

BY: Y/G
TIME: 10:00

REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **02 October 2019** which reads as follows:*

"G.R. No. 235558 – THE PEOPLE OF THE PHILIPPINES vs. ALVIN MALLORCA y DELA CRUZ

X-----X

The Case

This appeal seeks to set aside the Court of Appeals' Decision dated August 25, 2017 in CA-G.R. CR-HC No. 08753, entitled The People of the Philippines vs. Alvin Mallorca y Dela Cruz, affirming the conviction of appellant Alvin Mallorca for rape.

The Facts

Appellant Alvin Mallorca was charged with rape under the following Information:

That on or about March 15, 2011, in the City of Manila, Philippines, the said accused, with lewd design, did then and there willfully, unlawfully and feloniously commit the crime of rape against one (AAA),* a minor, 13 years old, by then and there having a drinking spree with the said accused and was intoxicated, thereby rendering her dizzy, weak and in a state of lethargy, thus depriving her of reason and consciousness, and while in such state and condition, had carnal knowledge of her, against her will and without her consent.

CONTRARY TO LAW.¹

The case was raffled to the Regional Trial Court-Branch 9, Manila City.

On arraignment, appellant pleaded not guilty.² Trial ensued.

* Pursuant to Supreme Court Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances, which mandates that the complete names of the women and children victims be replaced by fictitious initials.

¹ Record, p. 1.

² *Id.* at 17.

The Prosecution's Version

Thirteen-year old AAA testified that on March 14, 2011, around 4 o'clock in the afternoon, she was tending the store of her aunt when appellant, a person who frequented the store, invited her to have a drink with him. She agreed to meet him because he was always good to her. On March 15, 2011, at 2 o'clock in the morning, she snuck out of her aunt's house and went with appellant to his house. There, appellant made her drink Emperor Light. She got drunk and fell asleep. She was awakened when she felt appellant was on top of her. She saw him inserting his penis into her vagina. She tried to resist but because she was too drunk, she fell asleep again.³

Around 5 o'clock in the morning, she woke up but was still intoxicated. She noticed that the zipper of her short pants was broken, her vagina hurting, she had a kiss mark on her neck, and appellant was lying beside her.

Then her mother arrived to fetch her. She cried and told her what happened. Together, they reported the incident to the police station.⁴

She got physically examined by Dr. Merle Tan. The latter's Final Medico-Legal Report No. 2011-8916 revealed: "findings noted on neck are consistent with suction mark. Anogenital findings are diagnostic of blunt force or penetrating trauma."⁵

The Defense's Version

Appellant maintained that he and AAA used to be in a relationship but it was not a serious one. On March 15, 2011, he and AAA indeed met at his house and had a drinking spree. AAA mentioned that she escaped from her aunt's house because of a family problem. He pushed AAA away when she kissed him because he had a girlfriend at that time and knew that kissing could lead to sex. AAA slept on the wooden bed while he slept on the floor. Around 3 o'clock in the morning, his mother arrived from the market and told him to take AAA home. But AAA refused, saying she would go home later. Then she went back to sleep.⁶

Around 5 o'clock in the morning, AAA's mother and cousin arrived to fetch her. Her mother accused him of raping her daughter. Four hours after AAA and her mother had left, he got summoned to the barangay hall where he was charged with the rape of AAA.⁷

³ TSN dated April 16, 2012, pp. 4-8.

⁴ *Id.* at 8-11.

⁵ Record, p. 68.

⁶ TSN dated July 24, 2015, pp. 5-6; TSN dated September 8, 2015, pp. 7-13; TSN dated September 29, 2015, pp. 4-7.

⁷ TSN dated September 29, 2015, pp. 8-9.

The Trial Court's Ruling

By Decision⁸ dated July 26, 2016, the trial court found petitioner guilty as charged, *viz*:

Premises considered, the Court finds accused Alvin Mallorca y Dela Cruz GUILTY beyond reasonable doubt of the crime of rape as defined and penalized under Article 266-A of the Revised Penal Code and is sentenced to suffer the penalty of reclusion perpetua.

He is also ordered to pay the victim (AAA) the amount of P50,000.00 as moral damages.

SO ORDERED.⁹

The trial court gave full credence to AAA's positive testimony pointing to appellant as the person who sexually ravished her. It noted that AAA, a girl of tender age, would not concoct an accusation of rape against appellant, allow her private parts to be examined, and subject herself to ridicule if the same were not true and she was not seeking justice for what appellant did to her. More, AAA's claim was corroborated by medical findings. Appellant, on the other hand, offered nothing but his bare denial.¹⁰

The Court of Appeals' Ruling

On appeal, the Court of Appeals affirmed, with modification, thus:

WHEREFORE, premises considered, the appeal is DENIED. The Judgment dated 26 July 2016 of the Regional Trial Court of Manila, Branch 09 in Crim. Case No. 11-282420, finding accused-appellant Alvin Mallorca y Dela Cruz guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of reclusion perpetua is AFFIRMED with MODIFICATION in that accused-appellant is hereby ordered to pay private complainant (AAA) the amounts of Php75,000.00 as civil indemnity, Php75,000.00 as moral damages, and Php75,000.00 as exemplary damages, with interest at the rate of 6% per annum from the finality of this Decision until full payment.

SO ORDERED.¹¹

The Court of Appeals sustained the trial court's factual findings on the credibility of the witnesses and its assessment of the evidence on record.

⁸ CA rollo, pp. 47-53.

⁹ *Id.* at 53

¹⁰ *Id.* at 52-53

¹¹ *Id.* at 105-126.

The Present Petition

Appellant now seeks affirmative relief from the Court praying anew for his acquittal.

Issue

Did the Court of Appeals err in affirming appellant's conviction for rape?

Ruling

Appellant essentially faults the Court of Appeals for affirming the trial court's factual findings and giving credence to AAA's testimony. He avers: 1) It was not proven that he was able to penetrate AAA's private part, 2) AAA gave inconsistent and incredible statements, *i.e.* in her sinumpaang salaysay, AAA stated that when she woke up, appellant was on top of her but in court, she testified that when she woke up, she saw appellant lying beside her; when first asked why she filed a case against appellant, AAA replied it was because he made her drink liquor; and, AAA could not remember her aunt's address but could recite appellant's address with certainty.

The argument fails to persuade.

Records show that AAA gave a categorical and detailed narration of the incident on how she got intoxicated after appellant gave her Emperor Light to drink, felt dizzy and fell asleep, and woke up when she felt appellant was on top of her and saw him inserting his penis into her vagina. She could not resist him at that time because she was still on a state of intoxication.

Notably, AAA's testimony was so replete with lurid details which, at her young age, could not have been known to her had she not actually experienced them in appellant's hands. Thus, when the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true. Youth and immaturity are generally badges of truth and sincerity.¹²

Further, when the victim's testimony, as in this case, is corroborated by the medical findings of the examining physician, the same is sufficient to sustain a verdict of conviction.¹³ Dr. Tan confirmed that AAA sustained a 2 cm. oval reddish bruise on her neck and hymenal laceration at 7 o'clock. The bruise on her neck was consistent with suction mark while the hymenal laceration was indicative of a recent penetrating trauma.

¹² *People v. Ganaba*, G.R. No. 219240, April 4, 2018.

¹³ *People v. De Chavez*, G.R. No. 218427, January 31, 2018.

On the alleged inconsistencies in AAA's testimony pertaining to whether appellant was on top of her or was lying beside her when she woke up; whether she knew appellant's address but not her aunt's; and whether in fact she filed a case against appellant because he made her drink liquor --- suffice it to state that the same refer to trivial matters which are irrelevant to the essential elements of rape.¹⁴ In any event, the supposed discrepancies, if at all, do not impair AAA's credibility as they even prove that her testimony was unrehearsed.¹⁵

In refutation, appellant only offered the defense of denial. It is settled that denial is an inherently weak defense which cannot prevail over the positive and credible testimony of the prosecution witness on the identity of appellant as the man who sexually ravished AAA including the ugly details thereof. As between a categorical testimony which has a ring of truth, on one hand, and a mere denial and alibi, on the other, the former prevails.¹⁶

The trial court gave more credence to AAA's positive, clear, and straightforward testimony over appellant's bare denial. For the determination of the credibility of witnesses is best left to the trial court, considering that the latter is in a better position to decide the question as it heard the witnesses themselves and observed their deportment and manner of testifying on the stand. The Court, thus, accords the highest respect to such factual findings especially because they carry the full concurrence of the Court of Appeals. Indeed, where there is no showing, as in this case, that the trial court overlooked, misunderstood, or misapplied some facts or circumstance of weight and substance which could affect the result of the case.¹⁷

All told, the Court of Appeals did not err when it affirmed the trial court's verdict of conviction against appellant for rape and the penalty of *reclusion perpetua* imposed on him. It also correctly awarded ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, and six percent interest per annum on these amounts from finality of this decision until fully paid.¹⁸

WHEREFORE, the appeal is **DISMISSED**, and the assailed Decision dated August 25, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08753, **AFFIRMED**. Alvin Mallorca is found guilty of rape and sentenced to *reclusion perpetua*. He is ordered to pay ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. A six percent (6%) interest per annum is imposed on these amounts from finality of this decision until fully paid.

¹⁴ See *People v. Antonio*, 388 Phil. 869, 876 (2000).

¹⁵ *Id.*

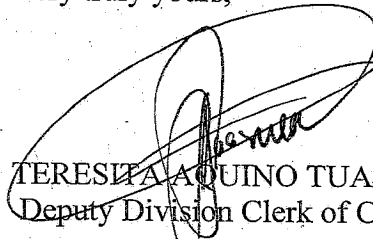
¹⁶ See *People v. Piosang*, 710 Phil. 519, 527 (2013).

¹⁷ See *People v. Malana*, 646 Phil. 290, 302 (2010).

¹⁸ See *People v. Belen*, 803 Phil. 751, 774 (2017).

SO ORDERED.”

Very truly yours,



TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *whh* 11/20
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HON. PRESIDING JUDGE (reg)
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