



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 23 November 2020 which reads as follows:

“G.R. No. 243574 (*People of the Philippines v. Henry Baronda y Dela Torre*).

The accused assails his conviction for the crime of Rape on the ground that the victim’s testimony is incredible and inconsistent. Time and again, this Court has held that when it comes to the issue of credibility of the victim or the prosecution witnesses, the findings of the trial courts carry great weight and respect. This is so because the trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses’ manner of testifying, their demeanor and behavior in court. Generally, the appellate courts will not overturn these factual findings, unless the trial court overlooked, misunderstood or misapplied some fact or circumstance of weight and substance which will alter the assailed decision or affect the result of the case.¹ This rule finds an even more stringent application when these findings are sustained by the Court of Appeals (CA),² as in this case.

The alleged inconsistencies in the testimony of AAA³ are immaterial because these are not elements of the crime, and do not detract from the credibility of the witness. Inconsistencies on minor details and collateral matters – whether AAA was alone or with her brother, and whether she was texting or playing computer games – do not affect the veracity, substance or weight of the witness’ testimony and do not

¹ *People v. Gerola*, 813 Phil. 1055, 1063 (2017), citing *People v. Gahi*, 727 Phil. 642, 658 (2014).

² *Id.*

³ Any information to establish or compromise the identity of the victim, as well as those of her immediate or household family members, shall be withheld, and fictitious names are used, pursuant to Republic Act (RA) No. 7610, An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes; RA No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; Section 40 of A.M. No. 04-10-11-SC, Rule on Violence Against Women and Their Children; and *People v. Cabalquinto*, 533 Phil. 703 (2006).

necessarily render the testimony incredible. In fact, variance in minor details have the effect of bolstering, instead of diminishing, the witness' credibility because they discount the possibility of a rehearsed testimony.⁴ What is imperative is the witness' coherence in relating the principal elements of the crime, and the positive and categorical identification of the accused as the perpetrator of the crime.⁵ In this case, AAA testified in a consistent and straightforward manner. She positively identified Baronda as her ravisher and vividly recounted her harrowing experiences in June 2011, and again on January 31, 2012, thus:

Testimony on the June 2011 rape incident

Q: Do you know on June 2011 if you met Henry Baronda?

A: Yes, at home.

Q: And what was that extraordinary incident that you remember sometime in June 2011 while inside your house?

A: I was at that time watching TV lying down[.] I got surprised seeing him inside the house even though the gate of our house was closed.

Q: You said you were surprised upon seeing him, what did you do?

A: I asked him what he was doing inside our house.

Q: Do you know if there was reply from him?

A: None[,] he did not reply but instead immediately held my hand.

Q: After holding your hand, what else did he do?

A: Then he caressed.

Q: What were you wearing that time?

A: T-shirt.

Q: And what did you do with your t-shirt?

A: He told me to remove it.

Q: Who removed your t-shirt?

A: He.

Q: How about your lower garment[? W]hat were you wearing?

A: Shorts pants. [sic]

Q: And what did you do with your short pants?

A: I did not do anything with it.

Q: What about the accused, what did he do?

A: **He slowly removed my short pants.**

Q: And after removing your short pants and your shorts [sic], what else did he do?

⁴ *People v. Udtohan*, 815 Phil. 449, 463 (2017); *People v. Divinagracia, Sr.*, 814 Phil. 730, 746 (2017).

⁵ *People v. Gerola, supra* at 1066.

A: **After that[,] he told me to lie down and caressed my breast and also my vagina.**

PROS. MACALALAG:

While you were lying down[,] what was the accused wearing at that time?

A: He was wrapped with a towel because he would usually go to our house clad with only a towel and sometimes with a shorts. [*sic*]

x x x x

PROS. MACALALAG:

While you were lying down and he was wrapped in a towel, what happened next?

A: **He wanted to rape me. He raped me and made a push and pull movement.**

Q: Now [AAA], what did he do with your vagina?

A: **He licked it and then he caressed it and inserted his penis into my vagina.**

Q: And then what did you feel?

A: **I was shocked.**

Q: And what happened next?

A: And then he went out of our house.

Q: Before leaving your house[,] what if any did the accused tell you?

A: **He told me not to tell anybody or else he would kill the members of my family.**

Q: What if any he was [*sic*] holding at that time?

A: Bladed weapon.

x x x

Q: Were you able to see the bladed weapon?

A: Yes, ma'am.

Q: How long?

COURT INTERPRETER:

Witness demonstrated a length of eleven inches.

COURT:

How did he held [*sic*] it?

COURT INTERPRETER:

Witness demonstrated with hand held up high and bladed weapon with a clenched fist holding it up [to] the level of his head and the pointed part of the bladed weapon trusted [*sic*] forward.

PROS. MACALALAG:

When Henry Baronda uttered that he would kill members of your family with [*sic*] knife with him, how did you feel?

A: **I got afraid. At that time[,] I kept crying and really was afraid that he would kill my parents.**

x x x x

Q: And did you in fact tell your parents about what happened to you and Henry Baronda?

A: I did not tell them because I was afraid.⁶ (Emphases supplied.)

Testimony on the January 31, 2012 rape incident

Q: Can you recall the date of that incident that you were caught by your brother [BBB]?

A: January 31.

x x x x

Q: January 31, 2011 or 2012?

A: Twenty [t]welve.

Q: Now you said you were caught by your younger brother, what was that incident that your younger brother saw?

A: My younger brother saw Henry Baronda on top of me making a push and pull movement, he was raping me.

Q: Where were you caught with this accused having a push and pull movement to you?

A: In the bedroom of my papa.

Q: And how was Henry Baronda able to get inside the room?

A: We were playing computer at that time and we did not notice that he was able to get inside our house through the back door.

Q: You said "we[,"] whom are you referring to?

A: My younger brother [BBB].

Q: And what happened while you were playing with this computer?

A: After I played the computer[,] I watched TV and then **I was surprised that he was already inside our house and he suddenly pulled me towards the bedroom of my father.**

Q: Where was [BBB] playing the computer?

A: Near the bedroom of my father.

Q: And while you were dragged by Henry Baronda towards the room of your parents[,] what happened?

A: **He raped me and did everything that he wanted to do with me. Caressed my vagina.**

Q: What else did he do aside caressing [*sic*] your vagina?

A: **He inserted his penis into my vagina and gripped tightly my breast and sucked it.**

Q: What did you do while he was doing this to you?

A: **I was unable to resist and at that time I was lying down and got traumatized.**

Q: What happened next after that?

A: That was the time that my younger brother saw us.

Q: How did you know that you were caught by your brother?

⁶ TSN, February 17, 2014, pp. 3-7.

A: My younger brother suddenly went inside the room.

Q: What if any did your brother do after you were caught with Henry Baronda having sexual intercourse[?]

A: He ran away and told my father what was happening at that time.

Q: Do you know where Henry Baronda go [sic] when your brother saw the two of you?

A: He went away.

Q: Do you know where did he go?

A: I have no idea[. W]hen my father arrived[,] he wasn't there anymore.

Q: And when your father arrived[,] what did you say to your father?

A: Nothing because **I was in the state of shock and I was afraid.**⁷
(Emphases supplied.)

Under Article 266-A, paragraph 1(a)⁸ of the Revised Penal Code (RPC), as amended by Republic Act No. 8353,⁹ the elements of Rape are: (1) the offender had carnal knowledge of the victim; and (2) the act was accomplished through force, threat or intimidation. The gravamen of rape is sexual intercourse with a woman against her will.¹⁰ Here, all the elements of rape were proven beyond reasonable doubt.

Through AAA's candid and categorical testimony, the prosecution sufficiently established that Baronda had carnal knowledge of AAA on two separate occasions. Her brother, BBB, also testified that he saw Baronda holding the breast of AAA while doing a push-and-pull movement.¹¹ Moreover, medical evidence corroborates the prosecution witnesses' testimonies. The examining physician reported that AAA's hymen was subjected to severe trauma caused by a blunt object, such as an erect penis.¹² When the testimony of a rape victim is consistent with

⁷ *Id.* at 7-10.

⁸ ART. 266-A. *Rape, When and How Committed.* — Raped 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[.]

⁹ AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES; approved on September 30, 1997.

¹⁰ *People v. Ejercito*, 834 Phil. 837, 844 (2018).

¹¹ TSN, March 4, 2014, pp. 5 and 7. The pertinent portion of BBB's testimony reads:

Q. x x x [W]hat happened when you went to the room of your mother?

A. I saw him raping my older sister.

Q. Why do you say that there was a rape incident?

A. The two of them were naked and he was raping my older sister.

x x x x

Q. By the way [BBB], you saw Henry Baronda holding the breast of your Ate [AAA], was he also doing a push and pull motion?

A. Yes.

Q. Why you say that there was a push and pull motion?

A. Because they were moving.

¹² TSN, June 9, 2014, pp. 2-3.

medical findings, there is sufficient basis to warrant a conclusion that the essential requisites of carnal knowledge have been established.¹³

Moreover, the failure of AAA to shout for help does not negate the commission of rape. It is settled that force need not be irresistible but just enough to bring about the desired result.¹⁴ It is not necessary that the rape victim resisted unto death.¹⁵ Failure to shout or offer tenacious resistance does not make voluntary the victim's submission to the perpetrator's lust. At any rate, 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 the crime. Rape victims react differently when confronted with sexual abuse. Thus, the law does not impose them the burden of proving resistance.¹⁶ In *People v. Frias*,¹⁷ the Court further explained that:

[I]t must be emphasized that force as an element of rape need not be irresistible; it need but be present, and so long as it brings about the desired result, all considerations of whether it was more or less irresistible is beside the point. So it must likewise be for intimidation which is addressed to the mind of the victim and is therefore subjective. Intimidation must be viewed in light of the victim's perception and judgment at the time of the commission of the crime and not by any hard and fast rule; it is therefore enough that it produces fear – fear that if the victim does not yield to the bestial demands of the accused, something would happen to her at that moment or even thereafter as when she is threatened with death if she reports the incident. Intimidation includes the moral kind as the fear caused by threatening the girl with a knife or pistol. And where such intimidation exists and the victim is cowed into submission as a result thereof, thereby rendering resistance futile, it would be extremely unreasonable, to say the least, to expect the victim to resist with all her might and strength. If resistance would nevertheless be futile because of continuing intimidation, then offering none at all would not mean consent to the assault as to make the victim's participation in the sexual act voluntary.¹⁸

As in this case, AAA's failure to shout for help or resist is not tantamount to consent. AAA recalled that, during the June 2011 rape incident, she could not shout for help because Baronda "*tightly gripped [her] hand and suddenly covered [her] mouth.*"¹⁹ Because of shock, AAA could not offer tenacious resistance and succumbed to his sexual desire.²⁰ After satisfying his lust, Baronda then pointed a knife at AAA,

¹³ *People v. Sabal, Jr.* (Resolution), 734 Phil. 742, 746 (2014).

¹⁴ *People v. Cañada*, 617 Phil. 587, 601-602 (2009).

¹⁵ *People v. Edem*, 428 Phil. 43, 67 (2002), citing *People v. Igdanes*, 338 Phil. 624 (1997).

¹⁶ *People v. Barberan* (Resolution), 788 Phil. 103, 111-112 (2016), citing *People v. Penilla*, 707 Phil. 130, 146 (2013).

¹⁷ (Resolution), 718 Phil. 173 (2013).

¹⁸ *Id.* at 183, citing *People v. Sgt. Bayani*, 331 Phil. 169, 193 (1996).

¹⁹ TSN, February 17, 2014, p. 15.

²⁰ *Id.* at 5-6.

threatening her that he will kill her family if she reported him.²¹ Later on January 31, 2012, when he again sexually abused AAA, Baronda dragged her to the bedroom but she was rendered submissive out of fear that he will make good on his threat to kill her family.²² Notably, Baronda employed force, threat and intimidation in both instances to satisfy his prurient desires.

Despite the overwhelming prosecution evidence, Baronda tendered nothing but his uncorroborated alibi and bare denial. Alibi and denial are inherently weak defenses and must be brushed aside when the prosecution has sufficiently and positively ascertained the identity of the accused. For a defense of alibi to prosper, the accused must not only prove that he was somewhere else when the crime was committed but he must also satisfactorily establish that it was physically impossible for him to be at the crime scene at the time of its commission.²³ Physical impossibility refers to the distance and the facility of access between the crime scene and the location of the accused when the crime was committed. There must be demonstration that he was so far away and could not have been physically present at the crime scene and its immediate vicinity.²⁴ Likewise, denial is a self-serving assertion that deserves no weight in law, unless substantiated by clear and convincing evidence.²⁵ Here, Baronda failed to disprove his presence when the crimes were committed. During the first rape incident, Baronda averred that he was working at the bus terminal, which was only 100 meters away from the house of AAA.²⁶ In addition, Baronda and AAA were neighbors, with the accused's house fronting that of the victim.²⁷ Evidently, Baronda was within the immediate vicinity of the crime scene when the rape was committed. Anent the second rape incident, Baronda admitted entering AAA's house but denied raping her. Yet, he offered no proof to substantiate his claim of denial. Thus, in light of the positive identification of Baronda as the person who raped AAA, his defense of alibi and denial necessarily fails.

All told, we sustain the Regional Trial Court (RTC) and CA's finding that Baronda is guilty of two (2) counts of Rape. Applying Article 266-B of the RPC,²⁸ the CA and the RTC correctly imposed the penalty of *reclusion perpetua*. However, there is a need to modify the amount of exemplary damages to conform with prevailing jurisprudence. In *People v. Jugueta*,²⁹ the Court held that when the circumstances call for the

²¹ *Id.* at 6-7.

²² *Id.* at 14-15.

²³ *People v. Barberan* (Resolution), *supra* note 15, at 113.

²⁴ *People v. Ramos*, 715 Phil. 193, 206 (2013).

²⁵ *People v. Empuesto*, 823 Phil. 1125, 1142 (2018).

²⁶ CA rollo, p. 37.

²⁷ *Id.*

²⁸ ART. 266-B. *Penalties*. — Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

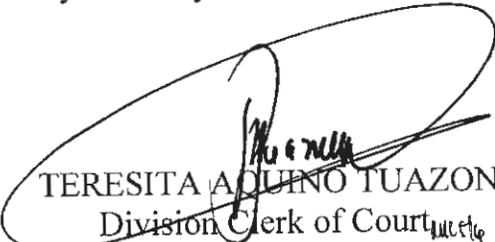
²⁹ 783 Phil. 806 (2016).

imposition of *reclusion perpetua* only, there being no ordinary aggravating circumstance, the victim is entitled to ₱75,000.00 civil indemnity, ₱75,000.00 moral damages, and ₱75,000.00 exemplary damages. Thus, the award of exemplary damages is increased from ₱30,000.00 to ₱75,000.00 for each count of rape. Lastly, in line with current policy, the CA correctly imposed interest at the legal rate of six percent (6%) *per annum* on all monetary awards for damages, from date of finality of this Resolution until fully paid.³⁰

FOR THESE REASONS, the appeal is **DENIED**. The Decision dated May 25, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 02516 is **AFFIRMED with MODIFICATION** in that the award of exemplary damages is increased to ₱75,000.00. Accused-appellant Henry Baronda y Dela Torre is **GUILTY** of two (2) counts of Rape, and sentenced to suffer imprisonment of *reclusion perpetua*, and ordered to pay ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages for each count.

SO ORDERED. (Rosario, J., designated additional Member per Special Order No. 2797 dated November 5, 2020.)”

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court
06 MAY 2021

³⁰ *People v. Ronquillo*, 818 Phil. 641, 648 (2017), citing *People v. Dion*, 668 Phil. 333 (2011).

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*with copy of CA Decision dated 25 May 2018
Please notify the Court of any change in your address.
GR243574. 11/23/2020(166)URES(m) *ATP*