



Republic of the Philippines  
**Supreme Court**  
 Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
 Plaintiff-Appellee,

G.R. No. 189324

Present:

CARPIO, J.,  
*Chairperson,*  
 BRION,  
 DEL CASTILLO,  
 PEREZ, and  
 PERLAS-BERNABE, JJ.

- versus -

Promulgated:

GILBERT PENILLA y FRANCIA,  
 Accused-Appellant.

MAR 20 2013 *H. Cabalag*

X-----X

DECISION

PEREZ, J.:

Challenged in this appeal *via* Notice of Appeal is the Decision<sup>1</sup> of the Court of Appeals in CA-G.R. CR-H.C. No. 03206, which affirmed the finding of guilt by the Regional Trial Court (RTC), Branch 119, Pasay City in Criminal Case No. 00-0138.<sup>2</sup> Appellant Gilbert Penilla y Francia (Penilla) was convicted by the RTC of the crime of rape and sentenced to suffer the penalty of *reclusion perpetua*.

Penilla was charged in an Amended Information which reads:

<sup>1</sup> Penned by Associate Justice Martin S. Villarama, Jr. (now a member of this Court) with Associate Justices Jose C. Reyes, Jr. and Normandie B. Pizarro, concurring. *Rollo* pp. 2-16.  
<sup>2</sup> Penned by Judge Pedro De Leon Gutierrez. Records, pp. 278-295.

*88*

That on or about the 22<sup>nd</sup> day of October, 1999, in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, GILBERT PENILLA Y FRANCIA, by means of force, threats and intimidation, did then and there, willfully, unlawfully and feloniously and with the use of deadly weapon, had carnal knowledge of the complainant, [AAA],<sup>3</sup> against her will and consent.<sup>4</sup>

AAA recounts that, at the time of the incident, she was renting a room at a boarding house in Pasay City which was owned by Penilla's grandmother. Around midnight of 22 October 1999, she was sleeping alone in her room and was suddenly awakened by Penilla's angry voice berating her for the loud volume of her television which was disturbing his sleep and rest in the adjacent room. AAA rose and was surprised to see Penilla by her bedside, naked and holding a kitchen knife of about eight (8) inches long. When AAA asked how Penilla entered the room, the latter did not answer and switched off the light. AAA picked up her clothes lying near the door and tried to put distance between her and Penilla, who then pushed her towards the bed. Penilla then knelt on top of AAA, poking the knife at the right side of her body. Paralyzed with fear and physically overpowered by Penilla, AAA remained silent and did not shout for help while Penilla forced himself on AAA, his penis penetrating into AAA's vagina.

After fifteen minutes and still not sated, Penilla ordered AAA to suck his penis, but AAA refused. For the second time, Penilla again ravished AAA for another thirty minutes. Thereafter, he left AAA's room.

After four (4) days, AAA filed a complaint for Rape against Penilla before *Barangay* Chairperson Imelda San Jose of *Barangay* XXX, Zone XXX, Pasay City. During the scheduled conference, only AAA appeared.

In a subsequent turn of events, on 30 October 1999, the grandmother of Penilla, AAA's landlady at the time, filed a complaint for ejectment against AAA before *Barangay* XXX. At the conciliation meeting for the ejectment case, Penilla was present and confronted AAA on her accusation of rape. Penilla denied that he raped AAA, insisting that their sexual encounter was consensual and was, in fact, even initiated by AAA. Not unexpectedly, emotions ran high, and the parties hurled invectives at each other.

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<sup>3</sup> The real name of the victim and its address are withheld as per Republic Act No. 7610 and Republic Act No. 9262. See *People v. Cabalquinto*, 533 Phil. 703 (2006).

<sup>4</sup> Records, p. 15.

In connection with the physical examination of AAA, Medico-Legal Officer Dr. Annabelle L. Soliman issued Living Case No. MG-99-1043:

CONCLUSIONS:

1. No evident sign of extragenital physical injury was noted on the body of the subject at the time of examination.
2. Hymen, reduced to carunculae myrtiformis.
3. Vaginal orifice wide (3.0 cms. in diameter) as to allow complete penetration by an average-sized adult Filipino male organ without producing any new genital injury.<sup>5</sup>

Penilla vehemently denied that he raped AAA. Penilla painted a picture of his and AAA's mutual attraction brought about by the close proximity of their living quarters, his room being adjacent to the room rented by AAA from his grandmother. Penilla recounted on the witness stand, that, in several instances, he helped AAA, who made a living selling eggs, carry trays of eggs to and from her room. On different occasions and for various seemingly innocuous reasons, such as AAA borrowing video tapes from Penilla and giving him food, AAA would ask Penilla personal questions on his civil status, if he was in a relationship, and where he worked.

Penilla related that on 22 October 1999, he could not sleep due to the loud volume of AAA's television which he could hear even in his room. Penilla knocked on AAA's room and told her to lower the volume of her television. As a supposed pretext, AAA invited Penilla to enter her room, sit beside her on the bed so they could watch the shows aired on television. AAA went to the comfort room to wash herself. Upon her return, she removed her panty and began caressing Penilla's neck and penis, arousing Penilla. While stroking Penilla, who claimed to be a virgin at that time, AAA was talking about sex and how it was exciting for a woman of her age (38 years old) to have intercourse with a younger man (23 years old). They both soon undressed and engaged in their first round of consensual intercourse where AAA was on top of Penilla and which lasted for approximately thirty minutes. Immediately thereafter, AAA assumed the prone position allowing Penilla to penetrate her from behind which intercourse lasted for another thirty minutes. Subsequently, Penilla fell asleep. Upon waking up, Penilla and AAA had another go at sexual intercourse.

Penilla averred that AAA's charge of rape came as a shock to him. He surmised that AAA must have been afraid that her common law partner

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<sup>5</sup> Id. at 8.

at that time would learn of their sexual encounter, thus compelling her to fabricate a story of rape.

After trial, the RTC convicted Penilla of rape and sentenced him to suffer the penalty of *reclusion perpetua*:

WHEREFORE, the prosecution having proved beyond reasonable doubt the guilt of accused **Gilbert Penilla y Francia** of the crime of **rape**, defined and penalized under Article 335 of the Revised Penal Code, he is hereby sentenced to suffer a penalty of **reclusion perpetua**. The said accused is likewise ordered to indemnify the complainant [AAA] the amount of ₱50,000.00, by way of civil liability ex-delicto.<sup>6</sup>

On appeal likewise *via* Notice of Appeal before the appellate court, Penilla was adamant on his innocence. However, the Court of Appeals affirmed the RTC's finding of guilt.

Penilla now appeals to us assigning grave error in the Court of Appeals's decision, thus:

I

THE COURT A QUO GRAVELY ERRED IN GIVING FULL CREDENCE [TO] PRIVATE COMPLAINANT'S TESTIMONY.

II

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME OF RAPE DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.<sup>7</sup>

The sole issue for our resolution is whether Penilla indeed raped AAA.

As the lower courts were, we are likewise convinced that Penilla raped AAA.

We proceed straight to determining the actual circumstances surrounding the sexual encounter between AAA and Penilla, as carnal

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<sup>6</sup> Id. at 295.

<sup>7</sup> CA *rollo*, p. 64.

knowledge of AAA is admitted by Penilla, only that it was alleged as consensual sex, and not rape.

Rape case principles have not changed: (1) an accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the nature of the crime of rape where only two persons are usually involved, the testimony of the complainant is scrutinized with extreme caution; and, (3) the evidence for the prosecution stands or falls on its own merits and cannot be allowed to draw strength from the weakness of the defense.<sup>8</sup> Thus, in a prosecution for rape, the complainant's credibility becomes the single most important issue.<sup>9</sup>

In this case, accused-appellant casts aspersions on AAA's credibility by portraying AAA as a morally loose woman, separated from her husband, living with another man, and hankering for the affection of a younger man. For good measure, Penilla contends that there is bad blood between AAA and his grandmother concerning money: AAA initially shouldered the expenses for the repairs on the room she was renting from Penilla's grandmother with the understanding that the latter would deduct the expense from the monthly rentals. When Penilla's grandmother collected payment for back rentals and transferred AAA to another room, AAA suddenly became disenchanted with Penilla, thus this concocted allegation of rape.

The contentions of Penilla on the credibility of complainant refer only to peripheral and trivial matters; they do not touch on the issue of whether or not the crime of rape was in fact committed.<sup>10</sup>

We emphasize that in rape cases the accused may be convicted based solely on the testimony of the victim, provided that such testimony is credible, natural, convincing and consistent with human nature and the normal course of things.<sup>11</sup>

By the very nature of the crime of rape, conviction or acquittal depends almost entirely on the credibility of the complainant's testimony because of the fact that, usually, only the participants can directly testify as

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<sup>8</sup> *People v. Brondial*, 397 Phil. 663, 672 (2000); *People v. Baniguid*, 394 Phil. 398, 408-409 (2000); *People v. Baygar*, 376 Phil. 466, 473 (1999); *People v. Sta. Ana*, 353 Phil. 388, 402 (1998); *People v. Auxtero*, 351 Phil. 1001, 1007-1008 (1998); *People v. Balmoria*, 351 Phil. 188, 198 (1998); *People v. Barrientos*, 349 Phil. 141, 159 (1998).

<sup>9</sup> *People v. Baway*, 402 Phil. 872, 882 (2001).

<sup>10</sup> *People v. Fernandez*, G.R. No. 172118, 24 April 2007, 522 SCRA 189, 202-203.

<sup>11</sup> *People v. Malones*, 469 Phil. 301, 318 (2004).

to its occurrence.<sup>12</sup> Since normally only two persons are privy to the commission of rape, the evaluation of the evidence thereof ultimately revolves around the credibility of the complaining witness.<sup>13</sup> Thus, we revert to the testimony of the witnesses.

AAA remained steadfast and unyielding, even on cross-examination and questioning by the trial court, that an already naked Penilla suddenly appeared in her room on the pretext that the volume of her television set was bothering his sleep, and in a quick and horrifying turn of events, Penilla pushed her on to her bed, poked a knife by her right side, and had carnal knowledge of her.

Q: So at that date you were awaken[ed] because the accused was already in front of your (*sic*) or you were only awaken[ed] by the accused?

A: Yes sir and he was already naked.

Q: He was already naked when he was telling you that your t.v. was very noisy[,] [and] that is why you were awaken[ed]?

A: Yes sir.

Q: So in fact, you did not actually see how the accused opened your door?

A: No sir.

Q: And you already saw the accused naked?

A: Yes sir.

Q: And he was carrying a bladed weapon?

A: Kitchen knife[,] sir.

Q: And you saw that knife at that very moment already?

A: No sir, when I was awaken[ed], the light was still on and I saw the knife.

Q: It was the first time that you saw the deadly weapon being held by the accused?

A: Yes sir.

Q: When you stood up?

A: Yes sir.

Q: But he pushed you to [the] bed?

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<sup>12</sup> *People v. Villaflores*, 422 Phil. 776, 786 (2001); *People v. Abuan*, 348 Phil. 52, 60-61 (1998); *People v. Fortich*, 346 Phil. 596, 614 (1997).

<sup>13</sup> *People v. Soriano*, 339 Phil. 144, 149 (1997).

A: No sir.

Q: Did you immediately shout?

A: No sir, because of fear.

Q: But of course, the wall of your room is made of ordinary wood, and you have adjacent neighbors living in that place, isn't it?

A: Yes[,] sir.

Q: You have neighbors living in the adjacent room?

A: I don't remember[,] sir.

Q: And there were many?

A: I cannot remember[,] sir.

Q: It appears[,] madam witness[,] that you are fond of not remembering anything, can you still remember the contents of your *Sinumpaang Salaysay*?

A: Yes[,] sir.

Q: And you stated in your *Sinumpaang Salaysay* that [the accused was holding a kitchen knife] at the very time [he woke you up]?

A: Yes[,] sir.

Q: It was not at the time the accused was already on top of you?

A: When [he] entered the room he was already carrying a knife and told me not to shout.

Q: And you clearly saw the knife?

A: Yes sir because the light was still on.

Q: In question no. 7, you have an answer, will you please read your answer[:] "*tinanong ko siya kung bakit siya nasa loob at hindi siya sumagot, basta na lang niya pinatay ang ilaw, tapos hinarangan niya ang pinto para hindi ako makalabas, tapos lumapit siya sa akin dahil nakatayo ako at hinawakan niya ako sa balikat at tinulak ako sa kama, may naramdaman akong matulis na bagay na alam kong patalim, tapos itinaas niya ang aking duster at pumatong siya sa akin at ipinasok niya ang ari niya sa ari ako.*"

Q: Did you see it or just [felt] it while the knife was poked at your side?

x x x x

A: I saw it but when I was moving, [I] felt it so that his organ cannot enter.

COURT:

Q: But the first time you saw him, he was already holding a bladed weapon?

A: Yes[,] sir.

Q: At the time he was holding the knife, he was already naked?

A: Yes[,] sir.

Q: Do you know if he was drunk?

A: I smelled it when he was on top of me.

Q: He did not touch you first before he put down your panty?

A: He touched me and he pushed me down the bed.

Q: Did he touch your private part before he [pulled] down your panty?

A: No[,] sir.

Q: Who put down your panty, you or him?

A: He was the one[,] sir.

Q: According to him, you were the one who brought down your panty, what can you say to that?

A: That is not true[,] sir.

Q: And you brought down your panty because you were afraid of him?

A: Yes[,] sir.

Q: Why are you still interested in prosecuting the case when this happened on October 22, 1999?

A: To retaliate on the dirty things he [did] to me.

x x x x

Atty. Rosales:

Q: You said that your bed room is also made of wood?

A: Yes[,] sir.

Q: Your bed is made of wood?

A: Yes sir, with a foam.

Q: You have been using two pieces of pillows?

A: Yes[,] sir.

Q: At the time the incident happened, you were the one who asked the accused to place the pillows underneath your buttocks?

A: No[,] sir.

Q: Who placed the pillows?

A: Him[,] sir.

Q: Where [were] [the] pillows situated when the accused grabbed [the] pillows?

A: At my side[,] sir.

Q: At the right side of your feet or thigh?

A: Body[,] sir.

Q: While he was raping you, he placed that pillow underneath your buttocks?

A: Yes[,] sir.

x x x x

COURT:

Q: You just remained silent?

A: Yes sir, because I was afraid because [he was poking his knife] at my side.

Q: And what was the accused telling you while he was raping you?

A: That I [should] not shout because he will kill me.

Q: You did not cry while you were being raped?

A: No sir, because of fear.

Q: And you cannot forgive the accused because of what he has done to you?

A: No sir.

Atty. Rosales:

Q: When the private organ of the accused was inserted with yours for 15 minutes before his penis was pulled out and you were asked to suck his penis?

A: Yes[,] sir.

Q: Now in that first 15 minutes, you were not able to talk with the accused?

A: No[,] sir because I was afraid.

Q: How about the accused, the accused was telling you how much he loved you?

A: Yes[,] sir.

COURT:

Q: When the accused asked you to suck his penis, you suck[ed] the same?

A: No[,] sir.

Q: You did not try to fight back since you are big enough?

A: No sir, because I was afraid.

Q: You want to seek justice from this court because of what he did?

A: Yes[,] sir.

Atty. Rosales:

Q: For the second time, the penis of the accused was inside of you for about 30 minutes?

A: Yes[,] sir.

Q: For that second incident, the accused did not tell you how much he loved you?

A: No[,] sir.

Q: The accused did not tell you how much he was satisfied?

A: No[,] sir.

Q: How about you, you did not utter any word to the accused in a span of 30 minutes?

A: No sir, because of fear.

Q: And after that incident, in fact, it took you quite sometime to transfer [to] your place isn't it?

A: No sir[,] because the money was not yet returned to me for my expenses.

COURT:

Q: The grandmother of the accused asked for settlement or just pay you for something so that you will drop the case against the accused?

A: No sir, his sister approached me.

Q: When did she approach you?

A: That was a long time ago.

Q: What did she tell you?

A: She requested me to drop the case against the accused.

Q: What was your reply to her?

A: I told her that I am going to pursue the case against him.

Q: Did you tell her why?

A: Yes[,] sir.

Q: What did you tell her?

A: So that I can seek justice for what he did to me.

Q: Because you did not have any love-relationship with the accused, you hate him for raping you?

A: Yes[,] sir.

Atty. Rosales

Q: After you were allegedly raped on October 22, 1999, you continued your business of selling your eggs?

A: Yes[,] sir because that is my occupation.

Q: What time did you leave your room when you sell your eggs?

A: 7:00 a.m.[,] sir.

Q: And you returned at around 6:00 p.m. everyday?

A: Yes[,] sir.

Q: And upon your arrival in your place after the incident, you heard your neighbors [asking] you [about] what happened to you, they already knew what happened to you?

A: No[,] sir.

Q: [None] of your neighbors?

A: No[,] sir.

Q: How about the accused Gilbert Penilla, after the incident, you met him again one day after the incident?

A: No more[,] sir.

Q: You mean to say that after one week, after the incident, you cannot anymore see the accused?

A: No more[,] sir.

Q: Where was he living?

A: I don't know[,] sir.

Q: You said that the accused was living [at] her mother's house, how far was this house of the accused to your place?

A: About ten meters[,] sir.

Q: So after one week, the accused did not anymore help you in carrying your eggs?

A: No more[,] sir.

Q: Up to the present, you are still selling eggs?

A: No more sir[,] because I am afraid of him.

Q: You are now staying where?

A: When I left Pasay, I transferred to Makati.

Q: And your husband is with you now?

A: Yes[,] sir.

- Q: But you said that one week after the incident you are still selling eggs and you said you did not anymore see the accused?  
A: Yes[,] sir.
- Q: In fact, you could freely roamed (*sic*) around the city for one or two weeks because nobody was following you?  
A: Yes[,] sir.
- Q: When for the first time after the incident did you see the accused?  
A: October 30 at the *barangay* hall[,] sir.
- Q: You mean to say that the accused went to [the] *barangay* hall?  
A: Yes sir, in the house of the *barangay* chairwoman.<sup>14</sup>

Quite apparent from the foregoing is that AAA never wavered in her claim that Penilla raped her. Even after the lapse of the time when Penilla evaded arrest, AAA remained resolute in her desire to seek justice for the crime done to her.

Penilla's insistence that he was then a virile young man of twenty-three years, lusted after by a separated and older woman, loses significance in light of the *dictum* that **in rape cases, the moral character of the victim is immaterial**. Rape may be committed not only against single women and children but also against those who are married, middle-aged, separated, or pregnant. Even a prostitute may be a victim of rape.<sup>15</sup> Correlatively and more importantly, the libidinousness of AAA, which is not accepted as a common attribute, should have been proven outside of the incident on the midnight of 22 October 1999.

Accused-appellant makes much of the fact that AAA did not cry for help given that the area where they lived was densely populated, the houses thereat were literally only divided by thin walls, and any commotion could easily be heard. Penilla likewise points out that AAA did not put up a fight. In this regard, Penilla asseverates that the prosecution's story was silent on any physical struggle suggestive of rape.

Physical resistance need not be established in rape when threats and intimidation are employed, and the victim submits herself to her attacker because of fear.<sup>16</sup> Failure to shout or offer tenacious resistance does not

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<sup>14</sup> TSN, 15 March 2004, pp. 22-30.

<sup>15</sup> *People v. Espino, Jr.*, G.R. No. 176742, 17 June 2008, 554 SCRA 682, 698.

<sup>16</sup> *People v. Silvano*, 368 Phil. 676, 696 (1999).

make voluntary the victim's submission to the perpetrator's lust.<sup>17</sup> Besides, physical resistance is not the sole test to determine whether a woman involuntarily succumbed to the lust of an accused; it is not an essential element of rape.<sup>18</sup>

Rape victims react differently. Some may offer strong resistance while others may be too intimidated to offer any resistance at all.<sup>19</sup> The use of a weapon, by itself, is strongly suggestive of force or at least intimidation, and threatening the victim with a knife, much more poking it at her, as in this case, is sufficient to bring her into submission.<sup>20</sup> Thus, the law does not impose upon the private complainant the burden of proving resistance.<sup>21</sup>

We quote with favor the disquisition of the trial court in regard to Penilla's assault on AAA's credibility:

x x x. The complainant's supposed show of concerns and inquiry [on Penilla's] personal life are not to be considered as indicative of accepted wisdom [of] the complainant's dissipated moral[s] and [her] interest in having sexual relation[s] with the accused. The complainant [has] been living in the house of the grandmother of the accused for more than six months before the incident complained of and there was no other evidence except that of the insinuation of the accused that the complainant showed interest [in] him. The claim of the accused that it was the complainant who made overt acts to have illicit intercourse with him was negated by the subsequent action of the complainant in lodging a complaint against him. The defense put up by the accused and his witnesses, who were close relatives, can not overcome the aforementioned positive evidence of the accused's liability. Moreso, that the complainant is living with another man, she would not dare to expose her dishonor and reputation, and tell to the public that she [was] abused had it not really [occurred].

x x x. It must be pointed out that complainant's first grievance[,] which she lodged before the barangay authorities[,] was the crime of rape. It was on the second instance that she complained against the grandmother of the accused who was trying to evict her from her rented room.

There may be instances of false charges that may be initiated by a party with a sinister motive to get even with his adversary. However, it would be beyond this Court's comprehension that the complainant would impute a so grave a crime for a petty misunderstanding or dispute on the

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<sup>17</sup> *People v. Arraz*, G.R. No. 183696, 24 October 2008, 570 SCRA 136, 146.

<sup>18</sup> *Id.*

<sup>19</sup> *People v. Madeo*, G.R. No. 176070, 2 October 2009, 602 SCRA 425, 440-441.

<sup>20</sup> *People v. Tubat*, G.R. No. 183093, 1 February 2012, 664 SCRA 712, 721 citing *People v. Fernandez*, supra note 10 at 203.

<sup>21</sup> *Id.*

property with the grandmother of the accused. Conscience dictates that a person not a party to a case should not be used as a leverage to get even with his opponent. x x x.

x x x. The complainant reported the incident to the authorities at the immediate possible time. While it may appear that the complainant reported the incident four days after it happened before the barangay authorities, it is understandable that she could be taking [her] time thinking whether she would report the incident or not and initially just wanted to confront the accused why he sexually assaulted the complainant. The belated reporting of the incident does not cast doubt on her credibility. This was[,] however[,] triggered by the word war between her and the accused before the barangay authorities thereby influencing her decision to file the case before the police authorities. Although she continued to stay in the premises, this was due to the fact that she [had] not yet been reimbursed her expenses [for] the repair of her room. And for her safety, she requested a friend to accompany her in her room.<sup>22</sup>

We adhere to the well-entrenched doctrine that the matter of evaluating the credibility of witnesses depends largely on the assessment of the trial court. When it comes to credibility, the trial court's assessment deserves great weight, and is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence.<sup>23</sup> Thus, appellate courts rely heavily on the weight given by the trial court on the credibility of a witness as it had a first-hand opportunity to hear and see the witness testify.<sup>24</sup>

In stark contrast to AAA's steadfast, clear and unwavering testimony is the fickle testimony of Penilla who changed his answer even when confronted by physical evidence showing the contrary, and also by prior assertions contained in his affidavits:

Q: By the way Mr. Witness can you describe the door of the room of [AAA]?

A: Made of wood.

Q: What about the lock?

A: Outside the door[,] there is no lock.

Q: What about inside the room?

A: There is a lock inside.

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<sup>22</sup> Records, pp. 292-294.

<sup>23</sup> *People v. Rubio*, G.R. No. 195239, 7 March 2012, 667 SCRA 753, 761.

<sup>24</sup> Id.

Q: Aside from the lock[,] there is a hole in the door of the room of [AAA]?

A: There is none, sir.

Q: Mr. Witness[,] I have with me a picture of the door, kindly go over this picture marked as Exb. "A-1" if this is the door of the room of [AAA]?

A: Yes, sir.

Q: You said awhile ago there is no hole at the door of the room of [AAA], kindly go over this picture if there is a hole at the door of the room of [AAA]?

A: There is no hole.

Q: There is a hole to unlock and lock?

A: There is no hole in it.

Q: Mr. Witness[,] how many minutes before [AAA] returned to the room when according to you she asked permission to go to the toilet?

A: Less than two minutes she returned.

Q: What happened when she returned?

A: She entered into the room.

Q: Why did you not leave the room of [AAA] when she went outside the room?

A: Half of my body was outside.

Q: But you already instructed her to lower the volume of the TV, why did you still stay in the room of [AAA]?

A: I waited for her, she said she is going to wash.

Q: Did she tell you that you have to wait for her when she went out to go to the CR?

A: That is what she said.

Q: But you said awhile ago she just told you that she was going to the CR to wash?

A: Yes, sir.

Q: And yet you did not leave after telling her to lower the volume of the TV?

A: After telling her she came right away.

Q: But according to you she stayed in the CR for about two minutes?

A: She was not able to go to the CR, she held my hand.

Q: But you made us understand that she was able to go to the CR, is it not?

A: She was not able to enter the CR.

- Q: You mean to say that she was not able to enter the CR?  
A: Yes sir, she entered the room.
- Q: What did you do when she entered the room?  
A: She let me in.
- Q: I thought she already let you in when you knocked at the door of [her] room? You entered the room?  
A: Yes, sir.
- Q: When she went out she also returned inside?  
A: Yes, sir.
- Q: Is it not true that you were [by] the door[,] according to you[,] when she went out to the CR?  
A: I was at the door. Once you [enter], the door is there.
- Q: But you were not only [by] the door of the room of [AAA] but inside the room of [AAA]?  
A: “*Bahagya*,” only part of my body was inside.
- Q: In fact you were seated already at the edge of the bed of [AAA]?  
A: Not yet.
- Q: What were you doing then at that time when [AAA] went out of the room?  
A: She was not able to go to the CR when she went out. She immediately [went] in.
- Q: Did you not [lower] the volume of the TV when according to you[,] you were awaken[ed] [by] the volume of the TV?  
A: “*Hindi ko po pinapakialaman ang gamit niya.*”<sup>25</sup>

x x x x

- Q: Now, Mr. Witness, you said that the room [near] the room of the house of your mother is adjacent to the house where the complainant in this case stayed at the time the incident happened. Now, but what is adjacent to the wall of the room of [AAA] is the wall of the ground floor of the house of your mother and not the room where you stayed, is it not Mr. Witness?  
A: Yes, sir.
- Q: Now, you likewise testified during the direct examination, Mr. Witness, that the house of your *lola* consist[s] of two-storey[s]. However, during your cross-examination you testified that it has only one-storey found only at the ground floor, which is which now?

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<sup>25</sup> TSN, 30 June 2005, pp. 13-16.

- A: Only one-storey.
- Q: So, it is not true then that one of the rooms are located inside the house of your *lola* located in the second floor but both are located at the ground floor?
- A: Yes, sir.
- Q: Now, you testified, likewise, Mr. Witness, that [AAA] was not able to go to the comfort room, is it not? During your cross-examination, is it not?
- A: Yes, sir.
- Q: She was not able to go to the comfort room because you blocked the door of the room when she tried to go to the comfort room, is it not?
- A: No, sir, I was not blocking the door.
- Q: But you were right at the door of the room when she tried to get out of the room?
- A: Yes, sir.
- Q: Now, Mr. Witness, you said that you had sexual intercourse with [AAA] and you testified that she was the one who undressed herself and you were the one who undressed yourself?
- A: No, sir, it was her.
- Q: When you said, it was her, you mean she was the one who undressed you?
- A: Yes, sir.
- Q: Now, I am referring to you to the transcript of stenographic notes taken on February 14, 2005 first question, Question: "*Going back to the time when you said you were sitting on the bed of the complainant, what happened next after your private part was touched by the complainant?*" Answer: "*She undressed herself.*" Next question, Question: "*On your part, what did you do when she undressed herself?*" Answer: "*I was the one who undressed myself, sir.*" Which is which now, Mr. Witness, you said it was you who undressed yourself?
- A: She was the one who undressed me, sir.
- Q: In that case, the testimony you gave during your direct-examination is not true and what is correct is that she was the one who undressed you, is that what you mean?
- A: Yes, sir.<sup>26</sup>

x x x x

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<sup>26</sup> TSN, 13 July 2005, pp. 2-4.

Q: You said it was [AAA] who undressed herself and she was [also] the one who undressed you. Now[,] was this case filed with the fiscal's office during the preliminary investigation in the fiscal's office?

A: Yes, sir.

Q: And as a matter of fact you filed your counter affidavit to the complaint [of AAA]?

A: Yes, sir.

Q: Now, if that counter affidavit that you filed with the fiscal's office would be shown to you would you be able to identify it?

A: Yes, sir.

Q: I am showing to you a Counter-Affidavit marked as Exhibit "1" of Gilbert Penilla dated December 20, 1999, could you go over the same and tell us if this is the counter affidavit that you submitted before the investigating prosecutor in the fiscal's office?

A: Yes, sir.

Q: Now, Mr. Witness, I am showing to you again your "*Kontra Salaysay*" and tell us whether you confirm and affirm the veracity contained therein?

A: Yes, sir.

Q: Now, at the second page[,] more particularly paragraph "k[.]" read it [out] loud.

The Witness:

*"Hinubad ko ang kanyang panty habang siya naman ay nagbababa ng aking salawal at kami ay nagparaos ng aming kagustuhan sa ibabaw ng kanyang kama."*

Q: Do you still insist that it was the complainant who undressed herself and was likewise [the one] who undressed you?

A: Yes, sir, she was the one.

Q: So, this is not true, Mr. Witness?

A: Yes, sir.

Q: Now, but you read this counter affidavit before you signed it, is it not, Mr. Witness?

A: No, sir.

Q: But a while ago you said that the allegation contained herein is true, is it not?

A: Yes, sir.

Q: Now, Mr. Witness[,] this case was filed in 1999, is it not?

A: Yes, sir.

Q: [A]nd you were only apprehended in 2003, is it not?

A: Yes, sir.

Q: And because of this, since you were only apprehended [in] 2003 you went into hiding after learning there is a case filed against you, is it not?

A: No sir. I did not hide.

Q: Where were you apprehended?

A: In that house.

Q: [While] you were still working at that time?

A: Yes, sir.

Q: Do you have any proof to that effect Mr. Witness?

A: I was then employed in the construction.

Q: What is the name of the [construction company]?

A: *Sabarte*.

Q: Where?

A: Novaliche[s].

Q: How long did you stay at Novaliche[s]?

A: Every week-end, sir, I would come home.

Q: And yet you were only apprehended [in] 2003?

A: Yes, your Honor.<sup>27</sup>

Relying on a tired defense, Penilla insists that AAA belatedly reported to the *barangay* authorities that she had been raped. For Penilla, this delay belies her cry of rape.

We disagree. Indeed, jurisprudence is replete with holdings that delay in revealing the commission of a crime such as rape does not necessarily render such charge unworthy of belief. This is because the victim may choose to keep quiet rather than expose her defilement to the cruelty of public scrutiny. Only when the delay is unreasonable or unexplained may it work to discredit the complainant.<sup>28</sup>

Neither does an inconclusive medical report negate the finding that Penilla raped AAA. A medical examination of the victim is not indispensable in a prosecution for rape inasmuch as the victim's testimony

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<sup>27</sup> Id. at 11-14.

<sup>28</sup> *People v. Navarette, Jr.*, G.R. No. 191365, 22 February 2012, 666 SCRA 689, 704.

alone, if credible, is sufficient to convict the accused of the crime. In fact, a doctor's certificate is merely corroborative in character and not an indispensable requirement in proving the commission of rape.<sup>29</sup>

In the same vein, we dismiss the minor inconsistencies in AAA's testimony which Penilla latches on. These inconsistencies are not material to the instant case. Rape victims are not expected to make an errorless recollection of the incident, so humiliating and painful that they might in fact be trying to obliterate it from their memory. Thus, a few inconsistent remarks in rape cases will not necessarily impair the testimony of the offended party.<sup>30</sup>

On the whole, we find no error in the trial court's conclusions, as affirmed by the appellate court, and which we have examined against the records of this case. We find nothing on record, certain facts or circumstances of weight and value, which the lower courts may have overlooked and, if properly considered, are enough to alter the result of the case.

Finally, the lower courts properly imposed the penalty of *reclusion perpetua* on Penilla. Article 266-A, paragraph 1(a), in relation to Article 266-B, paragraph 2, of the Revised Penal Code, provides:

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

- 1) By a man who have carnal knowledge of a woman under any of the following circumstances:

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<sup>29</sup> *People v. Castro*, G.R. No.172874, 17 December 2008, 574 SCRA 244, 254-255.

<sup>30</sup> *People v. Balbarona*, G.R. No. 146854, 28 April 2004, 428 SCRA 127, 139.

- a) Through force, threat or intimidation;

x x x x

**ART. 266-B. Penalties.** — 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.

We find it proper to award moral damages to AAA in the amount of ₱50,000.00 although the lower courts were silent thereon in their respective disquisitions. Moral damages in rape cases should be awarded without need of showing that the victim suffered trauma of mental, physical, and psychological sufferings constituting the basis thereof. These are too obvious to still require their recital at the trial by the victim, since we even assume and acknowledge such agony as a gauge of her credibility.<sup>31</sup>

**WHEREFORE**, the appeal is **DISMISSED**. The Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 03206 dated 15 July 2009 and the Decision of the Regional Trial Court, Branch 119, Pasay City, in Criminal Case No. 00-0138 dated 15 December 2007, are **AFFIRMED with MODIFICATION**. Appellant Gilbert Penilla y Francia is sentenced to suffer the penalty of *reclusion perpetua* and to pay the victim, AAA, the amount of ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages.

**SO ORDERED.**

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

<sup>31</sup>

*People v. Tamano*, G.R. No. 188855, 8 December 2010, 637 SCRA 672, 689.

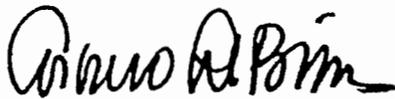
WE CONCUR:



**ANTONIO T. CARPIO**

Associate Justice

Chairperson



**ARTURO D. BRION**

Associate Justice



**MARIANO C. DEL CASTILLO**

Associate Justice



**ESTELA M. PERLAS-BERNABE**

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.



**ANTONIO T. CARPIO**

Associate Justice

Chairperson, Second Division

## CERTIFICATION

Pursuant to Section 13, Article VIII 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.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice