



Republic of the Philippines  
 Supreme Court  
 Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
*Plaintiff-Appellee,*

G.R. No. 207633

Present:

- versus -

CARPIO, *Chairperson,*  
 DEL CASTILLO,  
 PEREZ,\*  
 MENDOZA, *and*  
 LEONEN, *JJ.*

JOHN LIE LAGANGGA y DUMPA,  
*Accused-Appellant.*

Promulgated:

09 DEC 2015  
*cabalag subjecto*

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DECISION

DEL CASTILLO, J.:

This is an appeal from the Decision<sup>1</sup> dated April 16, 2013 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00940 which affirmed the January 7, 2011 Decision<sup>2</sup> of the Regional Trial Court (RTC), Branch 34, Cabadbaran City, in Criminal Case No. 2004-45 finding appellant Johnlie Lagangga y Dumpa (appellant) guilty beyond reasonable doubt of the crime of rape.

On March 9, 2004, an Information for rape under paragraph 1(a), Article 266-A of the Revised Penal Code was filed against appellant. The accusatory portion of said Information reads:

That on or about the 9<sup>th</sup> day of February, 2004, at dawn, at x x x Agusan del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force, threat and intimidation, did then and

*Moyn*

\* Per Special Order No. 2301 dated December 1, 2015.  
<sup>1</sup> CA rollo, pp. 80-95; penned by Associate Justice Edgardo T. Lloren and concurred in by Associate Justices Marie Christine Azcarraga-Jacob and Henri Jean Paul B. Inting.  
<sup>2</sup> Records, pp. 143-150; penned by Judge Godofredo B. Abul, Jr.

there willfully, unlawfully and feloniously have carnal knowledge of one “AAA,”<sup>3</sup> against her will.

Contrary to law.<sup>4</sup>

During his arraignment on July 12, 2004, appellant entered a plea of not guilty. Soon after the pre-trial conference, trial on the merits ensued.

### ***Version of the Prosecution***

The prosecution’s version of the incident as summarized by the Office of the Solicitor General (OSG) and adopted by the appellate court is as follows:

On February 9, 2004 at 2:00 A.M., private complainant (AAA), and her three (3) children were sleeping inside the room of their house x x x when she was awakened by the presence of a man wearing black clothes and a mask. Mistaking him for a dog, she simply shooed him away until she suddenly felt a knife being poked at her neck. The man took off his makeshift mask that was made from a t-shirt and because of the light from the kerosene lamp, private complainant recognized him as her neighbor and appellant Johnlie Lagangga, which prompted her to shout “*Oy! Johnlie ikaw man diay na!* (So, Johnlie it was you).” After covering her mouth, appellant boxed her on the stomach near the epigastric region or “*kuto-kuto*,” rendering her unconscious.

When the private complainant regained consciousness at around 3:00 A.M., she saw appellant standing outside the room. He threatened her, saying: “*Basig ipablater ko nimo ugma, basig mosumbong ka, patyon ta na lang ka karon. Kung mosumbong ka, patyong tamong tanan.* (What if you will have me blotted tomorrow? What if you will report? I might as well kill you now, if you will report, then I will kill all of you.)”

Private complainant then noticed that her panty was gone, her private part smelled differently and that “there was the presence of mucous and probably a secretion of the male organ,” concluding that she was used that night.

Private complainant’s eldest son (BBB), who slept to the far right of his mother, was awakened along with his other siblings [by] the commotion and started crying. He saw appellant on top of his unconscious mother, undressing her and doing “a sort of push and pull movement or “*kijo-kijo*.”

Despite appellant’s threat, private complainant went to the house of their Purok president[,] Victoria “Baby” Mordin, to report the incident. The two then sought the help of Mordin’s friend, Senior Police Officer 3 (SPO3) Paterno

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<sup>3</sup> “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 No. 7610, An Act Providing for Stronger Deterrence And Special Protection Against Child Abuse, Exploitation And Discrimination, And for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women And Their Children, Providing For Protective Measures For Victims, Prescribing Penalties Therefor, And for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and Their Children, effective November 5, 2004.” *People v. Dumadag*, G.R. No.176740, June 22, 2011, 652 SCRA 535, 538-539.

<sup>4</sup> Records, p. 1.

Magdula. SPO3 Magdula later accompanied them to the Santiago Police Station where the police interviewed and took the affidavits of both Mordin and the private complainant. Private complainant's son was later fetched by [the] police from their home [and] brought to the police station, where he gave his sworn statement on the incident.<sup>5</sup>

### ***Version of the Defense***

In his defense, appellant admitted having sexual intercourse with "AAA" but claimed it to be a consensual congress. As summarized by the Public Attorney's Office, his version of the incident is as follows:

In sum, his testimony would prove that on February 8, 2004 at around 6:00 o'clock in the evening, he arrived home from work in the mountain of Matinggi. Nobody was home, so he left and went to the house of the Purok President, Baby Mordin[,] at [a]round 7:00 o'clock in the evening, and found out that several people had a drinking session there. He took one shot of Kulafo, an alcoholic beverage, then returned home to take his supper. Thereafter, he went to the artesian well to wash his body and saw (AAA) fetching water. (AAA) asked him if he saw her husband in the mountain and after he answered in the negative, (AAA) invited him to go to her house later. At around 10:00 o'clock that evening, he went to the house of (AAA) and waited for the latter at the sala. (AAA) came out from her room about two minutes later; they talked briefly and then had sex. There was no light in the sala, only an illumination from outside, and (AAA) undressed herself. Their sexual intercourse took only a few minutes, then he went home and slept. To his great surprise, he was arrested the following day.<sup>6</sup>

### ***Ruling of the Regional Trial Court***

On January 7, 2011, the RTC rendered its Decision finding appellant guilty beyond reasonable doubt of rape and sentencing him to suffer the penalty of *reclusion perpetua*. He was also ordered to pay "AAA" the amount of ₱50,000.00 as civil indemnity without subsidiary imprisonment in case of insolvency.

### ***Ruling of the Court of Appeals***

On appeal, the CA affirmed with modification the RTC Decision by awarding, in addition to the civil indemnity, the amount of ₱50,000.00 as moral damages and ₱30,000.00 as exemplary damages, with interest at 6% *per annum* on all the amounts awarded from the date of finality of the judgment until fully paid.

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<sup>5</sup> CA *rollo*, pp. 60-62.

<sup>6</sup> *Id.* at 28-29.

Undeterred, appellant is now before this Court *via* the present appeal to gain a reversal of his conviction. He adopts the same argument he raised in his brief submitted before the CA, *viz.*:

THE COURT A QUO GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASOABLE DOUBT.<sup>7</sup>

### **Our Ruling**

The appeal is barren of merit.

“Since the crime of rape is essentially one committed in relative isolation or even secrecy, it is usually only the victim who can testify with regard to the fact of the forced *coitus*. In its prosecution, therefore, the credibility of the victim is almost always the single and most important issue to deal with.”<sup>8</sup> “If the testimony of the victim is credible, convincing and consistent with human nature and the normal course of things, the accused may be convicted solely on the basis thereof.”<sup>9</sup>

Essentially, the argument of appellant as premised, boils down to the issue of credibility. Often, when the credibility of the witness is in issue, the trial court’s assessment is accorded great weight unless it is shown that it overlooked, misunderstood or misappreciated a certain fact or circumstance of weight which, if properly considered, would alter the result of the case.<sup>10</sup>

In the present case, the RTC found “AAA’s” account of her painful ordeal credible and sincere and gave it full probative weight. “AAA’s” positive identification of appellant as the one who threatened her by poking a knife at her and her testimony that he boxed her on the abdomen rendering her unconscious and upon regaining consciousness noticed that her undergarment was removed, are clear and consistent. The CA was convinced of the veracity of “AAA’s” testimony. Thus:

Here, private complainant narrated a realistic account of her ordeal in a simple yet clear-cut manner. She expressed her anger and bitterness towards appellant who, by his dastardly act, ruined her and her family. Nowhere in the course of her testimony, not even in her cross examination, did it appear that she was impelled by improper motive.

The testimony of a witness who has no motive or reason to falsify or perjure oneself should be given credence. A virtuous woman will not, as [a] rule,

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<sup>7</sup> Id. at 25.

<sup>8</sup> *People v Resurreccion*, 609 Phil. 726, 733 (2009).

<sup>9</sup> *Dizon v. People*, 616 Phil. 498, 508 (2009).

<sup>10</sup> *People v. Mateo*, 588 Phil. 543, 553-554 (2008).

admit in public that she had been raped, as she thereby blemishes her honor and compromises her future, unless she is telling the truth. It is her natural instinct to protect her honor. The testimony of a married rape victim is given full weight and credence because no married woman with a husband and children would place herself on x x x public trial for rape where she would be subjected to suspicion, morbid curiosity, malicious imputations, and close scrutiny of her personal life, not to speak of a humiliation and scandal she and her family would suffer, if she was merely concocting her charge and would not be able to prove it in court.<sup>11</sup>

The absence of a medical certificate is not fatal to the cause of the prosecution. Case law has it that in view of the intrinsic nature of rape, the only evidence that can be offered to prove the guilt of the offender is the testimony of the offended party. “Even absent a medical certificate, her testimony, standing alone, can be made the basis of conviction if such testimony is credible. Moreover, the absence of external injuries does not negate rape. In fact, even the [presence] of spermatozoa is not an essential element of rape.”<sup>12</sup>

Appellant contends that he cannot be convicted of a crime entirely different from that alleged in the Information. According to him, from the tenor of the RTC’s January 7, 2011 Decision, it appears that he was convicted of rape while “AAA” was under the state of unconsciousness. In the Information, however, he was accused of rape committed thru force and intimidation. He thus claims that his right to due process was violated.

We are not persuaded. An information that fails to allege that the offense was committed while the victim was unconscious is deemed cured by the failure of the accused to question before the trial court the sufficiency of the information or by his failure to object to the presentation of evidence tending to establish that the crime was committed through such means. Apparently, appellant participated in the trial without raising any objection to the prosecution’s evidence. Besides, as correctly observed by the CA, “AAA’s” unconsciousness was the direct result of the force employed by appellant when he boxed the former on her stomach.

More importantly, appellant admitted having sexual intercourse with “AAA” at the latter’s house although he claimed that the sexual intercourse was consensual since they were lovers. The Court cannot subscribe to appellant’s “sweetheart” theory and exculpate him from the charge. For one, such claim is self-serving since it was not substantiated by the evidence on record. And even if “AAA” and appellant were sweethearts, this fact does not necessarily negate rape. As has been consistently ruled, “a love affair does not justify rape, for the beloved cannot be sexually violated against her will.”<sup>13</sup> “[L]ove is not a license for lust.”<sup>14</sup> More importantly, what destroyed the veracity of appellant’s “sweetheart” defense

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<sup>11</sup> CA *rollo*, p. 93.

<sup>12</sup> *People v. Pelagio*, 594 Phil. 464, 475 (2008).

<sup>13</sup> *People v. Nogpo, Jr.*, 603 Phil. 722, 743 (2009).

<sup>14</sup> *Id.*

are “AAA’s” credible declaration that he is not her sweetheart and her vehement denial that he courted her.<sup>15</sup>

In fine, the Court finds no cogent reason to overturn the RTC’s finding, which was affirmed by the CA, that appellant employed force and intimidation on “AAA,” who consequently lost consciousness, to perpetrate the offense charged.

### *The Penalty*

Rape as defined and penalized under paragraph 1<sup>16</sup> of Article 266-A in relation to Article 266-B<sup>17</sup> of the Revised Penal Code, as amended, is punishable by *reclusion perpetua*. Consequently, the penalty of *reclusion perpetua* imposed by the RTC and affirmed by the CA is proper.

### *The Civil Liability*

With respect to the civil liability of appellant, the Court finds that the CA correctly affirmed the RTC’s award of ₱50,000.00 as civil indemnity and the CA’s additional awards of ₱50,000.00 as moral damages even without need of further proof and ₱30,000.00 as exemplary damages, with interest at 6% *per annum* on all the damages awarded from the date of finality of the judgment until fully paid as proper.

**WHEREFORE**, the appeal is **DISMISSED**. The assailed Decision of the Court of Appeals dated April 16, 2013 in CA-G.R. CR-HC No. 00940 is **AFFIRMED**.

**SO ORDERED.**

  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

<sup>15</sup> TSN, February 7, 2005, p. 12.

<sup>16</sup> 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 and 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;
  - d. When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above is present;

<sup>17</sup> ART. 266-B. Penalties. Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

WE CONCUR:



**ANTONIO T. CARPIO**

*Associate Justice*

*Chairperson*



**JOSE PORTUGAL PEREZ**  
*Associate Justice*



**JOSE CATRAL MENDOZA**  
*Associate Justice*



**MARVIC M.V. F. LEONEN**  
*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*



## 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*

