



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **16 November 2020** which reads as follows:*

**“G.R. No. 243638 (*People of the Philippines v. XXX*<sup>1</sup>).**

The accused-appellant assails his conviction for the crime of Rape on the ground that the victim’s testimony is incredible. On this point, we stress that the Court of Appeals (CA) and the Regional Trial Court’s (RTC) assessment on the credibility of the prosecution witness and the veracity of her testimony is given the highest degree of respect,<sup>2</sup> especially if there is no fact or circumstance of weight or substance that was overlooked, misunderstood or misapplied, which could affect the result of the case.<sup>3</sup> Moreover, the trial court had the best opportunity to determine the credibility of the prosecution witness, having evaluated her emotional state, reactions and overall demeanor in open court. Here, the victim vividly identified the accused and how he had carnal knowledge of her,<sup>4</sup> thus:

- Q: While you were sleeping, what happened?  
A: While I was sleeping, I felt something heavy on my chest, ma’am.
- Q: When you felt something heavy in your chest, what did you do?  
A: I was awakened, ma’am.
- Q: **When you opened your eyes, what did you see?**  
A: **I saw my father, ma’am.**
- Q: Where is your father?  
A: On top of me, ma’am.
- Q: Upon seeing your father, what did you do next?

<sup>1</sup> Modified pursuant to the Amended Administrative Circular No. 83-2015 of the Supreme Court dated September 5, 2017, Re: “Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.”

<sup>2</sup> *People v. Matignas*, 428 Phil. 834, 868-869 (2002), citing *People v. Basquez*, 418 Phil. 426, 439 (2001); *People v. Jaberto*, 366 Phil. 556, 566 (1999); and *People v. Deleverio*, 352 Phil. 382, 401 (1998).

<sup>3</sup> *People v. Orosco*, 757 Phil. 299, 310 (2015).

<sup>4</sup> See *People v. Abierra*, 833 Phil. 276, 296 (2018).

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A: None, ma'am.

Q: Why did you not do anything?

A: I was afraid, ma'am.

[x x x x]

**Q: What did he tell you?**

**A: He told me if I make some noise he will kill me, ma'am.**

[x x x x]

Q: Can you please tell me while doing that [push and pull] movement what were your feelings; what did you feel?

A: Painful, ma'am.

[x x x x]

Q: What gave you that feeling that your vagina was very painful?

A: His penis, ma'am.

Q: The penis of your father?

A: Yes ma'am.

**Q: Are you telling us that your father was inserting his penis into your vagina?**

**A: Yes, ma'am.**

Q: Did he do it repeatedly or simultaneously?

A: Once ma'am.<sup>5</sup> (Emphases supplied.)

Corollarily, the accused-appellant's uncorroborated denial and alibi cannot prevail over the positive declaration of the prosecution witness. These negative defenses are self-serving and undeserving of weight in law absent clear and convincing proof.<sup>6</sup> Notably, accused-appellant did not adduce evidence that he was somewhere else when the crime was committed and that it was physically impossible for him to be present at the crime scene or its immediate vicinity at the time of its commission.<sup>7</sup>

Lastly, the Court emphasized in *People v. Tulagan*<sup>8</sup> that sexual intercourse with a victim who is under 12 years of age or is demented is always statutory rape. The presence or absence of force, intimidation or consent is immaterial. As such, the CA correctly designated the crime as qualified statutory rape.<sup>9</sup> The prosecution sufficiently alleged and proved that the victim was 11 years old at the time of the incident, and that she is the accused-appellant's biological daughter.<sup>10</sup> Also, the CA and the RTC

<sup>5</sup> *Rollo*, pp. 9-10.

<sup>6</sup> *People v. Togahan*, 551 Phil. 997, 1013-1014 (2007).

<sup>7</sup> *People v. Espina*, 383 Phil. 656, 668 (2000), citing *People v. Francisco*, 373 Phil. 733, 747 (1999); *People v. Baniel*, 341 Phil. 471, 481 (1997); *People v. Henson*, 337 Phil. 318, 324 (1997).

<sup>8</sup> G.R. No. 227363, March 12, 2019.

<sup>9</sup> REVISED PENAL CODE, ARTICLE 266-A (D) in relation to ARTICLE 266-B (1).

<sup>10</sup> *People v. XYZ*, G.R. Nos. 232386 and 232405 (Notice, Second Division), April 3, 2019.

properly imposed *reclusion perpetua* without eligibility for parole, in lieu of death penalty,<sup>11</sup> and awarded ₱100,000.00 civil indemnity, ₱100,000.00 moral damages, and ₱100,000.00 exemplary damages which shall all earn interest at the rate of 6% *per annum* from finality of this resolution until fully paid.<sup>12</sup>

**FOR THESE REASONS**, the appeal is **DISMISSED**.

**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

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court

11 MAY 2021



<sup>11</sup> REPUBLIC ACT NO. 9346, AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES; approved on June 24, 2006, Sections 2 and 3 or the Anti-Death Penalty Law provides that "[i]n lieu of the death penalty, the following shall be imposed: (a) the penalty of *reclusion perpetua*, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code" and that "[p]ersons convicted of offenses x x x whose sentences will be reduced to *reclusion perpetua*, by reason of this Act, shall not be eligible for parole." See also A.M. No. 15-08-02-SC or "Guidelines for the Proper Use of the Phrase 'Without Eligibility for Parole' in Indivisible Penalties;" dated August 4, 2015.

<sup>12</sup> *People v. Jugueta*, 783 Phil. 806, 856 (2016).

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THE DIRECTOR (reg)  
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HON. PRESIDING JUDGE (reg)  
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(Crim. Case No. 2016-0863)

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