



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE G.R. No. 261768  
PHILIPPINES,

Plaintiff-appellee,

Present:

- versus -

LEONEN, S.A.J., Chairperson,  
LAZARO-JAVIER,\*  
LOPEZ, M.,  
LOPEZ, J., and  
KHO, JR., JJ.

ANDRE GAYANILO y  
ELEVERAN, STEPHEN  
LUMANOG y ELEVERAN, and  
ALDRIN GAYANILO y  
ELEVERAN,

Accused-appellants.

Promulgated:

OCT 23 2024

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DECISION

KHO, JR., J.:

Before this Court is an appeal from the Decision<sup>1</sup> dated February 10, 2021 and the Resolution<sup>2</sup> dated September 29, 2021 of the Court of Appeals (CA) in CA-G.R. CEB CR. HC. No. 03586, which affirmed the Decision<sup>3</sup> dated August 19, 2019 and the Order<sup>4</sup> dated September 17, 2019 of Branch

\* On official business.

<sup>1</sup> *Rollo*, pp. 11–24. Penned by Associate Justice Gabriel T. Ingles with the concurrence of Associate Justices Lorenza Redulla Bordios and Bautista Gler Corpin, Jr., of the Special Eighteenth Division of the Court of Appeals, Cebu City.

<sup>2</sup> *Id.* at 25–27. Penned by Associate Justice Gabriel T. Ingles with the concurrence of Associate Justices Lorenza Redulla Bordios and Bautista Gler Corpin, Jr., of the Former Special Eighteenth Division of the Court of Appeals, Cebu City.

<sup>3</sup> *Id.* at 29–48. Penned by Presiding Judge Walter G. Zorilla, of Branch ■, Regional Trial Court of ■.

<sup>4</sup> *Id.* at 49–51.

55, Regional Trial Court of [REDACTED], [REDACTED] (RTC). The RTC found Andre Gayanilo y Eleveran (Andre), Stephen Lumanog y Eleveran (Stephen), and Aldrin Gayanilo y Eleveran (Aldrin; collectively, accused-appellants) guilty beyond reasonable doubt of rape, as defined and penalized under Article 266-A, in relation to Article 266-B of the Revised Penal Code (RPC).

### The Facts

The case stemmed from an Information<sup>5</sup> filed before the RTC, docketed as Criminal Case No. 18-4194-HC, charging accused-appellants of the aforesaid crime, the accusatory portion of which read:

That on or about and sometime on October 28, 2018 in the City of [REDACTED], [REDACTED], Philippines, and within the jurisdiction of this court, said accused, did then and there, wilfully, unlawfully, feloniously and mutually helping each other, have carnal knowledge of one [REDACTED], where accused Andre Gayanilo is on top of her naked and his penis was inserted into her vagina, accused Andre Gayanilo sat on her stomach and hold (sic) her arms, then accused Stephen Lumanog licked her vagina and accused Aldrin went on top of her inserted his penis into her vagina and made a push and pull movement while the accused Andre Gayanilo and Stephen Lumanog were holding her hands and laughing; that also accused Stephen Lumanog go (sic) on top of her[,] inserted his penis into her vagina and made push and pull movement, against the will and without the consent of said offended party, to her damage and prejudice.

CONTRARY TO LAW.<sup>6</sup>

During their arraignment, accused-appellants pleaded not guilty to the charge. Trial then ensued.<sup>7</sup>

The prosecution alleged that, at around 8:00 p.m. of October 28, 2018, the victim, AAA,<sup>8</sup> agreed to meet Andre, her boyfriend, at his place at [REDACTED]

<sup>5</sup> CA rollo, p. 73.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 74.

<sup>8</sup> The identity of the victim, as well as those of her immediate family or household members, and/or the accused, or any information which could establish or compromise the victim's identity shall be withheld pursuant to RA 7610, entitled "An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation And Discrimination, and for Other Purposes," approved on June 17, 1992; RA 9262, entitled "An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefore, and for Other Purposes," approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the "Rule on Violence against Women and Their Children" (November 15, 2004). See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 (2014) [Per J. Perlas-Bernabe, Second Division], citing *People v. Lomaque*, 710 Phil. 338, 342 (2013) [Per J. Del Castillo, Second Division]. See also Amended Administrative Circular No. 83-2015, entitled "Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances," dated September 5, 2017.

■, ■■■■■, ■■■■■ City, ■■■■■ for a drinking session. Upon arriving, AAA contributed PHP 100.00 for the purchase of a bottle of Emperador brandy. After drinking half of the bottle, AAA felt drunk and laid down on Andre's bed. AAA then saw Stephen, Andre's cousin, enter the house. While Andre and Stephen were drinking, AAA fell asleep. Moments later, AAA was roused from her sleep. She noticed that she was already naked and Andre was on top of her with his penis inside her vagina. Then, AAA heard Andre tell Aldrin, his brother, "*Your turn bro.*" AAA resisted but Andre sat on her stomach and held her hands. At that time, Stephen was licking her vagina. Then, Aldrin went on top of AAA and inserted his penis in her vagina. While Aldrin was doing a push and pull motion, Andre and Stephen were laughing and holding AAA's hands. After Aldrin, Stephen also went on top of AAA, inserted his penis, and made a push and pull movement. AAA begged Stephen to stop and the latter acceded. Then, Andre and Aldrin went out of the room and continued drinking. AAA cried while putting on her clothes. AAA asked Stephen to bring her home which the latter did.<sup>9</sup>

The next day, or on October 29, 2018, AAA, together with her mother, filed a complaint for rape against Andre, Aldrin, and Stephen before the ■■■■■ City Police Station. Police Officer I (PO1) Jessica Mae Genada (PO1 Genada) conducted the investigation and brought AAA to the City Health Office for a medical examination.<sup>10</sup>

On the other hand, the defense interposed denial and alibi. The defense alleged that Andre and AAA were sweethearts and that they had a drinking session at around 8:30 p.m. of October 28, 2018 during which AAA started browsing the contents of Andre's cellphone and saw the picture of Andre's other girlfriend. AAA got angry after Andre admitted that he and the other girl are still together. To avoid further argument, Andre stepped out of the house where he saw Stephen. Andre invited Stephen over for a drink to which he obliged. AAA poured Stephen a drink. While they were drinking, Stephen's mother told him to go home and attend to his daughter. Stephen then left. At around 10:00 p.m. of even date, Aldrin arrived. Andre also invited him for a drink but Aldrin declined as he went directly to the computer shop to chat with Julie Ann Partodo (Julie), his live-in partner. Aldrin went home afterwards. In the meantime, the drinking session between Andre and AAA ended. Andre went to Stephen's house to ask him to escort AAA home. The defense also presented Julie who corroborated Aldrin's testimony that they were conversing through Facebook Messenger from 10:00 p.m. to 11:00 p.m. of October 28, 2018.<sup>11</sup>

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<sup>9</sup> *Id.* at 74.

<sup>10</sup> *Id.* at 74-75.

<sup>11</sup> *Id.*

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### The RTC Ruling

In a Decision<sup>12</sup> dated August 19, 2019, the RTC adjudged accused-appellants guilty beyond reasonable doubt of rape and, accordingly, sentenced each of them to suffer the penalty of *reclusion perpetua*; and ordered them to indemnify AAA the amounts of PHP 75,000.00 each as civil indemnity, moral, and exemplary damages with interests of 6% per annum computed from the finality of the decision until fully paid.<sup>13</sup>

In convicting accused-appellants, the RTC gave credence to the lone testimony of AAA that she was asleep and was awakened by the weight of Andre; and that accused-appellants successively went on top of her and inserted their penises into her vagina against her will. The RTC found AAA's testimony and positive identification of accused-appellants as her perpetrators credible, and it found no ill motive on her part to fabricate a story against accused-appellants. The RTC also found conspiracy to be present from accused-appellants' acts that showed a unified and conscious design to sexually molest AAA. However, despite the presence of conspiracy, the RTC only convicted each of accused-appellants for one count of rape as only one Information was filed against them.<sup>14</sup>

Aggrieved, accused-appellants appealed to the CA.<sup>15</sup>

### The CA Ruling

In a Decision<sup>16</sup> dated February 10, 2021, the CA affirmed the RTC ruling. The CA sustained AAA's credibility over accused-appellants' imputation of ill motive and arguments regarding the absence of hymenal lacerations and alleged inconsistencies in AAA's testimony. The CA held that accused-appellants' allegation that AAA was motivated by jealousy is untenable as AAA admitted that she had another boyfriend aside from Andre. AAA further testified that she knew that Andre also had another girlfriend, which is fine with her; and that she filed the complaint because she felt wronged when she was sexually abused by three persons. Moreover, the CA held that hymenal laceration is not essential in establishing rape. The CA further held that the alleged inconsistencies in AAA's testimony relate to trivial matters, which do not impair AAA's credibility. If at all, they prove that AAA's testimony was unrehearsed.<sup>17</sup>

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<sup>12</sup> *Id.* at 73–92.

<sup>13</sup> *Id.* at 91–92.

<sup>14</sup> *Id.* at 77–91.

<sup>15</sup> *Id.* at 5–6.

<sup>16</sup> *Id.* at 125–138.

<sup>17</sup> *Id.* at 132–138.

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In a Resolution<sup>18</sup> dated September 29, 2021, the CA denied accused-appellants' motion for reconsideration;<sup>19</sup> hence, accused-appellants filed the instant appeal.<sup>20</sup>

### **The Issue Before the Court**

The core issue for the Court's resolution is whether accused-appellants are guilty beyond reasonable doubt of the crime of rape.

### **The Court's Ruling**

The appeal is without merit.

At the outset, it must be stressed that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>21</sup>

Guided by the foregoing consideration, the Court affirms accused-appellants' conviction with modification, as will be explained hereunder.

Pertinent portions of Article 266-A(1) and Article 266-B of the RPC respectively read:

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

1) By a man who 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

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<sup>18</sup> *Id.* at 159–161.

<sup>19</sup> *Id.* at 140–151.

<sup>20</sup> *Id.* at 170–172.

<sup>21</sup> *People v. Bernardo*, 890 Phil. 97, 110 (2020) [Per J. Perlas-Bernabe, Second Division], citing *Arambulo v. People*, 775 Phil. 514, 520 (2019) [Per J. Perlas-Bernabe, Second Division].



d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

. . . . .

Article 266-B. *Penalty.* - Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.

Thus, the elements of rape are: (a) the offender had carnal knowledge of the victim; and (b) such act was accomplished through force or intimidation, or when the victim is deprived of reason or otherwise unconscious, or when the victim is under 12 years of age.<sup>22</sup>

Further, it bears stressing that sexual abuse cases are, more often than not, solely decided based on the credibility of the testimony of the private complainant. Thus, in evaluating the credibility of witnesses, the Court should abide by the following guidelines: (a) the Court gives the highest respect to the RTC's evaluation of the testimony of the witnesses, considering its unique position in directly observing the demeanor of a witness on the stand. From its vantage point, the trial court is in the best position to determine the truthfulness of witnesses; (b) absent any substantial reason which would justify the reversal of the RTC's assessments and conclusions, the reviewing court is generally bound by the lower court's findings, particularly when no significant facts and circumstances, affecting the outcome of the case, are shown to have been overlooked or disregarded; and (c) the rule is even more stringently applied if the CA concurred with the RTC.<sup>23</sup>

Moreover, in *People v. Amper*,<sup>24</sup> the Court held that "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."<sup>25</sup>

Here, the courts *a quo* correctly ruled that the prosecution—through the positive, candid, and categorical testimony of AAA—had established beyond reasonable doubt that accused-appellants had carnal knowledge of AAA through force. Thus, the Court finds no cogent reason to reverse the RTC's assessment of AAA's credibility, which was affirmed by the CA. Absent any evidence that such assessment was tainted with arbitrariness or oversight of a fact of consequence or influence—especially so when affirmed by the CA—

<sup>22</sup> *People v. Tubillo*, 811 Phil. 525, 533 (2017) [Per J. Mendoza, Second Division].

<sup>23</sup> *People v. Amarela*, 823 Phil. 1188, 1201 (2018) [Per J. Martires, Third Division].

<sup>24</sup> G.R. No. 239334, June 16, 2021 [Per J. J. Lopez, Third Division].

<sup>25</sup> *Id.*

it is entitled to great weight, if not conclusive and binding on the Court.<sup>26</sup> As such, accused-appellants' criminal liability must be sustained.

In an attempt to relieve themselves from liability, accused-appellants aver that no evidence, i.e., photographs, medical report and/or testimonial evidence from a medical expert, was presented during the trial to prove the physical trauma or hematoma that would have resulted from the alleged force that was exerted upon AAA. Accused-appellants further allege that AAA was not distressed the day after the alleged rape when she appeared before the police and medical officer, which negate AAA's claim that she was sexually molested by force, threat or intimidation. In addition, accused-appellants assert that AAA's testimony does not deserve credence as it is riddled with inconsistencies.<sup>27</sup>

Accused-appellants arguments fail to persuade.

It is settled that the absence of any external sign of injury does not necessarily negate rape, because proof of injury is not an element of the crime.<sup>28</sup> In *People v. Tamano*,<sup>29</sup> the Court held:

It is a well-entrenched principle that "the force used in the commission of rape need not be overpowering or absolutely irresistible." Certainly, "tenacious resistance against rape is not required; neither is a determined or a persistent physical struggle on the part of the victim necessary." After all, resistance is not an element of rape. Accordingly, a rape victim is not obliged to prove that she did all within her power to resist the force employed against her. As contemplated by the law, force in the commission of rape depends on the age, size and strength of the parties. It is likewise assessed from the perception and judgment of the vulnerable victim. What remains essential is that the force employed was sufficient to enable the offender to consummate his lewd purpose.<sup>30</sup> (Citation omitted)

The Court also notes that the victim had three assailants. AAA testified that Andre forced himself upon her. She was roused from her sleep with Andre holding her hands and his penis already inside her. Andre only stopped after satisfying himself. Then, Andre sat on her belly and held her hands. Stephen licked AAA's vagina and then held AAA's hands so that Aldrin could copulate with AAA. While Aldrin was doing a push and pull motion, Andre and Stephen were laughing and restraining AAA's hands. After Aldrin had his turn with AAA and while Andre was still holding her hands, Stephen mounted her, inserted his penis in her vagina, and did a push and pull

<sup>26</sup> *People v. Cadano, Jr.*, 729 Phil. 576, 585 (2014) [Per J. Perlas-Bernabe, Second Division].

<sup>27</sup> *Rollo*, pp. 65–68 and 97–115.

<sup>28</sup> *People v. Salazar*, G.R. No. 239138, February 17, 2021 [Per S.A.J. Leonen, Third Division].

<sup>29</sup> 876 Phil. 726 (2020) [Per J. Gaerlan, Third Division].

<sup>30</sup> *Id.* at 740–741.

movement. Accused-appellants' collective acts undeniably cowed AAA into submission and left her with no other alternative but to yield to their desires.

As regards the alleged failure of the prosecution to present a medical expert as a witness, suffice it to state that expert testimony is not essential in proving rape. If at all, the medical expert's testimony would be corroborative at best. In *People v. XXX*,<sup>31</sup> the Court pronounced:

It must be stressed that the foremost consideration in the prosecution of rape is the victim's testimony and not the findings of the medico-legal officer. A medical examination of the victim is not indispensable in a prosecution for rape; the victim's testimony alone, if credible, is sufficient to convict. In this case, the conviction of appellant is based primarily on the credibility of the testimony of complainant who testified in a clear, positive and straightforward manner that appellant raped her. The medico-legal finding of healed hymenal laceration and the expert testimony are merely corroborative in character and not essential to conviction.<sup>32</sup>

Further, the Court is not swayed by accused-appellants' assertion that AAA's composure the day after the rape belies the charges against them. This Court has recognized the fact that no clear-cut behavior can be expected of a person being raped or has been raped. Behavioral psychology teaches that people react to similar situations dissimilarly. The range of emotions shown by rape victims is yet to be captured even by calculus. It is, thus, unrealistic to expect uniform reactions from rape victims. Indeed, we have not laid down any rule on how a rape victim should behave immediately after she has been abused. 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. Different people act differently to a given stimulus or type of situation, and there is no standard form of behavioral response when one is confronted with a strange or startling or frightful experience.<sup>33</sup>

Anent the alleged inconsistent statements in the victim's judicial affidavit and testimony, the Court is convinced that these do not affect AAA's credibility. It is very unjust for accused-appellants to expect AAA to recall every detail of that dreadfully harrowing ordeal. At any rate, a close perusal of the appeal brief reveals that the alleged inconsistencies alluded to by accused-appellants refer to trivial matters, most of which are remotely related to the commission of the crime: (1) whether or not Aldrin was a mere acquaintance of AAA; (2) whether Andre's penis was inside her vagina or Andre was sitting on her belly when she was roused from her sleep; (3) whether it was Aldrin or Stephen who was molesting her when AAA begged them to stop; (4) whether AAA arrived at 8:00 p.m. or 8:10 p.m. at Andre's

<sup>31</sup> 886 Phil. 155 (2020) [Per C.J. Peralta, First Division].

<sup>32</sup> *Id.* at 177.

<sup>33</sup> *People v. Mendoza*, 873 Phil. 987, 996–997 (2020) [Per C.J. Peralta, First Division].

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place; (5) whether they consumed half or they finished the entire bottle of brandy; (6) whether AAA executed her affidavit in the morning or in the afternoon of October 29 or 30, 2018; (7) whether AAA was medically examined in the morning or in the afternoon; (8) whether or not AAA went with the police officers to arrest accused-appellants; (9) whether AAA assisted the police officers by personally identifying accused-appellants or by simply showing them accused-appellants' pictures in her cell phone; and (10) whether accused-appellants were arrested separately or as a group.<sup>34</sup> Verily, these arguments cannot discredit or negate AAA's steadfast testimony that accused-appellants forced themselves upon her by inserting their penises inside her vagina without her consent.

In *XXX v. People*,<sup>35</sup> the Court enunciated:

Moreover, discrepancies between the affidavit of a witness and her testimony in court do not necessarily discredit her because it is a matter of judicial experience that [affidavits], being taken *ex-parte* are almost always incomplete and often inaccurate. *Minor variances in the details of a witness' account, more frequently than not, are badges of truth rather than indicia of falsehood and they often bolster the probative value of the testimony.*

The Court held in *People v. Villanueva*:

Indeed, neither inconsistencies on trivial matters nor innocent lapses affect the credibility of witnesses and the veracity of their declarations. On the contrary, they may even be considered badges of truth on material points in the testimony. *The testimonies of witnesses must be considered and calibrated in their entirety and not in truncated portions or isolated passages.*<sup>36</sup> (Emphasis supplied)

Given the foregoing, the Court finds no reason to deviate from the findings of the RTC, as affirmed by the CA, as there is no indication that it overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case. In fact, the RTC was in the best position to assess and determine the credibility of the witnesses presented by both parties, and hence, due deference should be accorded to the same.<sup>37</sup>

However, the Court modifies accused-appellants' criminal liabilities. It is well to point out that a "conspiracy may be deduced from the mode or manner in which the crime was perpetrated and it may also be inferred from the acts of the accused evincing a joint or common purpose and design, concerted action and community of interest."<sup>38</sup> Here, the RTC found the

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<sup>34</sup> CA rollo, pp. 47–60.

<sup>35</sup> 863 Phil. 146 (2019) [Per J. Caguioa, Second Division].

<sup>36</sup> *Id.* at 155.

<sup>37</sup> *Peralta v. People*, 817 Phil. 554, 563 (2017) [Per J. Perlas-Bernabe, Second Division].

<sup>38</sup> *People v. De Guzman*, 905 Phil. 378, 387 (2021) [Per J. Delos Santos, Third Division].

existence of conspiracy among accused-appellants from their “unified and conscious design to sexually violate [AAA],”<sup>39</sup> but it declined to discuss their liabilities as conspirators for the reason that only one Information was filed against them.

At this juncture, the Court is aware of the rule is that there should only be one offense in one Information. Otherwise, the Information would be defective such that the accused may move for the quashal of the Information and raise such defect. *However, if the accused fails to file a motion to quash the Information, he is deemed to have waived the right to question the defect, and the accused may be convicted of as many offenses that were charged and proven,*<sup>40</sup> as in this case. In *People v. Jugueta*,<sup>41</sup> the Court *En Banc* held:

As a general rule, a complaint or information must charge only one offense, otherwise, the same is defective. The reason for the rule is stated in *People of the Philippines and AAA v. Court of Appeals, 21st Division, Mindanao Station, et al.*, thus:

The rationale behind this rule prohibiting duplicitous complaints or informations is to give the accused the necessary knowledge of the charge against him and enable him to sufficiently prepare for his defense. The State should not heap upon the accused two or more charges which might confuse him in his defense. Non-compliance with this rule is a ground for quashing the duplicitous complaint or information under Rule 117 of the Rules on Criminal Procedure and the accused may raise the same in a motion to quash before he enters his plea, otherwise, the defect is deemed waived.

However, since appellant entered a plea of not guilty during arraignment and failed to move for the quashal of the Informations, he is deemed to have waived his right to question the same. Section 9 of Rule 117 provides that “[t]he failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of any objections except those based on the grounds provided for in paragraphs (a), (b), (g), and (i) of Section 3 of this Rule.”

*It is also well-settled that when two or more offenses are charged in a single complaint or information but the accused fails to object to it before trial, the court may convict him of as many offenses as are charged and proved, and impose upon him the proper penalty for each offense.*<sup>42</sup> (Emphasis supplied)

It must be pointed out that “[i]n rape, a conspirator is guilty not only of the sexual assault he personally commits but also of the separate and distinct

<sup>39</sup> CA rollo, p. 91.

<sup>40</sup> *People v. Araneta*, 920 Phil. 984, 991–993 (2022) [Per J. Inting, First Division].

<sup>41</sup> 783 Phil. 806 (2016) [Per J. Peralta, *En Banc*].

<sup>42</sup> *Id.* at 822–823.

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crimes of rape perpetrated by his co-conspirators. He may have had carnal knowledge of the offended woman only once but his liability includes that pertaining to all the rapes committed in furtherance of the conspiracy.”<sup>43</sup> Considering that conspiracy among accused-appellants in the rape of AAA was established during the trial, accused-appellants should be held responsible for their individual acts, as well as for the acts committed by the other accused-appellants. In *People v. Wile*,<sup>44</sup> where four assailants were found guilty of sexually abusing two minors, the Court declared:

Given that accused-appellants’ guilt for the rapes of AAA and BBB on July 26, 2005 and September 12, 2005 was established beyond reasonable doubt, we proceed to determining whether the proper penalties were imposed upon them.

**The finding of conspiracy among accused-appellants in the rapes of AAA and BBB on July 26, 2005 and between accused-appellants John and Mark in the rapes of AAA on September 12, 2005 makes them responsible not only for their own unlawful acts, but also for those of the other accused-appellants, for in conspiracy, the act of one is the act of the other.**

Under paragraph 2 of Article 266-B of the Revised Penal Code, as amended, whenever the rape is committed by two or more persons, the penalty shall be *reclusion perpetua* to death. There being no mitigating or aggravating circumstance in the commission of the crimes in the case at bar, the lesser penalty of *reclusion perpetua* is imposed[.]<sup>45</sup> (Emphasis supplied)

Given the foregoing, accused-appellants must each be convicted of three counts of rape.

Furthermore, the rape committed against AAA was aggravated by ignominy. Ignominy is defined as a circumstance pertaining to the moral order which adds disgrace and obloquy to the material injury caused by the crime.<sup>46</sup>

Associate Justice Mario V. Lopez, citing *People v. Cortezano*,<sup>47</sup> correctly pointed out that “the **act of laughing** by Andre and Stephen while restraining AAA demonstrates a deliberate effort to add disgrace on her ordeal during the rape, indicative of an intent to inflict psychological torture in addition to physical harm,” and that “the manner in which the rapes were carried out—coordinated, sustained, and accompanied by **mocking laughter**—heightened her sense of powerlessness and humiliation.”

<sup>43</sup> *People v. Peralta*, 134 Phil. 703 (1968) [*Per Curiam, En Banc*].

<sup>44</sup> 784 Phil. 418 (2016) [Per J. Leonardo-De Castro, First Division].

<sup>45</sup> *Id.* at 450.

<sup>46</sup> *People v. Bacule*, 380 Phil. 698 (2000) [Per J. Kapunan, *En Banc*].

<sup>47</sup> 458 Phil. 304 (2003) [Per J. Callejo, Sr., Second Division].

Aside from the act of laughing, the Court notes another ignominious circumstance—where the rape was committed by *two or more persons in view of one another*.<sup>48</sup> In this case, the Information clearly alleged that Andre forced himself upon AAA by inserting his penis in her vagina. Then, Andre restrained her while Aldrin mounted her and inserted his penis in her vagina. Finally, Stephen also copulated with AAA. The Information clearly shows that accused-appellants *successively and in the presence of one another* had sexual intercourse with AAA against her will.

The above circumstances undeniably prove ignominy as they made the effect of the crime against AAA more humiliating and disgraceful. Since these circumstances were alleged in the Information and proven during the trial without objection from accused-appellants, their criminal penalty and civil liability *ex delicto* must be modified.

As provided under Article 266-B of the RPC, the prescribed penalty for rape committed by two or more persons is *reclusion perpetua* to death. Applying Article 63 of the RPC, the presence of the aggravating circumstance of ignominy warrants the imposition of the higher penalty of death. Accordingly, pursuant to RA 9346, in relation to A.M. No. 15-08-02-SC, accused-appellants are sentenced to suffer the penalty of *reclusion perpetua without eligibility for parole*, for each count of rape. Further, they should be ordered to jointly and severally pay AAA the amounts of PHP 100,000.00 as civil indemnity, PHP 100,000.00 as moral damages, and PHP 100,000.00 as exemplary damages consistent with prevailing jurisprudence,<sup>49</sup> all with legal interest of 6% per annum from the finality of this ruling until full payment, for each count of rape.

**ACCORDINGLY**, the appeal is **DENIED**. The Decision dated February 10, 2021 and the Resolution dated September 29, 2021 of the Court of Appeals in CA-G.R. CEB CR. HC. No. 03586 are hereby **AFFIRMED with MODIFICATION** in that Andre Gayanilo y Eleveran, Stephen Lumanog y Eleveran, and Aldrin Gayanilo y Eleveran are each found **GUILTY** beyond reasonable doubt of three counts of rape, as defined and penalized under Article 266-A(1)(a), in relation to Article 266-B of the Revised Penal Code, as amended. They are sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole for each count of rape; and **ORDERED** to jointly and severally pay AAA, the amounts of PHP 100,000.00 as civil indemnity, PHP 100,000.00 as moral damages, and PHP 100,000.00 as exemplary damages, for each count of rape. All monetary awards are subject to 6% interest per annum from the finality of this Decision until full payment.

<sup>48</sup> *People v. Bacule*, 380 Phil. 698 (2000) [Per J. Kapunan, *En Banc*], citing *People v. Cañete*, 150 Phil 17 (1972) [Per Curiam, *En Banc*]; *People v. Martinez*, 340 Phil. 374 (1997) [Per J. Regalado, Second Division].

<sup>49</sup> *People v. Jugueta*, 783 Phil. 806 (2016) [Per J. Peralta, *En Banc*].

The Department of Social Welfare and Development is **DIRECTED** to **REFER** the victim to the appropriate rape crisis center for the necessary assistance to be rendered to the victim and her family, in line with Republic Act No. 8505, or the Rape Victim Assistance and Protection Act of 1998.

**SO ORDERED.**



**ANTONIO T. KHO, JR.**

Associate Justice

**WE CONCUR:**



**MARVIC M.V.F. LEONEN**

Senior Associate Justice  
Chairperson

On official business

**AMY C. LAZARO-JAVIER**

Associate Justice



**MARIO V. LOPEZ**

Associate Justice



**JHOSEP V. LOPEZ**

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**

Senior Associate Justice  
Chairperson, Second Division



**CERTIFICATION**

Pursuant to Article VIII, Section 13 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.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

