



Republic of the Philippines

Supreme Court

Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
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Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **July 8, 2020**, which reads as follows:

“G.R. No. 231887 (PEOPLE OF THE PHILIPPINES, plaintiff-appellee v. ROBERTO PLAZA, accused-appellant). — Accused Roberto Plaza (Plaza) appeals the Court of Appeals Decision¹ affirming the Regional Trial Court’s finding² that he was guilty beyond reasonable doubt of two (2) counts of rape against AAA.

The two (2) Informations charging him of the crime stated, thus:

Criminal Case No. CB-12-432:

That on or about the 22nd day of January 2012, at around 3:00 o’clock in the afternoon, more or less, at [REDACTED] and within the jurisdiction of this Honorable Court, the above-named accused, actuated by lust, with evident premeditation, abuse of superior strength, and employing means and machinations, did then and there, willfully, unlawfully and feloniously, have carnal knowledge with one [AAA], against the latter’s will, to her damage and prejudice.

CONTRARY TO LAW.

Criminal Case No. CB-12-433:

That on or about the 22nd day of January 2012, at around 7:00 o’clock in the evening, more or less, at [REDACTED] and within the jurisdiction of this Honorable Court, the above-named accused, employing means and machinations, did then and there, willfully,

¹ *Rollo*, pp. 4–24, the November 29, 2016 Decision was penned by Associate Justice Gabriel T. Robeniol, and concurred in by Associate Justices Pamela Ann Abella Maxino and Pablito A. Perez, of the Court of Appeals, 20th Division, Cebu City.

² *CA rollo*, pp. 70–89, the March 31, 2015 Consolidated Decision was penned by Presiding Judge Constantino F. Esber of the Regional Trial Court Branch 37, Naval, Biliran.

unlawfully and feloniously, have carnal knowledge with one AAA, against the latter's will, to her damage and prejudice.

CONTRARY TO LAW.³

Plaza was arraigned on both charges on May 29, 2012 and pleaded not guilty to both. Trial commenced, with the prosecution presenting a total of five (5) witnesses.⁴

AAA testified that she was born on June 7, 1999, and that on January 22, 2012, she was buying soda from a store near the church when Plaza called her. She approached Plaza, who led her to his abandoned house near the church. Plaza then allegedly carried her up the dilapidated house's steps, and into a secluded area where Plaza proceeded to undress her, then himself. He then inserted his penis into AAA's vagina and "did a push and pull movement"⁵ which caused her pain.⁶

When AAA pleaded for him to stop, Plaza told her that "it was only painful at first[,] but later on it will be satisfying."⁷ When Plaza was done, he gave AAA ₱40.00, told her not to tell her parents about what happened, and promised to always bring her to school on his motorcycle.⁸

Later that day, at around 7:00 p.m., AAA was again sent to the store to buy mosquito coils. At the store, she saw Plaza again. Plaza then took her to the abandoned house once more, then undressed her, "mashed her breast, inserted his penis into her vagina[,]"⁹ and did a "push and pull movement on top of her. . . for about 30 minutes."¹⁰ She crossed her legs because of the pain, but Plaza forced them open. When Plaza was finished, he gave AAA ₱46.00, and again told her not to tell her parents about what happened. He also allegedly threatened to stop taking her to school on his motorcycle if she disobeyed.¹¹

On cross-examination, AAA stated that nobody saw Plaza carry her into the house, and that she did not scream for help because she was afraid that she would be seen, or that someone would tell her father, who would whip her. She was allegedly unable to shout for help because she was afraid

³ Id. at 107-108.

⁴ Id. at 71.

⁵ Id. at 73.

⁶ Id.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Id.

that Plaza would hurt her. This same fear also led her to go with him to his house the second time on the same day.¹²

Further, she also stated that she feared that Plaza would stop taking her to school, which was far from her house. When the court asked clarificatory questions, AAA related that she treated Plaza like her uncle.¹³

AAA's mother¹⁴ testified that at around 6:00 p.m. on January 31, 2012, her neighbor, BBB, informed her that AAA was seen in Plaza's house. She then immediately went to Plaza's house, which was "dark upon her arrival."¹⁵ Outside Plaza's house, AAA's mother called for her, but there was no response from AAA. Thus, her mother entered the house and pointed a flashlight at the opened door. There, she allegedly found Plaza with his "short pants left unzipped with the belt [unbuckled][.]"¹⁶

Upon her mother's entrance, AAA ran past her and outside of the house. When they got home, her mother scolded her. AAA then revealed that Plaza had "raped her twice in that same house"¹⁷ on January 22, 2012. When asked by her mother why she went with Plaza, AAA stated that Plaza had given her money. During cross-examination, her mother stated that AAA did not immediately disclose the sexual abuse because "her daughter was afraid that she might whip her."¹⁸

CCC, one of AAA's neighbors, also testified that she visited AAA's house upon hearing that the latter was being scolded by her mother. There, AAA's mother informed CCC that Plaza, also known as "Ningning," raped her daughter.¹⁹

Barangay Captain Violeta Torlao (Torlao) also testified that at around 7:00 p.m. on January 31, 2012, she was visited by AAA, the latter's mother, and CCC, who reported that Plaza raped AAA. When Torlao confronted AAA, the latter told her that she was raped by Plaza twice on January 22, 2012, at 3:00 p.m. and at 7:00 p.m.²⁰

¹² Id. at 74.

¹³ Id.

¹⁴ The name of the victim's mother was redacted in all the documents from the *rollo*.

¹⁵ Id. at 72.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id. at 74-75.

²⁰ Id. at 75.

Finally, Municipal Health Officer Dr. Dionesio Plaza testified that on February 1, 2012, he was requested to physically examine AAA due to allegations that she was raped. His examination of her revealed that she suffered several hymenal lacerations that were “probably caused by a blunt or hard object inserted to the organ of the patient.”²¹

For the defense, Plaza testified that as a *habal-habal* driver, he would often ply his routes from 5:00 a.m. to 6:00 p.m. He denied having raped AAA at any of the alleged times on January 22, 2012. As to what happened on January 31, 2012, he stated that he was tending to his fighting cock at around 6:00 p.m. When he was about to lock his house for the day, he found AAA inside, who asked for some money for her school project. He was not able to give her money because her mother arrived and began scolding and hitting her. Shortly after AAA and her mother had left, police officers arrived and detained him for allegedly raping AAA.²²

On cross-examination, Plaza denied any relation with AAA or having met her on January 22, 2012. He also stated that he had a good relationship with both of AAA’s parents.²³

The defense also presented Plaza’s daughter, Jocelyn Pepito (Pepito), who testified that on January 29, 2012, she was at home when she saw AAA peeping into her house. When Pepito confronted AAA, the latter asked if Plaza was around. Pepito informed her that Plaza was tending to his chickens, causing AAA to leave. Pepito then heard a loud voice, which she later learned was AAA’s mother scolding the latter.²⁴

The Regional Trial Court convicted Plaza of both counts of rape. The trial court held that AAA’s testimony would be sufficient to convict Plaza provided, and that such testimony is “credible, convincing, and not contrary with human nature[.]”²⁵ Thus, the trial court examined AAA’s open court testimony and found her to have clearly and categorically narrated her ordeal.²⁶

Further, AAA’s account was clear and straightforward even as it was interrupted by “her uncontrolled crying in open court[.]”²⁷ Finally, the trial court stated that as a child-victim, AAA’s testimony deserved “full weight

²¹ Id. at 76.

²² Id. at 77–78.

²³ Id. at 78.

²⁴ Id. at 76–77.

²⁵ Id. at 81.

²⁶ Id. at 85.

²⁷ Id. at 86.

and credence.”²⁸ AAA was able to categorically identify Plaza as her assailant, which prompted the trial court to treat her youth and immaturity as “badges of truth.”²⁹

The trial court also found that Plaza’s acts were attended by fraudulent machinations, specifically when he gave AAA money after each incident and promised her rides to school.³⁰ In any event, the trial court held that the difference in strength and status between AAA, a minor, and Plaza, sufficiently intimidated AAA into submitting to Plaza’s sexual advances.³¹

The trial court then deemed Plaza’s defenses of denial and alibi insufficient to controvert AAA’s positive identification and her clear and categorical testimony. It also disregarded Plaza’s claim that, had he truly raped AAA in the afternoon of January 21, 2012, she would not have returned to his house a second time in the evening of that same day. The court reasoned that AAA could not be expected to “act like an adult and mature woman”³² given her youth and immaturity.

On appeal, Plaza argued that the prosecution failed to prove his guilt beyond reasonable doubt because there was no conclusive proof establishing the elements of the crime. Plaza argued that the charges of evident premeditation, abuse of superior strength, and use of fraudulent machinations were not sufficiently proven. Specifically, no acts were shown establishing “cool thought and reflection”³³ leading to the commission of the crime.

Likewise, there was no proof of his use of “excessive force out of proportion to the means of defen[s]e available”³⁴ to AAA. Finally, Plaza argued that the alleged giving of money, “having been done after the alleged sexual act. . . precludes machination as a means of committing the felony[.]”³⁵

Plaza further argued that it was unnatural for AAA to return to the store the same day she was raped. He maintained that this inconsistency with human behavior should cast doubt on AAA’s credibility.³⁶ In any event, Plaza pointed out supposed discrepancies in AAA’s testimony,

²⁸ Id.

²⁹ Id. at 86–87.

³⁰ Id. at 85–86.

³¹ Id. at 87.

³² Id. at 88.

³³ Id. at 60.

³⁴ Id.

³⁵ Id. at 60–61.

³⁶ Id. at 61–62.

particularly, that Plaza never “uttered words or did [any] act to compel AAA to give in to his sexual desire.”³⁷ Plaza also stated that AAA’s open court testimony conflicted with her sworn affidavit. According to Plaza, these inconsistencies cast reasonable doubt on his guilt.³⁸

The prosecution countered in its Appellee’s Brief that all elements of the crime were sufficiently established by the evidence. The prosecution emphasized Plaza’s moral ascendancy and physical superiority over AAA as the means that facilitated his commission of the crime. According to the prosecution, this “dominance or authority of the accused is the force itself that [prevented] AAA from repelling [Plaza’s] sexual assault.”³⁹ The prosecution also pointed out how Plaza used AAA’s “immaturity and vulnerability”⁴⁰ through offers of payment and rides to school, all in order to prevent AAA from disclosing what happened to her parents.

In any event, the prosecution argued that the trial court properly determined AAA’s credibility. Her narration of events were clear and convincing, and she was “steadfast in her identification of [Plaza] as her abuser.”⁴¹ According to the prosecution, her credible account of events along with Plaza’s inadequate alibi correctly resulted in the latter’s conviction.

The Court of Appeals denied Plaza’s appeal, finding that the lower courts correctly found him guilty beyond reasonable doubt of both counts of rape. The court noted that Plaza no longer denied having sex with AAA, but only contested the presence of evident premeditation, superior strength, intimidation and/or fraudulent machinations in his commission of the act. While the Court of Appeals agreed that there was insufficient proof of evident premeditation and fraudulent machinations, it affirmed the trial court’s findings that Plaza’s acts were “attended by abuse of superior strength and psychological intimidation[.]”⁴² Plaza’s status as an adult gave him moral ascendancy over AAA, which overpowered any resistance AAA might have mounted against him. Likewise, Plaza’s act of carrying her to a secluded place in his abandoned house indicated AAA’s clear unwillingness to go with him.⁴³

In any event, the Court of Appeals affirmed the full credence given to AAA’s testimony, as she was able to positively identify Plaza and clearly

³⁷ Id. at 64.

³⁸ Id. at 64–65.

³⁹ Id. at 114.

⁴⁰ Id.

⁴¹ Id. at 115–116.

⁴² *Rollo*, p. 16.

⁴³ Id. at 17.

narrate what was done to her. Thus, the quality of AAA's testimony could not be overcome by Plaza's denial and alibi, which did not even establish the physical impossibility of his presence at the time and place that the crimes were committed.⁴⁴ Finally, the Court of Appeals reiterated that "[v]ictims of rape are not expected to act conformably with [usual expectations]."⁴⁵ Particularly, a minor victim abused by one with moral ascendancy cannot be expected to act in any standardized manner.⁴⁶

Plaza then filed a Notice of Appeal before the Court of Appeals,⁴⁷ which noted the same and forwarded the records of the case to this Court. When required to submit supplemental briefs,⁴⁸ both parties manifested that their respective briefs before the Court of Appeals would sufficiently argue their positions.⁴⁹

Accused-appellant now questions whether or not the prosecution was able to prove his guilt beyond reasonable doubt.

We deny the appeal.

The Court of Appeals correctly affirmed the Regional Trial Court's Decision holding accused-appellant guilty beyond reasonable doubt of rape. Article 266-A of the Revised Penal Code defines rape, as follows:

ARTICLE 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 otherwise unconscious;
 - c) By means of fraudulent machination or grave abuse of authority; and
 - d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present[.]

⁴⁴ Id. at 20–22.

⁴⁵ Id. at 23.

⁴⁶ Id.

⁴⁷ Id. at 26.

⁴⁸ Id. at 31.

⁴⁹ Id. at 34–36, Accused-Appellant's Manifestation in Lieu of Supplemental Brief; and 39–43, Plaintiff-Appellee's Manifestation in Lieu of Supplemental Brief.

The lower courts found that accused-appellant obtained carnal knowledge of the victim without the latter's consent by using his moral ascendancy over her as an adult.

Accused-appellant's contentions regarding the victim's credibility are unavailing. The trial court's determination of witness credibility will not be disturbed on appeal unless significant matters were overlooked. The trial court is best equipped to determine witness credibility because it may observe the witness's demeanor while testifying. The trial court's findings assume even greater weight when affirmed by the Court of Appeals.⁵⁰

Here, the Regional Trial Court found the victim's testimony credible after considering her demeanor on the witness stand.

AAA as a child-victim, who was merely 12 years and 8 months old at the time of the incident[,] having been born on June 7, 1999, her testimony deserves full weight and credence. The Court finds the foregoing narration of AAA providing details on how the act of rape was committed against her person, to be credible, convincing, and consistent with the normal course of things. The Court notes that her direct testimony was delivered in a clear and straightforward manner, further made believable by its interruption caused by her uncontrolled crying in open court. [Thus,] the same is entitled to full evidentiary weight and credit. Moreover, on the witness stand during her direct examination, AAA categorically pointed and identified [Plaza] as the person who raped her.⁵¹

This was affirmed by the Court of Appeals, which stated, thus:

We have assiduously scrutinized the transcripts of stenographic notes of this case and, like the court *a quo*, *We* find the victim's testimony on the second rape incident credible and indicative of an honest and realistic account of the tragedy that befell her[.]⁵² (Emphasis in the original)

Together with these findings of credibility and the prosecution's corroborating documentary evidence,⁵³ the trial court found sufficient basis to convict accused-appellant of both counts of rape.

On the other hand, accused-appellant failed to raise any relevant matters that would have impugned the victim's credibility. Accused-appellant's reliance on a supposedly "normal behavior" and alleged inconsistencies between the victim's oral and written testimonies have

⁵⁰ *People v. Diu y Kostesa*, 708 Phil. 218 (2013) [Per J. Leonardo-De Castro, First Division].

⁵¹ *CA rollo*, p. 86.

⁵² *Rollo*, p. 18.

⁵³ *CA rollo*, p. 86.

already been addressed by jurisprudence contrary to his assertions.

*People v. Gacusan*⁵⁴ squarely addresses accused-appellant's argument regarding "normal behavior" to be expected of a rape victim:

"[D]ifferent people react differently to a given type of situation, and there is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience." One person may react aggressively, while another may show cold indifference. Also, it is improper to judge the actions of children who are victims of traumatic experiences "by the norms of behavior expected under the circumstances from mature people." From AAA's view, it appeared that the danger of losing a family was more excruciating than physical pain.

*Furthermore, a victim should never be blemished for her lack of resistance to any crime especially as heinous as rape. Neither the failure to shout nor the failure to resist the act equate to a victim's voluntary submission to the appellant's lust.*⁵⁵ (Citations omitted, emphasis supplied)

The victim cannot be expected to act in any normalized manner with respect to the abuses she suffered. She, thus, cannot be faulted for failing to resist accused-appellant's advances or call for help during the ordeal.

Neither does the absence of resistance absolve accused-appellant of guilt, as resistance is not an element of the crime.⁵⁶ While accused-appellant admitted to having sex with the victim, he contends that the circumstances that allowed him to do so were not proven beyond reasonable doubt. These contentions are equally unmeritorious. The gravamen of rape is the perpetrator obtaining carnal knowledge of the victim without consent. Not only was the victim, a child, incapable of consenting to sexual intercourse,⁵⁷ the lower courts properly found that accused-appellant used his moral ascendancy to force himself on the victim.

Gacusan listed the line of cases where moral ascendancy was deemed to have replaced violence and intimidation in rape cases. Thus, proof of the perpetrator's moral authority, influence or ascendancy over the victim rendered proof of violence or intimidation superfluous.⁵⁸ Further, *People v. Gutierrez y Robles*⁵⁹ recognized how a "known acquaintance" was able to use his moral ascendancy to rape a minor.⁶⁰

⁵⁴ 809 Phil. 773 (2017) [Per J. Leonen, Second Division].

⁵⁵ Id. at 784-785.

⁵⁶ *People v. Quintos y Badilla*, 746 Phil. 809 (2014) [Per J. Leonen, Second Division].

⁵⁷ Id.

⁵⁸ *People v. Gacusan*, 809 Phil. 773 (2017) [Per J. Leonen, Second Division].

⁵⁹ 731 Phil. 352 (2014) [Per J. Leonen, Third Division].

⁶⁰ Id.

Here, the Court of Appeals aptly discussed how moral ascendancy may be appreciated as having the same effect as the use of violence or intimidation in obtaining carnal knowledge of a rape victim:

Accused-appellant is AAA's [REDACTED]. Whether as an [REDACTED] or [REDACTED], moral ascendancy became accused-appellant's tool to overpower any possible resistance AAA might offer against the onslaught of perversion. Intimidation is addressed to the mind of the victim and, being subjective, its presence cannot be tested by any hard and fast rule, but should instead be viewed in light of the victim's perception and judgment at the time of the commission of the crime. It even includes a moral kind of intimidation where, as here, the mere existence of moral ascendancy in the person of an aggressor over a young victim could even be enough in cowering the latter to submission.⁶¹ (Citations omitted; emphasis supplied)

Finally, when confronted with inconsistencies between written testimony in a sworn affidavit and that given orally in open court, this Court has settled that the former is often limited in scope and, thus, inaccurate. Therefore, oral testimony in open court is superior. *People v. Dela Rosa y Likinon*,⁶² provides:

Furthermore, *People v. SPO1 Gonzalez, Jr.* provides that sworn statements often conflict with testimonies given in open court. This is because *sworn statements are seldom complete or comprehensive accounts of what actually happened*:

It has been consistently held that discrepancies and/or inconsistencies between a witness' affidavit and testimony do not necessarily impair his credibility as affidavits are taken *ex parte* and are often incomplete or inaccurate for lack or absence of searching inquiries by the investigating officer. *What is important is, in the over-all analysis of the case, the trial court[']s findings and conclusions are duly supported by the evidence on record.*⁶³ (Citations omitted, emphasis supplied)

The lower courts were able to fully appreciate the victim's candor and straightforwardness in delivering her testimony: (1) She categorically identified accused-appellant as her assailant; (2) clearly narrated what was done to her; and (3) capably withstood the rigors of cross-examination, despite accused-appellant's attempts to rattle her. We find no reason to overturn the lower courts' findings.

⁶¹ *Rollo*, pp. 16-17.

⁶² G.R. No. 227880, November 6, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65983>> [Per J. Leonen, Third Division].

⁶³ *Id.* citing *People v. SPO1 Gonzalez, Jr.*, 781 Phil. 149 (2016) [Per J. Perez, Third Division].

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We further affirm the Court of Appeals' imposition of penalties in both charges of rape.

Since accused-appellant was meted the penalty of *reclusion perpetua* for both charges of rape, and since the prosecution did not establish the existence of any aggravating circumstances, accused-appellant is liable to pay the victim ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages and ₱75,000.00 as exemplary damages, for each count of rape.⁶⁴

WHEREFORE, the findings of fact and conclusions of law of the Court of Appeals are **AFFIRMED**. The assailed decision of the Court of Appeals in CA-G.R. CR-HC No. 02039 is **AFFIRMED**.

Accused-appellant **ROBERTO PLAZA** is found **GUILTY** beyond reasonable doubt of both counts of rape. He is sentenced to suffer the penalty of *reclusion perpetua* and to pay AAA civil indemnity, moral damages, and exemplary damages at ₱75,000.00 each, for each count of rape, and the costs of the suit.

In line with current jurisprudence, interest at the rate of 6% per annum should be imposed on all damages awarded from the date of the finality of this judgment until fully paid.⁶⁵

SO ORDERED." (Gesmundo, J., on official leave.)

By authority of the Court:

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
 Division Clerk of Court
12/10/2020

OFFICE OF THE SOLICITOR GENERAL
 134 Amorsolo Street
 Legaspi Village, 1229 Makati City

COURT OF APPEALS
 CA G.R. CEB CR HC No. 02039
 6000 Cebu City

⁶⁴ *People v. Jugueta*, 783 Phil. 806, 840 (2016) [Per J. Peralta, En Banc].

⁶⁵ See *Nacar v. Gallery Frames*, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

July 8, 2020

Atty. Reman V. Manubag
PUBLIC ATTORNEY'S OFFICE
Regional Special & Appealed Cases Unit
3rd Floor, Taft Commercial Center
Metro Colon, Carpark, Osmena Boulevard
Brgy. Kalubihan, 6000 Cebu City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 37, 6543 Naval, Biliran
(Crim. Case No. CB -12-432 to 433)

CSSupt. Geraldo I. Aro
Superintendent
LEYTE REGIONAL PRISON
Barangay Mahagna, Abuyog
6510 Leyte

Mr. Roberto Plaza
c/o The Superintendent
LEYTE REGIONAL PRISON
Barangay Mahagna, Abuyog
6510 Leyte

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