



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 183091

Present:

- versus -

SERENO, *CJ.*,
 Chairperson,
 LEONARDO-DE CASTRO,
 VILLARAMA, JR.,
 PEREZ,* and
 REYES, *JJ.*

BERNESTO DE LA CRUZ @
BERNING,
 Accused-Appellant.

Promulgated:

JUN 19 2013-

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DECISION

LEONARDO-DE CASTRO, J.:

Before this Court is an appeal of the December 28, 2007 Decision¹ of the Court of Appeals in CA-G.R. CR.-H.C. No. 01973² affirming with modification the July 5, 2003 Judgment³ of the Regional Trial Court (RTC), Branch 61, Gumaca, Quezon in Crim. Case No. 6852-G, entitled *People of the Philippines v. Bernesto de la Cruz @ Berning* finding appellant Bernesto de la Cruz guilty beyond reasonable doubt of the crime of rape with homicide.

On March 19, 2001, an information for the crime of rape with homicide was filed against appellant, to wit:

That on or about the 27th day of May 2000, at Sitio [XXX], Municipality of San Narciso, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named [appellant],

* Per raffle dated June 19, 2013.

¹ *Rollo*, pp. 4-27; penned by Associate Justice Lucas P. Bersamin (now a member of this Court) with Associate Justices Portia Aliño Hormachuelos and Estela M. Perlas-Bernabe (now a member of this Court), concurring.

² Entitled *People of the Philippines v. Bernesto de la Cruz @ Berning*.

³ *CA rollo*, pp. 13-41; penned by Presiding Judge Aurora V. Maqueda-Roman.

armed with a bladed weapon, with lewd design, by means of force, violence, threats and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with one [AAA]⁴, a married woman, against her will and consent; and that on the same occasion and by reason thereof, said [appellant] with intent to kill and taking advantage of his superior strength, did then and there willfully, unlawfully and feloniously hack and behead with said weapon the said [AAA] and further inflicting upon the latter wounds on various parts of her body, thereby causing her death.⁵

On arraignment, appellant pleaded not guilty.⁶ Trial ensued thereafter.

The Court of Appeals summarized the facts as follows:

[AAA] left her house in Sitio [XXX], San Narciso, Quezon at 6:30 a[.]m[.] of May 27, 2000 to gather *gabi* in [the] nearby mountain farm about 50 meters away. When she did not return by 9:00 a[.]m[.], [BBB], [AAA]'s sister, went to look for her. Along the way, [BBB] found the *gabi* gathered by [AAA]. Then she spotted Bernesto de la Cruz, undressed except for his blood-drenched briefs. He was cutting minongga tree branches and covering something with them. He was also rubbing coconut husks on his body. Upon the sight of [BBB], Bernesto ran down the mountain slope towards his house, throwing the bolo he was using. It was after he had gone that [BBB] found the headless body of [AAA], covered by minongga tree branches. [AAA]'s head lay a few meters away from her body.⁷

In her post mortem examination⁸ of the body of the deceased, Dr. Adoracion Florido, the Medical Officer III of San Narciso Municipal Hospital, Quezon, made the following findings:

1. Whole head and neck was cut
2. Lacerated wound, 4 cm. armpit (L)
3. Lacerated wound, 6 cm. clavicular area (R)
4. Lacerated wound, 5 cm. hand dorsum (R)

Vaginal Examination:

- Old laceration at 3, 6, 9, o'clock position

Laboratory examination:

- Positive for spermatozoa

⁴ Pursuant to *People v. Cabalquinto*, 533 Phil. 703 (2006), Section 29 of Republic Act No. 7610, Section 44 of Republic Act No. 9262, and Section 40 of A.M. No. 04-10-11-SC, fictitious initials are used to preserve the confidentiality of the identity of the woman-victim and her immediate family and other identifying details such as their address.

⁵ Records, pp. 2-3.

⁶ Id. at 18.

⁷ *Rollo*, pp. 4-5.

⁸ Records, p. 13.

Dr. Florido stated that AAA had been raped due to the presence of spermatozoa in her vaginal secretion within more or less twenty-four hours prior to her examination and that AAA had passed away ten hours prior to the examination.⁹

In his defense, appellant denied the prosecution's allegations. He maintained that he had been working in his farm in Sitio Mabilog, Quezon from 6:30 a.m. to 12:00 noon after which he went home. On his way, he met BBB who asked if he had seen AAA. He denied having seen AAA. He was fully dressed when the conversation occurred.¹⁰

After considering the evidence presented by both parties, the RTC noted the lack of eyewitnesses to the crime. However, it stated that the prosecution was able to establish the guilt of the appellant by circumstantial evidence. It pointed to the confluence of evidence presented before it: BBB saw appellant who was undressed and bloodied and cutting minongga branches to cover up the body of her sister. BBB also saw appellant running away from the scene upon being discovered. Appellant was found in possession of the bolo owned by the victim which he used to cut the minongga branches and which in turn were used to cover the body of AAA. The RTC, thus, rendered the July 5, 2003 Judgment finding appellant guilty of rape with homicide, stating:

WHEREFORE, in view of all the foregoing, the Court finds BERNESTO DELA CRUZ guilty beyond reasonable doubt of the crime of Rape with Homicide defined and penalized under Article 335 of the Revised Penal Code as amended by R.A. 7659 and further amended by R.A. 8353 and renumbered as Article 266-A and 266-B of the Revised Penal Code and is hereby sentenced to DEATH.

He is further ordered to pay the amount of ₱75,000.00 as civil indemnity to the heirs of [AAA] and the amount of ₱50,000.00 as moral damages.¹¹

On automatic review, the Court of Appeals in its December 28, 2007 Decision affirmed the RTC's Judgment with modification as to the award of damages. Moreover, the Court of Appeals found BBB to be a credible witness. It said that the minor inconsistencies in her testimony and the testimony of the other witness presented were not significant enough to warrant the acquittal of the appellant. In any event, it stated that appellant's bare denial of his guilt against the positive testimony and categorical assertions of the prosecution's witnesses proved to be worthless since it was uncorroborated.¹² The Court of Appeals thus stated:

⁹ TSN, January 23, 2000, p. 5.

¹⁰ TSN, October 23, 2002, pp. 3-6.

¹¹ CA *rollo*, p. 41.

¹² *Rollo*, p. 24.

WHEREFORE, the decision is **AFFIRMED** with the following **MODIFICATIONS**:

1. **BERNESTO DELA CRUZ** *alias* **BERNING** shall suffer **RECLUSION PERPETUA** without eligibility for parole under the *Indeterminate Sentence Law*;
2. **BERNESTO DELA CRUZ** *alias* **BERNING** is **ORDERED** to pay to the **HEIRS OF [AAA]**, represented by her husband, **[CCC]**, the sums of **₱50,000.00** as death indemnity; **₱50,000.00** as civil indemnity of rape; and **₱50,000.00** as exemplary damages.

The rest of the decision stands.¹³

Appellant filed his notice of appeal on January 30, 2008.¹⁴

After appellant's confinement was confirmed, both the Office of the Solicitor General (OSG) and appellant manifested that they would adopt the pleadings filed in the Court of Appeals in lieu of supplemental briefs.¹⁵

We affirm the December 28, 2007 decision of the Court of Appeals with modification on the award of moral damages and exemplary damages.

Appellant was charged and convicted of the complex crime of rape with homicide. The felony of rape with homicide is a special complex crime, that is, two or more crimes that the law treats as a single indivisible and unique offense for being the product of a single criminal impulse.¹⁶ As provided in Articles 266-A and 266-B of the Revised Penal Code:

Art. 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 is otherwise unconscious;
- c. By means of fraudulent machination or grave abuse of authority;

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

¹³ Id. at 26-27.

¹⁴ Id. at 28-30.

¹⁵ Id. at 34-36 and 38-40.

¹⁶ *People v. Villaflores*, G.R. No. 184926, April 11, 2012, 669 SCRA 365, 380.

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When by reason or on the occasion of the rape, homicide is committed, the penalty shall be death.

The Court has acknowledged the difficulty in proving cases of rape with homicide, to wit:

We have often conceded the difficulty of proving the commission of rape when only the victim is left to testify on the circumstances of its commission. The difficulty heightens and complicates when the crime is *rape with homicide*, because there may usually be no living witnesses if the rape victim is herself killed. Yet, the situation is not always hopeless for the State, for the *Rules of Court* also allows circumstantial evidence to establish the commission of the crime as well as the identity of the culprit. Direct evidence proves a fact in issue directly without any reasoning or inferences being drawn on the part of the factfinder; in contrast, circumstantial evidence indirectly proves a fact in issue, such that the factfinder must draw an inference or reason from circumstantial evidence. To be clear, then, circumstantial evidence may be resorted to when to insist on direct testimony would ultimately lead to setting a felon free.¹⁷ (Citations omitted.)

After a careful review of the records of the case, we agree with the Court of Appeals that there was overwhelming circumstantial evidence presented to point that appellant is guilty beyond reasonable doubt of committing the crime of rape with homicide. As we have stated before, circumstantial evidence may be resorted to establish the complicity of the perpetrator's crime when these are credible and sufficient, and could lead to the inescapable conclusion that the appellant committed the complex crime of rape with homicide.¹⁸ As the Court of Appeals stated:

The Prosecution presented sufficient circumstantial evidence to establish beyond reasonable doubt that the accused, and no other, had raped and killed [AAA]. The following are the circumstantial evidence, to wit:

1. [BBB] went to the mountain farm to look for [AAA] and in the process saw the accused from 10 arms-stretches away covering the victim's body with tree branches;
2. The accused was then holding a bolo and clad only in his bloodied briefs while covering the headless body of the victim with tree branches;
3. The victim's head was found 5 meters away from her body;
4. The victim's body was exposed, with her undergarments missing;

¹⁷ Id. at 384.

¹⁸ *People v. Villarino*, G.R. No. 185012, March 5, 2010, 614 SCRA 372, 384.

5. After medical examination, the victim's vagina tested positive for the presence of spermatozoa;
6. [AAA] also suffered 3 hack wounds, one of which was found to have been inflicted before the victim expired;
7. The accused threw the bolo he used in cutting tree branches, which, when recovered, was determined to be the bolo brought by [AAA] from her house; and
8. He left the victim's body and ran down the mountainous terrain.¹⁹

To an unprejudiced mind, the above circumstances form a solid unbroken chain of events which ties appellant to the crime beyond reasonable doubt. BBB saw appellant at the scene of the crime; he was wearing bloodied underwear; he was wielding a bolo owned by AAA, cutting branches which he used to cover something; on seeing BBB he threw the bolo away and ran; when BBB checked what the appellant was trying to hide, she discovered it to be the headless body of AAA; AAA's undergarments had been removed; upon medical examination spermatozoa was found in her genitalia; and AAA was hacked several times before she was beheaded.

With respect to the appellant's contention that the witnesses presented were not credible, we reiterate the jurisprudential principle affording great respect and even finality to the trial court's assessment of the credibility of witnesses especially if the factual findings are affirmed by the Court of Appeals. The trial judge can better determine if witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies. Unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case, its assessment must be respected for it had the opportunity to observe the conduct and demeanor of the witnesses while testifying and detect if they were lying.²⁰

In *People v. Dion*²¹ we stated that:

Due to its intimate nature, rape is usually a crime bereft of witnesses, and, more often than not, the victim is left to testify for herself. Thus, in the resolution of rape cases, the victim's credibility becomes the primordial consideration. It is settled that when the victim's testimony is straightforward, convincing, and consistent with human nature and the normal course of things, unflawed by any material or significant inconsistency, it passes the test of credibility, and the accused may be convicted solely on the basis thereof. **Inconsistencies in the victim's testimony do not impair her credibility, especially if the inconsistencies refer to trivial matters that do not alter the essential fact of the commission of rape. The trial court's assessment of the**

¹⁹ *Rollo*, pp. 18-19.

²⁰ *People v. Arpon*, G.R. No. 183563, December 14, 2011, 662 SCRA 506, 523.

²¹ G.R. No. 181035, July 4, 2011, 653 SCRA 117, 133.

witnesses' credibility is given great weight and is even conclusive and binding. x x x. (Citations omitted, emphasis added.)

Given that in the present case, the courts *a quo* have sufficiently addressed the question on the alleged inconsistencies in the testimony of BBB and appellant does not present to this Court any scintilla of evidence to prove that the testimony of the witness was not credible, the Court must uphold the identical assessment of the RTC as affirmed by the Court of Appeals. In any event, the alleged inconsistencies in the testimonies of the prosecution's witnesses did not detract from BBB's credibility as a witness.

However, in line with current jurisprudence, we modify the awards for civil indemnity and exemplary damages. Civil indemnity shall be increased to ₱100,000.00.²² We also increase the award of moral damages to ₱75,000.00.²³ Lastly, respecting exemplary damages we decrease the same to ₱30,000.00.²⁴

In conformity with current policy, we also impose on all the monetary awards for damages interest at the legal rate of 6% per annum from date of finality of this Decision until fully paid.²⁵

WHEREFORE, the appeal is hereby **DENIED**. The December 28, 2007 Decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 01973 is **AFFIRMED WITH MODIFICATION**. Appellant Bernesto de la Cruz @ Berning is hereby found **GUILTY** beyond reasonable doubt of the special complex crime of rape with homicide. Appellant is ordered to pay the heirs of [AAA] civil indemnity of One Hundred Thousand Pesos (₱100,000.00), moral damages of Seventy-Five Thousand Pesos (₱75,000.00), and exemplary damages of Thirty Thousand Pesos (₱30,000.00). All monetary awards for damages shall earn interest at the legal rate of 6% per annum from date of finality of this Decision until fully paid.

No pronouncement as to costs.

SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

²² *People v. Pascual*, G.R. No. 172326, January 19, 2009, 576 SCRA 242, 260.

²³ *Id.* at 261.

²⁴ *People v. Sace*, G.R. No. 178063, April 5, 2010, 617 SCRA 336, 342.

²⁵ *People v. Deligero*, G.R. No. 189280, April 17, 2013.

WE CONCUR:



MARIA LOURDES P. A. SERENO

Chief Justice

Chairperson



MARTIN S. VILLARAMA, JR.
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

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



MARIA LOURDES P. A. SERENO
Chief Justice