



**Republic of the Philippines**  
**Supreme Court**  
**Manila**

**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
 Plaintiff-Appellee,

**G.R. No. 207990**

Present:

SERENO, C.J.,  
*Chairperson,*  
 LEONARDO-DE CASTRO,  
 BERSAMIN,  
 VILLARAMA, JR., and  
 REYES, JJ.

- versus -

**ELIAS BUENVINOTO y**  
**PAGLINAWAN,**  
 Accused-Appellant.

Promulgated:

**JUN 09 2014**

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**RESOLUTION**

**REYES, J.:**

For review<sup>1</sup> is the Decision<sup>2</sup> rendered by the Court of Appeals (CA) on June 1, 2012 in CA-G.R. CR-HC No. 04156 affirming *in toto* the Judgment<sup>3</sup> dated August 25, 2009 by the Regional Trial Court (RTC) of San Jose, Camarines Sur, Branch 30 convicting Elias Buenvinoto y Paglinawan (accused-appellant) for four counts of Rape committed against AAA,<sup>4</sup> a 13-year-old girl. For each count of rape, the RTC imposed on the accused-appellant the penalty of *reclusion perpetua* and awarded to AAA ₱75,000.00 as civil indemnity, ₱50,000.00 as moral damages and

<sup>1</sup> Please *see* the Notice of Appeal filed with the Court of Appeals by the Public Attorney's Office; *rollo*, pp. 18-19.

<sup>2</sup> Penned by Associate Justice Danton Q. Bueser, with Associate Justices Rosmari D. Carandang and Ricardo R. Rosario, concurring; *CA rollo*, pp. 104-119.

<sup>3</sup> Issued by Presiding Judge Noel D. Paulite; *id.* at 24-30.

<sup>4</sup> The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of their immediate family or household members, shall not be disclosed to protect her privacy and fictitious initials shall, instead, be used, in accordance with *People v. Cabalquinto* (533 Phil. 703 [2006]), and A.M. No. 04-11-09-SC dated September 19, 2006.

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□25,000.00 as exemplary damages.<sup>5</sup>

### **Antecedents**

When AAA was still an infant, her biological mother, BBB, abandoned the family. AAA and her four siblings were thus left in the sole care of their father, CCC, a shoemaker.

When AAA was seven months old, she was given by CCC to their neighbors, the accused-appellant and his common-law wife. However, the adoption was merely verbal and was never formalized.

AAA claimed that she was raped by the accused-appellant on four separate occasions in June 14, July 7, August 18, and September 13 of the year 2004. Back then, AAA was 13 years old.

Shortly after AAA was allegedly raped for the fourth time, she reported the matter to the authorities. Four separate informations were thereafter filed before the RTC against the accused-appellant and were docketed as Criminal Case Nos. T-2756 to T-2759.<sup>6</sup> The particular dates and times of the alleged commission of rape are different in the four informations, but they uniformly state:

“That on or about the 14<sup>th</sup> day of June 2004 at eleven o’clock in the morning in Barangay Sabang, San Jose, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused wilfully, unlawfully and feloniously through force and intimidation[,] had carnal knowledge with complainant [AAA], thirteen (13) years old, against her will, to her damage and prejudice.

The crime is committed with the following circumstances:

The victim is under eighteen years of age and the offender is her stepfather.

ACTS CONTRARY TO LAW.”<sup>7</sup>

The accused-appellant pleaded not guilty during the arraignment and pre-trial was concluded.

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<sup>5</sup> CA *rollo*, p. 30.

<sup>6</sup> Id. at 106.

<sup>7</sup> Appellee’s Brief, id. at 75-76.

In the joint trial that ensued, the prosecution offered the testimonies of (a) AAA; (b) CCC; (c) Dr. Jane Perpetua Fajardo (Dr. Fajardo), Medicolegal Officer from the National Bureau of Investigation; and (d) Police Officer 1 Fara M. Bolong (PO1 Bolong), member of the Philippine National Police, San Jose, Camarines Sur.

AAA recounted the sordid acts which the accused-appellant had committed against her. AAA alleged that she was first raped at around 11:00 a.m. of June 14, 2004. She was then at home, washing the dishes when the accused-appellant poked a knife at her neck and dragged her towards a room. The accused-appellant undressed her even when she struggled to push him away. The accused-appellant then inserted his penis inside her vagina and she cried in pain. He kicked her when she continued in her attempt to push him away.<sup>8</sup>

The second rape incident occurred at around 2:00 p.m. of July 7, 2004. AAA was at home cooking food and washing. The accused-appellant dragged her to a room. At knifepoint, he undressed her, put a piece of cloth in her mouth and made her lie down in bed. He again succeeded in inserting his penis inside her vagina. When she tried to push him way, he slapped her. Thereafter, he ordered her to buy ice. She complied as she was too consumed by fear.<sup>9</sup>

At around 10:00 a.m. of August 18, 2004, AAA was working on her school assignments. The accused-appellant again dragged her into a room and tore her dress apart. She cried and pleaded for the accused-appellant to stop. Her pleas fell on deaf ears as the accused-appellant proceeded to rape her for the third time.<sup>10</sup>

On September 13, 2004, at around 3:00 a.m., both AAA and the accused-appellant were at home. The latter forcefully removed AAA's short pants and underwear, undressed himself and inserted his penis into her vagina.<sup>11</sup>

CCC stated that he was AAA's biological father. He and his five children were abandoned by BBB. As he had no means to support all of his children, he left AAA to be cared for by the accused-appellant and his common-law wife, albeit without complying with the legalities attendant to adoption.<sup>12</sup>

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<sup>8</sup> Id. at 107.

<sup>9</sup> Id. at 107-108.

<sup>10</sup> Id. at 108.

<sup>11</sup> Id.

<sup>12</sup> Id. at 27, 109.

Dr. Fajardo testified that on September 15, 2004, she conducted an examination of AAA's genitalia. She found no contusion or abrasion in AAA's body. Although AAA's hymen was intact and did not bear lacerations, it was distensible, extending to more than 2.5 centimeters. Dr. Fajardo explained that this condition is commonly caused by sexual intercourse. Dr. Fajardo also reported that AAA's hymenal orifice measured 3 centimeters in diameter, allowing complete penetration by an average-sized fully-erect adult Filipino male organ without causing injury. Dr. Fajardo suggested the conduct of a neuron-psychiatric examination on AAA for further evaluation of the latter's behavior.<sup>13</sup>

PO1 Bolong attested to the existence of Police Blotter No. 04-0459. She testified that it was filed by AAA, who was then accompanied by Mrs. Flora Pervera, Rural Health Officer of San Jose, Camarines Sur and *Barangay Kagawad* Dolores Apolonio.<sup>14</sup>

The defense, on its part, offered as evidence the lone testimony of the accused-appellant. His common-law wife did not appear to testify despite repeated service of *subpoenas*. The accused-appellant interposed denial and *alibi* as defenses. He stated that on June 14, 2004, he was home alone and was oblivious of AAA's whereabouts. He went out to fish at 11:25 a.m. He likewise testified that at around 2:00 p.m. of July 7, 2004, he was alone at home, while his wife was doing laundry work in Penafancia Beach Resort. AAA was in school. He then continued that at around 10:00 a.m. of August 18, 2004, he was at home repairing his fishing net. His wife was again in the beach resort, but he did not know AAA's whereabouts. On September 13, 2004, he narrated that he left home and was sea-bound early at 3:00 a.m. After fishing, he went back at 6:00 a.m. and nobody was home then. The accused-appellant speculated that the rape complaints were filed for the purpose of discrediting and ruining him, but the questions of by whom and for what reason it was done, he could not answer. He claimed that AAA has been in his custody since the latter was almost one year old and that their relationship with each other was pleasant.<sup>15</sup>

### **The RTC Ruling**

On August 25, 2009, the RTC convicted the accused-appellant of four counts of simple rape. For each count, the penalty imposed was *reclusion perpetua* and an award to AAA of ₱75,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱25,000.00 as exemplary damages. Since the accused-appellant was then under preventive imprisonment, the RTC directed his entitlement to the full credit of his confinement if he abides

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<sup>13</sup> Id. at 27, 108-109.

<sup>14</sup> Id. at 27-28.

<sup>15</sup> Id. at 28.

by the rules, or to only 4/5 thereof, if he does otherwise.<sup>16</sup> The RTC explained that:

As shown in her testimony, [AAA] clearly and categorically stated that [the accused-appellant] was able to penetrate his penis into her vagina, and she unequivocally stated that there was indeed such penetration because she felt pain every time the [accused-appellant] committed his [bestial] act. True, there was no showing of any injury or lacerations in [AAA's] hymen, nonetheless, such does not negate the possibility of rape, as the victim's testimony alone is credible and is sufficient to convict. As aptly expounded by the attending physician, the victim's hymen was distensible and that while no hymenal injury [was] detected[,] yet[,] it was concluded that the hymen has already extended to more than 2.5 cms., and that was commonly caused by sexual intercourse.

Besides for rape to be consummated, full penetration is not necessary. Penile invasion necessarily entails contact with the labia and it suffices that there is proof of the entrance of the male organ with the labia of the pudendum of the female organ. Thus, penetration of the penis by entry into the lips of the vagina, even without rupture or laceration of the hymen, is enough to justify a conviction for rape.

With respect to [the accused-appellant's] defenses of denial and alibi, the same cannot prevail over the positive and categorical statements of the offended party. Denial, when unsubstantiated by clear and convincing evidence, is negative, self-serving and merits no weight in law and cannot, therefore, be given greater evidentiary value [than] the testimony of credible witnesses testifying in the affirmative, x x x.

[The accused-appellant's] alibi that he was alone in their house and [AAA] was out of the house on said date and time of the alleged rape is much too flimsy an excuse to be believed, while his claim that the filing of the rape cases is to destroy or to ruin him is utterly preposterous and downright unworthy of belief, and is not so compelling to have motivated a young girl to accuse a person who practically took care of her since child[hood] and whom she already considers as her father, of such a serious crime as rape. His lone and uncorroborated testimony cannot prevail over the straightforward testimony of the victim. In rape cases, while denial and alibi are legitimate defenses, bare assertions thereof cannot overcome the categorical testimony of the victim, x x x.

x x x x

In [these] four (4) counts of rape, it was so alleged the special qualifying circumstances of minority of [AAA] and her stepfather relationship to the [accused-appellant]. Special qualifying circumstances must be proved with equal certainty and clearness as the crime itself, otherwise, there can be no conviction of the crime in its qualified form.

While [AAA's] minority was properly alleged and [proven] by her Certificate of Birth, yet the same is not true as regards the parties' relationship.

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<sup>16</sup> Id. at 30.

[The accused-appellant] was described in the criminal indictment as the stepfather of [AAA]. A stepfather is the husband of one's mother by virtue of a marriage subsequent to that of which the person spoken of is the offspring. x x x

But this cannot be so in this case because [AAA] herself testified, and such testimony was even confirmed by no less than her biological father [CCC], that [AAA] is an adopted child, only upon verbal arrangement but without court proceedings, x x x. In this aspect, [the] prosecution failed to prove the alleged special qualifying circumstance of relationship, [the accused-appellant] therefore can only be held criminally liable of simple rape, not of qualified rape.<sup>17</sup>

### **The Parties' Arguments Before the CA**

Before the CA, the accused-appellant pointed out that AAA's hymen was intact and without any laceration. Hence, it can be concluded that in each sexual intercourse, there was ample lubricant in the vaginal canal indicating that AAA did not fight off the advances, but was instead sexually aroused. Further, if AAA's claims were true, she should have immediately reported the abuses to forestall repetition of the same.<sup>18</sup>

The Office of the Solicitor General (OSG) sought the affirmance of the ruling of the RTC since the latter had the best opportunity to observe the witnesses and determine the truth or falsity of their claims.<sup>19</sup> Citing *People v. Surilla*,<sup>20</sup> the OSG argued that a 13-year-old girl like AAA would not file a rape complaint against anyone, much less her own adoptive father, go through a medical examination of her private parts, submit to a trial in public, and smear her family's honor unless she was moved by her sincere intent to seek redress for an injustice committed against her. Besides, the accused-appellant had failed to impute any ill motive against AAA to impel the latter to institute any fabricated complaint. The OSG also emphasized that the RTC found AAA as unfaltering and resolute in her statements. Even when there was delay in reporting the matter to the authorities, it did not affect the credibility of AAA's claims since no standard form of behavior can be expected from rape victims of tender age whose fear of their abusers could have been nothing less than overwhelming.<sup>21</sup>

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<sup>17</sup> Id. at 28-30.

<sup>18</sup> Id. at 55-56.

<sup>19</sup> Id. at 86-87, citing *Meneses v. Zaragoza*, 467 Phil. 30, 40 (2004).

<sup>20</sup> 391 Phil. 257 (2000).

<sup>21</sup> Please see *People v. Rafales*, 379 Phil. 980 (2000).

### The CA Ruling

On June 1, 2012, the CA rendered the herein assailed Decision affirming *in toto* the RTC's findings on grounds quoted below:

Emphatically, the testimony of AAA was straightforward, consistent on material points and unshaken by cross-examination. x x x.

While subjected to cross-examination, AAA categorically testified in court how appellant sexually assaulted her on four (4) separate occasions. She narrated the harrowing account of how appellant had intimidated and used not only his physical strength and a bladed weapon to curb her into submission but also his moral ascendancy over her. With force, threats and intimidation, appellant ensured the achievement of his perverted sexual desires and assaulted AAA.

In no uncertain terms, AAA narrated how appellant had dragged her, threatened her with a knife, put a cloth in her mouth to muffle her cries and forcibly undressed her in order to carry out her bestial desires. AAA recounted how her body suffered from physical abuse. x x x.

Oft-repeated, the Supreme Court had enunciated that when the offended parties are young and immature girls, like AAA, courts are inclined to lend credence to their version of what transpired, considering not only their relative vulnerability but also the shame and embarrassment to which they would be exposed by court trial if the matter about which they testified is not true. The revelation of an innocent child whose chastity was abused deserves full credit, as the willingness of the complainant to face police investigation and to undergo the trouble and humiliation of a public trial is eloquent testimony of the truth of her complaint.

x x x x

What is more, the medical certificate issued and testified to by witness Dr. Fajardo corroborates the testimony of x x x AAA. As explained by said witness, while it remained intact, AAA's hymen was already distensible. The fact that AAA was made to experience sexual intercourse at a very young age is buttressed by the fact that her hymen was already extended to more than 2.5 cm., a state commonly caused by sexual intercourse.

x x x x

x x x [T]he absence of hymenal laceration does not disprove sexual abuse, especially when the victim is of tender age like AAA. It suffices that appellant had carnal knowledge of AAA without the latter's consent and in a manner so violent and cruel. x x x.

x x x [A]s testified to by Dr. Fajardo, [AAA's] hymenal orifice, at the time of the examination, was already 3.0 cm. wide in diameter, so much so that it could allow the complete penetration by an average-sized fully-erected adult Filipino male organ without producing hymenal injury. Unfortunate as it is, this establishes that AAA already had sexual

intercourse. Besides, the fact that AAA did not sustain hymenal lacerations does not, as it should not, belie her sorry state and deprive her of the right to prosecute her sexual assailant.

x x x [D]elay in reporting a case of rape is not always to be taken as an ostensible badge of a fabricated charge. A rape charge becomes doubtful only when the delay in revealing its commission is unreasonable and unexplained. x x x.

Also, AAA's initial reluctance and hesitation to break her agonizing silence were sufficiently established by her testimony that appellant was able to intimidate her. x x x Appellant overlooks the fact that x x x AAA was merely 13 years old, x x x. Worse, her assailant was no other than a man she had loved and trusted to love and care for her.

Thus, the non-revelation of the first and succeeding incidents of rape can very well be attributed to the shock and fear created in her mind by the threats appellant made against her. x x x.

x x x x

x x x The experience of being raped and defiled is relative and may be dealt with in many ways by the victim depending on the circumstances, but her credibility should not be tainted with any modicum of doubt.

x x x Mere denial, just like alibi, constitutes self-serving negative evidence, which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters. x x x.<sup>22</sup> (Citations omitted)

### **Issue**

Aggrieved, the accused-appellant is now before us reiterating the issue of whether or not his guilt for having raped AAA on four separate occasions was proven beyond reasonable doubt.

The accused-appellant and the OSG both manifested that they no longer intended to file supplemental briefs. In lieu thereof, they merely adopted the respective arguments they had raised before the CA.

### **Our Ruling**

*The instant appeal has no merit.*

The Court finds the RTC and CA decisions as amply supported by both evidence and jurisprudence.

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<sup>22</sup> CA rollo, pp. 112-117.

As can be gleaned from the above, the accused-appellant had not ascribed any ill motive on the part of AAA which could have otherwise impelled her to file a fabricated charge. Further, AAA's testimony was straightforward, categorical and unwavering. It is likewise unlikely that a girl of tender age can concoct with detail the commission against her of such sordid acts, which would cast shame and dishonor upon her family.

The Court need not belabor each of the accused-appellant's arguments as the RTC and CA had sufficiently disposed of the same. However, the Court takes exception of two of the accused-appellant's defenses, to wit, AAA's lack of hymenal lacerations and the delay in reporting the rape incidents.

The accused-appellant posited that the absence of lacerations in AAA's hymen proves that she did not fight off the sexual advances. Instead, her vaginal canal was lubricated, hence, evidence exists that she was aroused during those instances of sexual intercourse.

The Court agrees with the CA that the accused-appellant's claim is plainly inane.

AAA cried rape and unwaveringly testified on how and when the acts were committed. The accused-appellant, on the other hand, offered flimsy and uncorroborated defenses of *alibi* and denial, and even now implores the Court to be swayed by his proposition that AAA consented to the performance of sexual acts upon her. The accused-appellant's *alibi* and denial were inconsistent with his claim of consensual intercourse. Besides, the Court has repeatedly ruled that it is possible for a woman's hymen to remain intact even after having been raped if it is lax, thick and elastic.<sup>23</sup>

As to AAA's delay in reporting the rape incidents to the authorities, the Court finds no reason to rule that this omission puts a dent on the credibility of her testimony.

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 harsh glare of public scrutiny. Only when the delay is unreasonable or unexplained may it work to discredit the complainant.<sup>24</sup>

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<sup>23</sup> Please see *People v. Valdez*, 466 Phil. 116, 133 (2004).

<sup>24</sup> *People v. Navarette, Jr.*, G.R. No. 191365, February 22, 2012, 666 SCRA 689, 704.

In the case at bar, it is worth remembering that the accused-appellant had repeatedly inflicted acts of physical violence and intimidation against AAA. He had slapped her, poked a knife at her neck, kicked her, and shoved a piece of cloth in her mouth. These acts are enough to cow a 13-year-old girl into silence and submission especially since the perpetrator is her own *de facto* adoptive father. The delay is hence justified. Besides, there was no delay to speak of as far as the fourth rape incident is concerned. AAA was raped on September 13, 2004. Two days after, Dr. Fajardo conducted a medical examination on AAA and found no contusion or abrasion in the latter's body. This, however, does not in any way negate AAA's claims anent acts of physical violence inflicted upon her. The Court notes that AAA testified on having been kicked on June and slapped on July of 2004.<sup>25</sup> In AAA's testimony relative to the fourth rape incident, she merely claimed that the accused-appellant forcibly took off her short pants and underwear. AAA was not kicked, boxed or slapped then, thus, leaving no observable signs of abrasion or contusion in her body for Dr. Fajardo to see at the time of the medical examination.

In sum, the Court finds no compelling ground to reverse the accused-appellant's conviction for four counts of simple rape by both the RTC and the CA. However, to conform to prevailing jurisprudence, for each count of rape, the Court reduces the award of civil indemnity to ₱50,000.00, but increases the exemplary damages to ₱30,000.00.<sup>26</sup> Additionally, the Court imposes an interest of six percent (6%) *per annum* on all the damages awarded, to be computed from the date of the finality of this judgment until fully paid.<sup>27</sup>

**WHEREFORE**, the Decision dated June 1, 2012 of the Court of Appeals in CA-G.R. CR-HC No. 04156 is **AFFIRMED** with the following **MODIFICATIONS** that for each count of Rape: (a) the award of civil indemnity to AAA is reduced to ₱50,000.00; and (b) the award of exemplary damages is increased to ₱30,000.00. In addition, Elias Buenvinoto y Paglinawan is directed to pay interest at the rate of six percent (6%) *per annum* on all the damages awarded, to be computed from the date of the finality of this judgment until fully paid.

**SO ORDERED.**

  
**BIENVENIDO L. REYES**  
Associate Justice

<sup>25</sup> CA rollo, p. 107.

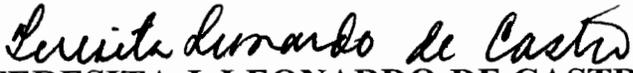
<sup>26</sup> *People v. Cruz*, G.R. No. 201728, July 17, 2013, 701 SCRA 548, 559.

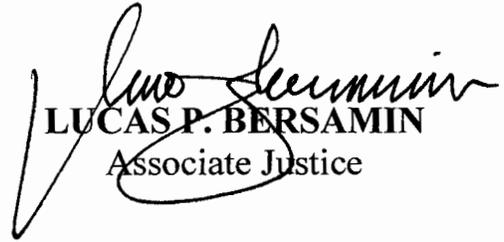
<sup>27</sup> Id. at 559-560.

**WE CONCUR:**



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

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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