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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. 238343 – PEOPLE OF THE PHILIPPINES vs. PERFECTO BARBADO y PERPOSE

X-----X

Facts

The Charge

By Information dated July 23, 2007, appellant Perfecto Barbado was charged with rape of thirteen-year-old AAA in Criminal Case No. U-15177, viz:

That on or about May 25, 2007 in [REDACTED], and within the jurisdiction of this Honorable Court, the above-named accused, thru force and intimidation, did, then and there willfully, unlawfully and feloniously have sexual intercourse with one AAA, 13 years of age, against her will and consent, to her damage and prejudice.

CONTRARY to RA 7659 as amended by RA 8353.¹

The case was raffled to the Regional Trial Court, Branch 49, Urdaneta City, Pangasinan. On arraignment, appellant pleaded not guilty.² Trial on the merits ensued.

Proceedings before the Trial Court

Prosecution's Evidence

Complainant AAA testified: on May 25, 2007, at three o'clock in the morning, she and her family were sleeping inside their home in [REDACTED]. She was suddenly roused from sleep when she felt someone was on top of her and kissing her. It was appellant, their neighbor. She clearly recognized him because of a light bulb shining from the mezzanine of the house.³

¹ CA Rollo, p. 184.

² *Id.*

³ *Id.* at 185.

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He covered her mouth and lowered her shorts, her panty, and her dress then slightly inserted his penis into her vagina. Her seven-year-old sister, CCC, rose and turned on the light. He quickly jumped out of the window. She immediately reported the incident to her mother, cooking downstairs. Her mother wasted no time and reported the incident to the barangay kagawad and barangay captain.⁴

On the same day, she submitted herself for medical examination. She and her mother also reported the incident to the Philippine National Police of Binalonan, Pangasinan.⁵

CCC testified that she saw appellant kissing complainant on the lips inside their house on May 25, 2007. He was also covering complainant's mouth and removing the latter's shorts, panty, and upper garment. When she saw appellant, she rushed downstairs to report the incident to her mother. Appellant had since jumped out of the window.⁶

BBB, complainant's mother, testified that around one o'clock in the morning of May 25, 2007, she was outside her house when she saw someone run toward the house of a certain Ronald Ortega. When she went back inside her house, her daughter CCC reported that appellant was inside the house, went on top of complainant, and removed complainant's garments.⁷

Thereafter, she took complainant to the Region 1 Medical Center for medical examination. The medico-legal report confirmed that complainant had been raped.⁸

Defense's Evidence

Invoking alibi and denial, appellant essentially testified: the whole day of May 25, 2007, he was in the field threshing corn with six (6) other people whose names he could no longer recall. He left the field at four o'clock in the afternoon. When he got home, he rested a bit and then drank a little alcohol with his nephew Bong Barbado. The police arrived and invited him to the house of the barangay captain. He was later brought to the police station. There, they asked him about the rape incident but he denied knowing about it.⁹

In the evening of May 24, 2007, he went to sleep between seven o'clock and eight o'clock in the evening inside his house. He never stepped out of the house between midnight and three o'clock in the morning of May 25, 2007. He did not have a special relationship with complainant nor was he attracted to her, although she is beautiful. He did not have any quarrel with complainant

⁴ *Id.* at 185.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 186.

⁸ *Id.*

⁹ *Id.* at 196.

and her family. He did not know of any reason why they would accuse him of rape.¹⁰

The Trial Court's Ruling

By Judgment¹¹ dated April 19, 2012, the trial court convicted appellant as charged, viz:

WHEREFORE, judgment is rendered by this Court finding the accused PERFECTO BARBADO y PERPOSE GUILTY beyond reasonable doubt of the crime of rape under Republic Act No. 7659, as amended by Republic Act No. 8353.

Accordingly, he is sentenced to suffer the penalty of reclusion perpetua and is ordered to pay the offended party AAA, civil indemnity of Fifty Thousand Pesos (Php50,000.00) and moral damages of Php50,000.00).

Accused is ordered committed to the Bureau of Corrections, Muntinlupa City without unnecessary delay.

SO ORDERED.¹²

Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court for relying on the medico-legal report stating that complainant had "*Hymen: (+) old laceration at 4:00 o'clock position.*" According to appellant, since complainant was examined on the same day she was allegedly raped, the finding that her hymen bore old laceration contradicted her claim that she had just been raped. Complainant's testimony failed to prove that appellant's penis was able to penetrate her vagina.¹³

The Office of the Solicitor General (OSG), through Assistant Solicitor General Ma. Cielo Se-Rondain and Senior State Solicitor Angelita Miranda, countered in the main: complainant consistently testified that she felt appellant insert his penis into her vagina. The fact of penetration was corroborated by the finding of hymenal laceration in complainant's vagina. In any event, full penetration of the vaginal orifice or rupture of the hymen is not an essential element of rape. For mere touching of the external genitalia by the penis already constitutes carnal knowledge. Besides, complainant's credible testimony is sufficient to convict appellant of rape.¹⁴

¹⁰ *Id.* at 186.

¹¹ *Id.* at 184-189; penned by Judge Efren B. Tienzo.

¹² *Id.* at 189.

¹³ *Id.* at 162-182.

¹⁴ *Id.* at 210-220.

The Ruling of the Court of Appeals

By its assailed Decision dated February 23, 2016, the Court of Appeals affirmed, with modification, *viz*:

WHEREFORE, the instant appeal is hereby DENIED. The Judgment dated April 19, 2012 of the Regional Trial Court, Branch 49, Urdaneta City, Pangasinan in CRIM. CS. NO. U-15177 finding herein accused-appellant Perfecto Barbado y Perpose guilty beyond reasonable doubt of the crime of Rape is AFFIRMED with the following MODIFICATIONS:

- 1.) The accused-appellant is not eligible for parole;
- 2.) Exemplary damages is awarded in the amount of P30,000.00; and
- 3.) All damages awarded shall earn interest at the rate of 6% per annum from the date of finality of this judgment until fully paid;

SO ORDERED.¹⁵

The Present Appeal

Appellant now implores the Court to render a verdict of acquittal. In compliance with the Court's directive, both appellant¹⁶ and the OSG¹⁷ manifested that in lieu of supplemental briefs, they are adopting their respective briefs in the Court of Appeals.

Issue

Did the Court of Appeals err in convicting appellant of rape?

Ruling

Complainant testified on how appellant sexually ravished her in the early morning of May 25, 2007, thus:

Q: On May 25, 2007, will you please tell us what happened to you and the accused?

A: While we were sleeping together with my family, my parents, and sisters, I was awoken when I noticed that somebody was on top of me and noticed that somebody was on top of me and kissing me about 3:00 o'clock in the morning, sir.

COURT:

¹⁵ *Id.* at 237-238.

¹⁶ *Rollo*, pp. 25-26.

¹⁷ *Id.* at 20-21.

Q: Is that the accused or someone else?

A: The accused, sir.

PROSECUTOR:

Q: How do you know that the person who was on top of you was the accused considering that it was 3:00 o'clock in the morning?

A: I was awoken and I recognized him, he lowered my shorts, my panty and my dress and he slightly inserted his penis into my vagina, sir.

X X X

Q: You said that the penis of the accused penetrated your vagina, what did you feel, when you felt that the penis was penetrating your vagina?

A: My breast was so heavy and I felt that he was inserting his penis to my vagina, sir.

Q: How did you know that it was his penis [that] was inserted and not his nose?

A: I was already undressed at that time and I felt heavy and he was inserting his penis into my vagina, sir.

Q: You did not feel like it was a finger which was being inserted or maybe a bottle of coke?

A: No, sir.

Q: Did you see his penis?

A: No but I felt that he was inserting his penis to my vagina, sir.

Q: How was he inserting his penis to your vagina?

A: He was on top of me and I felt that he was inserting his penis, sir.

Q: Was his penis being guided by his hand or your hand?

A: It was his hand, sir.¹⁸ (Emphasis supplied)

The spontaneity and consistency by which complainant had detailed out the incident dispel any insinuation of a rehearsed testimony. Her eloquent nay, credible testimony should be enough to support a verdict of conviction.¹⁹ After all, the nature of the crime of rape entails reliance on the lone, yet clear, convincing and consistent testimony²⁰ of the victim herself. Consider:

First. Complainant was only thirteen (13) years old when appellant sexually ravished her. 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

¹⁸ CA Rollo, pp. 232-233.

¹⁹ *People v. Padilla*, 666 Phil. 565, 588-589 (2011).

²⁰ See *People v. Ronquillo*, G.R. No. 214762, September 20, 2017, 840 SCRA 405, 414.

exposed if the matter to which she testified is not true. Youth and immaturity are generally badges of truth and sincerity.²¹

Second. The medico-legal certificate confirmed that complainant had an old laceration at four o'clock position in her vagina. Where the victim's testimony is corroborated by physical findings of penetration, there is sufficient basis to conclude that sexual intercourse did take place.²²

Third. Appellant has not alluded to any ulterior motive which could have impelled complainant to falsely charge him with such serious crime of rape. Where there is no evidence and nothing to indicate that the principal witness for the prosecution was actuated by improper motive, the presumption is that she was not so actuated and her testimony is entitled to full faith and credit.²³

Fourth. The trial court's assessment of the credibility of the witnesses, the probative weight of their testimonies and the conclusions drawn from these factual findings are accorded the highest respect by the appellate court especially when they carry the full concurrence of the Court of Appeals,²⁴ as in this case.

At any rate, against the damning evidence adduced by the prosecution, appellant merely interposed denial and alibi. Denial is the weakest of all defenses. It easily crumbles in the face of positive identification by accused as the perpetrator of the crime.²⁵ For alibi to prosper, it is not enough for the accused to prove that he was in another place when the crime was committed as he must likewise prove that it was physically impossible for him to be present at the crime scene or its immediate vicinity at the time of its commission.²⁶ This appellant failed to do.

The crime of rape is defined and penalized under Article 266-A of the Revised Penal Code (RPC), viz:

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;

²¹ *People v. Araojo*, 616 Phil. 275, 287 (2009), citing *Llave v. People*, 522 Phil. 340 (2006) and *People v. Guambor*, 465 Phil. 671, 678 (2004).

²² *People v. Lumaho*, 744 Phil. 233, 243 (2014).

²³ *People v. Delfin*, 749 Phil. 732, 744 (2014).

²⁴ *People v. XXX*, G.R. No. 222492, June 03, 2019.

²⁵ *People v. Glino*, 564 Phil. 396, 419-420 (2007).

²⁶ *People v. Apattad*, 671 Phil. 95, 108 (2011).

c) By means of fraudulent machination or grave abuse of authority; and

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

2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

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

x x x

The elements of rape through sexual intercourse are: (1) the offender is a man; (2) the offender had carnal knowledge of a woman; and (3) such act is accomplished by using force or intimidation. Rape by sexual intercourse is a crime committed by a man against a woman, and the central element is carnal knowledge.²⁷

Complainant testified that appellant sexually ravished her in the early morning of May 25, 2007. She woke up with appellant already on top of her and kissing her. He immediately covered her mouth to prevent her from shouting for help. He also removed her shorts, panty, and dress. Then he inserted his penis into her vagina. He only stopped and quickly jumped out of the window when her seven (7) year old sister turned on the light.

As it was, appellant, through force, succeeded in having carnal knowledge of complainant against her will.

All told, the Court of Appeals did not err in affirming the trial court's verdict of conviction against appellant and the penalty of *reclusion perpetua* imposed on him in accordance with Article 266-B of the RPC.

The monetary awards, however, should be modified pursuant to prevailing jurisprudence, *i.e.* the awards of civil indemnity, moral damages, and exemplary damages should be increased to P75,000.00 each.²⁸

²⁷ *People v. Caoili*, 815 Phil. 839, 882-883 (2017).

²⁸ *People v. Jugueta*, 783 Phil. 806, 849 (2016).

x x x

II. For Simple Rape/Qualified Rape:

x x x

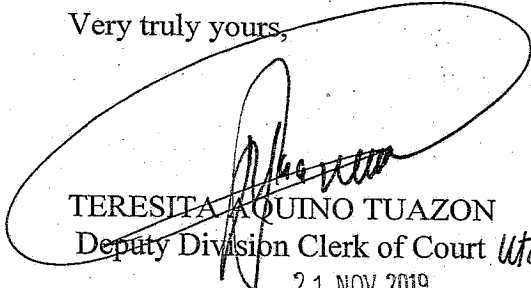
2.1 Where the penalty imposed is reclusion perpetua, other than the above-mentioned:
Civil indemnity - P75,000.00

WHEREFORE, the appeal is **DENIED**. The assailed Decision dated February 23, 2016 of the Court of Appeals in CA-G.R. CR HC No. 05695 is **AFFIRMED** with **MODIFICATION**. Appellant Perfecto Barbado y Perpose is found **GUILTY** of **RAPE** and sentenced to **RECLUSION PERPETUA**. He is further **DIRECTED** to pay AAA ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages.

All monetary awards are subject to six percent (6%) interest from finality of this resolution until fully paid.

SO ORDERED."

Very truly yours,


TERESITA AQUINO TUAZON

Deputy Division Clerk of Court *Utch, 11/21*

21 NOV 2019

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Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (reg)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 49
Urdaneta City, 2428 Pangasinan
(Crim. Case No. U-15177)

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Supreme Court, Manila

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*With copy of CA Decision dated 23 February 2016
Please notify the Court of any change in your address.
GR238343. 10/02/2019B(146)URES(o)

Moral damages - P75,000.00
Exemplary damages - P75,000.00