

²³ TSN, January 14, 2016, pp. 14-15.

²⁴ *People v. Gersamio*, 763 Phil. 523, 538 (2015).

²⁵ *People v. Bintacor*, 441 Phil. 758, 768 (2002).

²⁶ *People v. Tagaylo*, 398 Phil. 1123, 1131 (2000).

²⁷ TSN, January 14, 2016, pp. 11-12.

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It is settled that for rape to exist, it is not necessary that the force or intimidation be so great or be of such character as could not be resisted – it is only necessary that the force or intimidation be sufficient to consummate the purpose which the accused had in mind.²⁸ What is vital is that the force or intimidation be of such degree as to cow the unprotected and vulnerable victim into submission. Force is sufficient if it produces fear in the victim, such as when the latter is threatened with death.²⁹

Notably, jurisprudence is replete with cases³⁰ that threatening the victim with bodily injury while holding a knife or bolo constitutes intimidation sufficient to bring a woman to submission to the lustful desires of the molester.

Accused-appellant, however, contends there is no evidence showing that Agnes resisted. He even highlights that Agnes consented to the sexual intercourse as shown by her narration during the direct examination, viz.:

“Q – What happened next?

A – While he was trying me to bend over (sic)
(Witness crying)

Q – And then, what happened next?

A – While he was trying me to bend over (sic), I told him that “This is all you want, why should you not only tell me before.” (sic)

Q – And what happened next, Miss Witness?

A – I told him that “This is all you want, you should only tell me. If it is only lust you are looking for, **I will satisfy you so please throw your weapon and don't stab me**”

Q – What happened next, if any?

A – She (sic) told me “Keep quiet and don't tell your husband because we are closed (sic) friends” and at that time, I replied to him that “Yes, I know that you are closed (sic) friends with my husband, so that is why that is all you want, I will satisfy your lust and **please throw your weapon.**”

Q – After you said it to him, what happened next, if any?

A – Instead of throwing the bladed weapon while I was bending over, that bladed weapon was used to play with my vagina.

Q – After that, what happened next?

A – He was contended; he dragged me again to the septic tank.

Q – After you reached the septic tank, what happened next?

A – He forced me to lie down.

Q – After that, what happened next?

A – I tried to again tell him “**That even, I will be the one to drive just throw the bladed weapon.**”³¹

²⁸ *People v. Lucena*, 728 Phil. 147, 161 (2014).

²⁹ *People v. Cañada*, 617 Phil. 587, 602 (2009).

³⁰ *People v. Frias*, 718 Phil. 173 (2013); *People v. Neverio*, 613 Phil. 507 (2009); *People v. Saludo*, 662 Phil. 738 (2011); *People v. Buates*, 455 Phil. 688, 702 (2003); *People v. Austria*, 389 Phil. 737 (2000); *People v. Mitra*, 385 Phil. 515 (2000).

³¹ TSN, January 14, 2016, pp. 12-13. (Emphasis supplied).

A cursory reading of the foregoing would show that Agnes uttered the aforesaid statements only to convince accused-appellant to throw his bladed weapon and not to signify her consent or willingness to the sexual confrontation. It was borne out of fear for her safety, to say the least, not a sign of approval. With fear instilled in her mind, she cannot be faulted for behaving as she did. There is no clear-cut behavior that can be expected of one who is being raped or has been raped.³² Behavioral psychology teaches us that people react to similar situations dissimilarly. There is no standard form of behavior when one is confronted by a shocking incident as the workings of the human mind when placed under emotional stress are unpredictable.³³ It is, thus, unreasonable to expect or demand a standard behavioral response from Agnes, who was confronted with such startling and traumatic experience. As this Court enunciated in *People v. Pareja*:³⁴

x x x Victims of a crime as heinous as rape, cannot be expected to act within reason or in accordance with society's expectations. x x x One cannot be expected to act as usual in an unfamiliar situation as it is impossible to predict the workings of a human mind placed under emotional stress. Moreover, it is wrong to say that there is a standard reaction or behavior among victims of the crime of rape since each of them had to cope with different circumstances.

At any rate, even assuming that Agnes did not resist, the same does not necessarily amount to consent to the lecherous desires of accused-appellant. In the cases of *People v. Amoc*³⁵ and *People v. Ofemiano*,³⁶ it has been recognized that even the victim's lack of resistance, especially when intimidated by the offender into submission, does not signify voluntariness or consent.

Moreover, it has been consistently held that resistance is not an element of rape.³⁷ A rape victim has no burden to prove that she did all within her power to resist the force or intimidation employed upon her.³⁸ What needs only to be proved by the prosecution is the use of force or intimidation by the accused in having sexual intercourse with the victim³⁹ – which it did in the present case.

In an attempt to discredit the credibility of Agnes, accused-appellant puts into issue her failure to identify him as her rapist during the police line-up. According to accused-appellant, the force or intimidation, if there was any, had already ceased because of the presence of police officers. Thus, the failure of Agnes to point to him as the assailant goes against every grain of human experience.

³² *People v. Victoria*, 763 Phil. 96, 106 (2015).

³³ *People v. Patentes*, 726 Phil. 590, 599 (2014).

³⁴ 724 Phil. 759, 778-779 (2014).

³⁵ 810 Phil. 253, 260 (2017).

³⁶ 625 Phil. 92, 99 (2010).

³⁷ *People v. Gabriel*, 807 Phil. 516, 523 (2017).

³⁸ *People v. Dimanawa*, 628 Phil. 678, 687 (2010).

³⁹ *People v. Jastiva*, 726 Phil. 607, 627 (2014).

The contention is untenable.

It must be stressed that the failure of Agnes to immediately identify accused-appellant as her assailant during the police line-up does not diminish the plausibility of her claims nor taint her credibility as a witness. While it may be true that they were already in the presence of police officers at that time, the same does not necessarily take away the fear of being killed that had already been instilled in the mind of the victim. Moreover, Agnes satisfactorily explained that accused-appellant was standing behind her husband. Fearing for the safety of her husband, she was forced to point to someone else instead of accused-appellant.⁴⁰ Thus, her initial reluctance to point to the real culprit is perfectly understandable and in accord with human nature. It was brought about by fear not only for her own safety but for the safety of her love ones.

To stress, when a rape victim is paralyzed with fear, she cannot be expected to think and act coherently.⁴¹ Thus, it is unfair, if not unrealistic to impose upon Agnes any rational reaction or to act conformably to the usual expectations of everyone at that time. Certainly, the Court has not laid down any rule on how a rape victim should behave immediately after she has been violated.⁴² This experience is relative and may be dealt with in any way by the victim depending on the circumstances, but her credibility should not be tainted with any modicum of doubt.⁴³

In any case, records disclose that Agnes pointed to accused-appellant as her rapist, the day after the police line-up, or on August 6, 2015, and again at the witness stand on June 14, 2016.⁴⁴ Her categorical identification of accused-appellant as the malefactor was given full faith and credence by the trial court and we perceive no reason to rule otherwise.

Jurisprudence instructs that when the credibility of a witness is of primordial consideration, as in this case, the findings of the trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded respect if not conclusive effect.⁴⁵ The reason is obvious. Having the full opportunity to observe directly the witnesses' deportment and manner of testifying, the trial court is in a better position than the appellate court to evaluate testimonial evidence properly.⁴⁶ And when the trial court's findings have been affirmed by the appellate court, as here, said findings are generally binding upon this Court.⁴⁷

⁴⁰ TSN, January 14, 2016, p. 17.

⁴¹ *People v. Manalo*, 444 Phil. 654, 667 (2003).

⁴² *People v. Marcos*, 607 Phil. 642, 656 (2009).

⁴³ *People v. Roger Mendoza y Gaspar*, G.R. No. 239892, June 10, 2020.

⁴⁴ TSN, January 14, 2016, pp. 17-18.

⁴⁵ *People v. Palotes*, 763 Phil. 118, 133 (2015).

⁴⁶ *People v. Velasquez*, 685 Phil. 538, 550 (2012).

⁴⁷ *People v. Dela Cruz*, 570 Phil. 287, 305 (2008).



In addition, accused-appellant failed to ascribe any ill motive on the part of Agnes that could have impelled her to falsely implicate him for the serious crime charged. The failure of accused-appellant to effectively cite any plausible reason for the victim's accusations, all the more bolsters the latter's credibility and validity of her charges. Besides, no woman would concoct a story of defloration, allow examination of her private parts and subject herself to public trial or ridicule if she has not, in truth, been a victim of rape.⁴⁸ Thus, to our mind, the victim in this case came out in the open for no other reason but to vindicate her honor and seek justice for the wrong done to her.

At the other end of the spectrum, accused-appellee could only muster mere denial and alibi as a defense. It is well-settled that denial is an intrinsically weak defense which must be supported by strong evidence of non-culpability to merit credibility. Alibi, on the other hand, is the weakest of all defenses, for it is easy to contrive and difficult to disprove and for which reason it is generally rejected. For the alibi to prosper, it is imperative that the accused establishes two elements: (1) he was not at the *locus delicti* at the time the offense was committed; and (2) it was physically impossible for him to be at the scene at the time of its commission.⁴⁹

In this case, accused-appellant insinuated that he could not have committed the crime of rape because he was with the son of his live-in partner from 6:00 o'clock p.m. of August 4, 2015 to 6:00 o'clock in the morning of August 5, 2015. He further alleged that at the time of his arrest on August 6, 2015, he was at the house of his cousin, Anabel eating breakfast. However, neither the son of his live-in partner nor Anabel was presented in court to corroborate his claim.

As oft-repeated, denial, if unsubstantiated by clear and convincing evidence, is a self-serving assertion that deserves no weight in law. Denial cannot prevail over the positive, candid and categorical testimony of the complainant, and as between the positive declaration of the complainant and the negative statement of the appellant, the former deserves more credence.⁵⁰

Moreover, accused-appellant admitted that his house was only 500 meters away, or 2 to 3 minute walk, from the house where Agnes was staying. Due to the proximity of these two places, it was not physically impossible for accused-appellant to be at the scene of the crime or its immediate vicinity at the time of the incident.

Apart from the foregoing, accused-appellant's defense of denial and alibi is totally inconsistent with his claim that the sexual intercourse was consensual.

⁴⁸ *People v. Belga*, 402 Phil. 734, 742 (2001).

⁴⁹ *People v. Ronquillo*, 818 Phil. 641, 652 (2017).

⁵⁰ *People v. Mangune*, 698 Phil. 759, 771 (2012).

Taken together, all these support the conclusion that no grave error was committed by the Court of Appeals in affirming the guilt beyond reasonable doubt of accused-appellant for the crime of rape.

Under Article 266-A, in relation to Article 266-B, of the RPC, as amended, the crime of rape is punishable by *reclusion perpetua*. Hence, the penalty of *reclusion perpetua* meted upon accused-appellant is in accordance with law.

In the same vein, pursuant to the case of *People v. Jugueta*,⁵¹ we sustain the following monetary awards in favor of Agnes: (1) ₱75,000.00 as civil indemnity; (2) ₱75,000.00 as moral damages; and (3) ₱75,000.00 as exemplary damages.

Finally, in view of prevailing jurisprudence,⁵² we uphold the imposition of interest at the rate of six percent (6%) *per annum* on all damages awarded from the finality of this Decision until full payment.

WHEREFORE, premises considered, the instant appeal is **DENIED**. The Decision dated March 21, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 01672-MIN is **AFFIRMED**.

Accused-appellant Jovic Pantanosas Amper is found **GUILTY** beyond reasonable doubt for the crime of Rape under Article 266-A, paragraph 1(a), of the Revised Penal Code, as amended and is hereby sentenced to suffer the penalty of *Reclusion Perpetua*.

Further, accused-appellant is **ORDERED** to **PAY** the private complainant the following:

- 1) ₱75,000.00 as civil indemnity;
- 2) ₱75,000.00 as moral damages; and
- 3) ₱75,000.00 as exemplary damages.

All damages awarded shall be subject to an interest of six percent (6%) *per annum* to be computed from the finality of this Decision until fully paid.

SO ORDERED.


JHOSEP Y. LOPEZ
Associate Justice

⁵¹ 783 Phil. 806 (2016).

⁵² *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

WE CONCUR:



MARVIC M.V.F. LEONEN
Associate Justice

On leave
RAMON PAUL L. HERNANDO
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice



EDGARDO L. DELOS SANTOS
Associate Justice

ATTESTATION

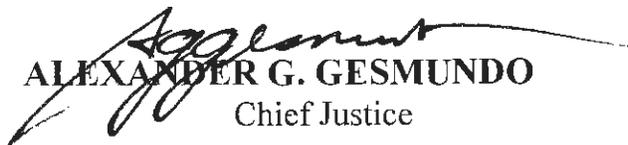
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Third 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.



ALEXANDER G. GESMUNDO
Chief Justice