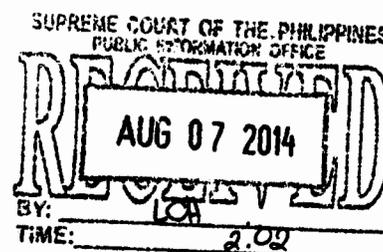




Republic of the Philippines
 Supreme Court
 Manila
 FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 16, 2014** which reads as follows:*

“G.R. No. 200534 – PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. ELIAS ARGELLO, Accused-Appellant.

Accused-appellant Elias Argello (Argello) appeals the decision of the Court of Appeals promulgated on June 23, 2011¹ affirming his conviction for two counts of qualified rape by the Regional Trial Court of Calauag, Quezon, Branch 63. It appears that the criminal complaint for rape filed by the victim’s mother had averred that the victim was only 12 years of age at the time of the incidences of rape; hence, the informations alleged that the victim was of such age. However, the State proved during the trial that the victim had been only 11 years of age at the time of the rapes, thereby precipitating the amendment of the informations without objection from the accused.

The assailed decision of the CA summarizes the antecedents thusly:

On October 27, 2001, at around 7:00 in the morning, AAA was having coffee at their house when appellant arrived and took her by the hand. During this time, BBB was in the creek doing the laundry. Thereafter, appellant undressed AAA and laid her on a bench inside the house. Appellant then went on top of AAA and inserted his private organ into the private organ of AAA. After appellant was finished, he left the house. Thereafter, AAA went to the creek to look for her grandmother. When she found her, AAA told BBB what appellant had done to her. After AAA relayed what had happened, she together with BBB went to the police station. Once in the station, AAA confessed that that was the third time that appellant raped her although she cannot remember the exact date of the two previous incidents. AAA was made to undergo a

¹ *Rollo*, pp. 2-23, penned by Associate Justice Priscilla J. Baltazar-Padilla, with the concurrence of Associate Justice Fernanda Lampas-Peralta and Associate Justice Agnes Reyes-Carpio.

medical examination where **Dr. Linda Tapales (Dr. Tapales)** made the following diagnosis:

“A. BREAST – small, with brownish areola

B. EXTERNAL EXAM. – External Genitalia with scanty pubic hair

D. (sic) INTERNAL EXAM. – Hymenal laceration at 3:00, 6:00 & 9:00 o’clock

- with lax vaginal wall
- with visible vaginal rugae
- admits two fingers with ease

E. (sic) LABORATORY EXAM. – Smear for spermatozoa – negative”

On November 7, 2001, BBB filed a complaint for rape against appellant.

In the complaint, BBB averred that AAA was only 12 years old at the time of the rape. Hence, the original information charging appellant of multiple rape contains the allegation that AAA was twelve years old at the time of the rape. However, during trial, the prosecution established that AAA was only 11 years old at the time of the incident, thus, the Information dated April 22, 2002 charging appellant with Multiple Rape was amended to which no objection was raised by accused-appellant and it reads:

“The undersigned accuses Elias Argello, (prisoner), of the crime of Multiple Rape committed as follows:

That on or about the 27th day of October 2001, and for sometime prior thereto, at Barangay Bebito, Municipality of Lopez, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court; the above-named accused, with lewd design, by means of force, threats and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge for three (3) times of one [AAA] then a minor, 11 years of age, against her will.

That the accused is an uncle of the private complainant, his wife being her aunt. And the above acts were all committed in the dwelling of the victim who did not give any provocation for it.

Contrary to law.”²

In his defense, Argello proffered denial and alibi. He stated that AAA had fabricated her accusation because he had scolded and hit her for bringing along his children when she went wandering around; and that the

² Id. at 3-4.

family of AAA had also wanted his wife to marry somebody else and thus would have them separate.³

Nieves Patitico, the sister of Argello, attested that she had visited at his brother's house on the day of the alleged rape; and that his brother did not leave his house at the time.⁴

On November 18, 2009,⁵ the Regional Trial Court, Branch 63, in Calauag, Quezon convicted Argello for two counts of qualified rape, *viz*:

This Court is morally certain that two (2) counts of rape has been committed and the herein accused is guilty thereof and should be punished therefor.

Wherefore, premises considered, the Court finds accused ELIAS ARGELLO GUILTY of two (2) counts of Qualified Rape. He is hereby sentenced to RECLUSION PERPETUA, in lieu of death, for each offense, and without eligibility for parole, applying R.A. 9346 which prohibited the imposition of (the) death penalty. Since the law prescribes a single indivisible penalty, it should be applied regardless of any mitigating or aggravating circumstance that may have attended the commission of the offense.

He is likewise ordered to compensate the victim the amounts of PhP75,000.00 for civil indemnity; another PhP75,000.00 for moral damages; plus an additional PhP25,000.00 as exemplary damages.

SO ORDERED.⁶

In his appeal, the accused assigned the following errors, namely:

I

THE COURT GRAVELY ERRED IN GIVING CREDENCE TO THE PROSECUTION'S EVIDENCE.

II

THE COURT A QUO GRAVELY ERRED IN REJECTING THE ACCUSED-APPELLANT'S DEFENSE.

On June 23, 2011, however, the CA affirmed the convictions with modification of the penalty and exemplary damages, disposing as follows:

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³ CA *rollo*, p. 73.

⁴ Id. at 74.

⁵ Id. at 67-79.

⁶ Id. at 78-79.

WHEREFORE, premises considered, the November 18, 2009 Decision of the Regional Trial Court of Calauag, Quezon, Branch 63, in Criminal Case No. 3942-C is hereby **AFFIRMED** with **MODIFICATION**. Appellant Elias Argello is found guilty beyond reasonable doubt of two (2) counts of Qualified Rape and sentenced to suffer the penalty of *reclusion perpetua* for each count, without eligibility for parole. He is also ordered to pay AAA ₱75,000 as civil indemnity, ₱75,000 as moral damages, and ₱30,000 as exemplary damages for each count of rape.

SO ORDERED.⁷

Hence, this appeal, with Argello still insisting upon the same errors committed by the RTC as basis for a review.

The appeal lacks merit.

The straightforward testimony of AAA on the incidences of rape cancelled out Argello's denial and *alibi*. It is undisputed that courts have always viewed the defenses of denial and *alibi* with considerable caution because they are inherently weak and unreliable, and can be easily made up. These defenses, when unsubstantiated by clear and convincing evidence, are negative and self-serving, and merit no weight in law. They cannot be given greater evidentiary value than the testimony of credible witnesses who testify on affirmative matters.⁸

Moreover, unless the accused convincingly demonstrates to us that facts and circumstances of consequence to his guilt were ignored or misapprehended by the trial and appellate courts, it is no longer permissible for the Court to revise and undo the findings of fact made by the RTC as the trial court and affirmed by the CA as the intermediate reviewing court. The trial court had the direct opportunity to hear the witnesses and observe their bearing and decorum while they testified before it. With such access to the witnesses and their conflicting versions, it would have quickly noticed any attempt at prevarication on the part of the complainant and her witnesses if that was the case. It would have also seen the sincerity of the accused as a witness if he exhibited sincerity at all. Alas, the accused did not convincingly demonstrate that the trial court ignored or misapprehended any facts and circumstances of consequence to his guilt.

On its part, the CA re-examined the evidence and considered all the errors that the accused assigned to the trial court. Yet, it was not persuaded to conclude that the trial court had incorrectly appreciated any material fact or circumstances that could have favored the accused. Thus, we cannot undo the CA's findings.

⁷ *Rollo*, p. 22.

⁸ *People v. Bensig*, G.R. No. 138989, September 17, 2002, 389 SCRA 182, 194.

Anent Argello's imputation of ill motives to the family of the victim, the Court cannot believe the imputation because it proceeded from conjecture. Moreover, the imputation was improbable, for it would be unnatural for the victim and her family to expose her to ridicule by fabricating the story of her being raped by her relative unless her charge against him was to seek justice for herself.⁹

The awards of the civil liability on each count of qualified rape, including the increase by the CA of the exemplary damages from ₱25,000.00 to ₱30,000.00, are correct. In addition, in order to conform to jurisprudence,¹⁰ we impose interest of 6% *per annum* on such awards, to be reckoned from the finality of this decision.

WHEREFORE, the Court **AFFIRMS** the decision of the Court of Appeals promulgated on June 23, 2011; **ORDERS** the accused to pay interest at the rate of 6% *per annum* on all the damages awarded on each count of qualified rape, to be reckoned from the date of finality of this judgment until fully paid; and **DIRECTS** the accused to pay the costs of suit.

SO ORDERED.”

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court
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The Solicitor General (x)
Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR H.C. No. 04254)

The Hon. Presiding Judge
Regional Trial Court, Br. 63
4318 Calauag, Quezon
(Crim. Case No. 3942-C)

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⁹ *Rollo*, p. 17.

¹⁰ *Sison v. People*, G.R. No. 187229, February 22, 2012, 666 SCRA 645, 667.

Mr. Elias Argello
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c/o The Director
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The Director
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Supreme Court
(Pursuant to A.M. No. 12-7-1-SC)

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