



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

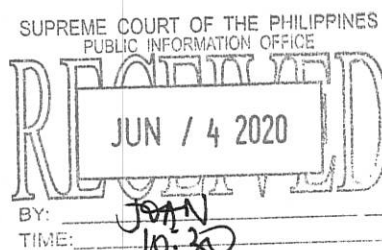
Please take notice that the Court, First Division, issued a Resolution dated February 12, 2020 which reads as follows:

“G.R. No. 215936 – (PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus XXX,* accused-appellant.)

After a careful review of the records of the case and the issues submitted by the parties, the Court finds no error committed in the Decision¹ dated May 29, 2014 rendered by the Court of Appeals (CA) in CA-G.R. CEB CR HC No. 01507. The facts, as borne out by the records, sufficiently support the conclusion that accused-appellant is indeed guilty of the crime of Qualified Rape under Article 266-A of the Revised Penal Code. The issues and matters raised before the Court, the same ones as those raised in the CA, there being no supplemental briefs filed, were sufficiently addressed and correctly ruled upon by the CA.

* The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act (RA) No. 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 No. 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], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. 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); *People v. XXX*, G.R. No. 235652, July 9, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64406>>.

¹ *Rollo*, pp. 4-17. Penned by Associate Justice Edgardo L. Delos Santos (now a member of this Court) with Associate Justices Marilyn B. Lagura-Yap and Jhosep Y. Lopez, concurring.



The Court finds no reason to depart from the findings of the trial court, as affirmed by the CA, that the prosecution was able to establish all the elements of Qualified Rape beyond reasonable doubt. In her testimony, the victim AAA (victim) positively identified accused-appellant as the man who forcefully held her, told her not to make a noise or else she would be killed and thereafter succeeded in inserting his penis into the victim's vagina.² Thus, accused-appellant's claim that the element of force, intimidation or threat is wanting in this case has no merit. Moreover, in *People v. Barberan*,³ the Court emphasized:

A person accused of a serious crime such as rape will tend to escape liability by shifting the blame on the victim for failing to manifest resistance to sexual abuse. However, this Court has recognized the fact that no clear-cut behavior can be expected of a person being raped or has been raped. It is a settled rule that failure of the victim to shout or seek help do not negate rape. Even lack of resistance will not imply that the victim has consented to the sexual act, especially when that person was intimidated into submission by the accused x x x.⁴

Also, as borne by the records, the fourth and fifth elements of minority and relationship were sufficiently proven by the victim's birth certificate⁵ and accused-appellant's own admission during trial.⁶

To exculpate himself from liability accused-appellant questions the credibility of the victim. However, it is a recognized rule in this jurisdiction that the "assessment of the credibility of witnesses is a domain best left to the trial court judge because of his unique opportunity to observe their deportment and demeanor on the witness stand; a vantage point denied appellate courts — and when his findings have been affirmed by the Court of Appeals, [as in this case], these are generally binding and conclusive upon this Court."⁷

As regards the victim's alleged retraction, such is not by itself a ground for the dismissal of a rape case over which the court has already assumed jurisdiction.⁸ If the testimony of the victim is clear, consistent and credible, as in this case, a conviction may be based on it, notwithstanding its subsequent retraction.⁹

² Id. at 5-6.

³ 788 Phil. 103 (2016).

⁴ Id. at 111.

⁵ *Rollo*, p. 5.

⁶ Id. at 8.

⁷ *People v. Deniega*, 811 Phil. 712, 724 (2017).

⁸ *People v. Bagsic*, G.R. No. 218404, December 13, 2017, 849 SCRA 32, 44.

⁹ *People v. Bensurto*, 802 Phil. 766, 774 (2016).

Moreover, it has been consistently held that courts look with disfavor on affidavits of desistance. The rationale for this rule was explained by the Court in this wise:

We have said in so many cases that retractions are generally unreliable and are looked upon with considerable disfavor by the courts. The unreliable character of this document is shown by the fact that it is quite incredible that after going through the process of having the [appellant] arrested by the police, positively identifying him as the person who raped her, enduring the humiliation of a physical examination of her private parts, and then repeating her accusations in open court by recounting her anguish, [the rape victim] would suddenly turn around and declare that [a]fter a careful deliberation over the case, (she) find(s) that the same does not merit or warrant criminal prosecution.

Thus, we have declared that at most the retraction is an afterthought which should not be given probative value. It would be a dangerous rule to reject the testimony taken before the court of justice simply because the witness who gave it later on changed his mind for one reason or another. Such a rule [would] make a solemn trial a mockery and place the investigation at the mercy of unscrupulous witnesses. Because affidavits of retraction can easily be secured from poor and ignorant witnesses, usually for monetary consideration, the Court has invariably regarded such affidavits as exceedingly unreliable.¹⁰

However, the Court further modifies the award of damages and civil indemnity, pursuant to prevailing jurisprudence.¹¹ The award of civil indemnity, moral damages and exemplary damages should be increased to ₱100,000.00 each.

WHEREFORE, premises considered, the appeal is **DISMISSED** for lack of merit. The Court hereby **ADOPTS** the findings of fact and conclusions of law in the Decision dated May 29, 2014 of the Court of Appeals in CA-G.R. CEB CR HC No. 01507. The Decision finding accused-appellant X X X guilty beyond reasonable doubt for the crime of Qualified Rape under Article 266-A, paragraph 1(a) of the Revised Penal Code, as amended, is **AFFIRMED** with **MODIFICATION**. He is ordered to pay the victim **ONE HUNDRED THOUSAND PESOS (₱100,000.00) as civil indemnity, ONE HUNDRED THOUSAND PESOS (₱100,000.00) as moral damages and ONE HUNDRED THOUSAND PESOS (₱100,000.00) as exemplary damages**. All

¹⁰ *People v. Bagsic*, supra note 8, at 44-45, citing *People v. Zafra*, 712 Phil. 559, 576-577 (2013).

¹¹ *People v. Jugueta*, 783 Phil. 806 (2016).

monetary awards shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this Resolution until fully paid.

SO ORDERED.” REYES, J. JR., J. on leave.

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

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(CA-G.R. CEB CR-HC No. 01507)

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