



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **01 March 2021** which reads as follows:

“G.R. No. 249304 (*People of the Philippines v. Michael Pascual y Alvarado*). – Michael Pascual y Alvarado (*accused-appellant*) was charged with the crime of Robbery with Rape, defined and penalized under the provisions of Article 294, paragraph 1¹ of the Revised Penal Code (*RPC*), as amended by Section 9² of Republic Act (*R.A.*) No. 7659, in an Information which reads:

That on or about the 23rd day of February [2006], in the City of Meycauayan, province of Bulacan, Philippines, and within [the] jurisdiction of this Honorable Court, the above-named accused, armed with a gun, with intent of gain and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously, take, rob and carry [away] with him a Nokia 2300 cellphone worth Five Thousand Pesos (₱5,000.00) and cash amounting to Three Hundred Pesos (₱300.00) belonging to one [AAA],³ to the damage and prejudice of the latter in the said amount of

¹ Art. 294. *Robbery with violence against or intimidation of persons* - Penalties.

– Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1. The penalty of *reclusion perpetua* to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed.

x x x x

² Section 9. Article 294 of the same Code is hereby amended to read as follows:

Art. 294. Robbery with violence against or intimidation of persons - Penalties. - Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1. The penalty of *reclusion perpetua* to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed, or when the robbery shall have been accompanied by rape or intentional mutilation or arson.

x x x x

³ The true name of the victim has been replaced with fictitious initials in conformity with Administrative Circular No. 83-2015 (*Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances*). The confidentiality of the identity of the victim is mandated by Republic Act (R.A.) No. 7610 (*Special Protection of Children Against Abuse, Exploitation and Discrimination Act*); R.A. No. 8505 (*Rape Victim Assistance and Protection Act of 1998*); R.A. No. 9208 (*Anti-Trafficking in Persons Act of*

₱5,300.00; and on the occasion of the commission of the said robbery, the said accused, by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the said complainant [AAA], by kissing her on different parts of her body, inserting his sex organ to that of [the] victim and by forcing the said victim to perform oral sex on accused, against her will and consent.

Contrary to law.⁴

After review of the records, this Court resolves to **DISMISS** the appeal for failure to sufficiently show that the Court of Appeals (CA) committed any reversible error in its February 26, 2018 Decision⁵ as to warrant the exercise of this Court's appellate jurisdiction.

The Court agrees that all the elements of robbery with rape were duly established by the prosecution. At around 8:00 in the evening of February 23, 2006, while on board a tricycle, accused-appellant pointed a gun at private complainant and asked for her cellphone, as well as her cash in the amount of ₱300.00. Accused-appellant succeeded in getting her cellphone and cash. Clearly, the first and second elements are present in this case. As to the third element, *animus lucrandi*, or intent to gain, it is presumed from the unlawful taking of private complainant's cellphone and cash.⁶ *Acta exteriora indicant interiora secreta* — a man's action is a reflection of his intention.⁷ Anent the fourth element, it was established that on the occasion of the robbery, private complainant was forcibly brought to a motel where accused-appellant threatened her life and raped her.

Accused-appellant's defense of denial and *alibi* deserve scant consideration and cannot prevail over the categorical and positive testimony of private complainant who identified him as the person who robbed and raped her. Jurisprudentially, while *alibi* can be considered as a valid defense, the following elements must be alleged and proven to be given merit: (a) that the accused-appellant was present at another place at the time of the perpetration of the crime, and (b) that it was physically impossible for him to be at the scene of the crime during its commission. "Physical impossibility refers to distance and the facility of access between the crime scene and the location of the accused when the crime was committed. He must demonstrate that he was so far away and could not have been physically present at the crime scene and its immediate vicinity when the crime was committed."⁸ Here, accused-

2003); R.A. No. 9262 (*Anti-Violence Against Women and Their Children Act of 2004*); and R.A. No. 9344 (*Juvenile Justice and Welfare Act of 2006*).

⁴ CA rollo, p. 58.

⁵ Rollo, pp. 3-16; penned by Associate Justice Jhosep Y. Lopez (now a Member of this Court), with Associate Justices Japar B. Dimaampao and Manuel M. Barrios, concurring.

⁶ See *People v. Agan*, G.R. No. 228947, June 22, 2020; citing *People v. Reyes*, 447 Phil. 668, 674 (2003).

⁷ *People v. Agan*, supra.

⁸ *People v. Ramos*, 715 Phil. 193, 206 (2013).

appellant was not able to present independent proof that would corroborate his *alibi*. He was also unable to show that it was physically impossible for him to be at the scene of the crime.

As to the penalty, there being no aggravating or mitigating circumstance, the imposable penalty is *reclusion perpetua*.

This Court likewise agrees with the CA on the increase in the amount of exemplary damages in accordance with jurisprudence. Pursuant to *People v. Jugueta*,⁹ for special complex crimes like robbery with rape, if the penalty imposed is *reclusion perpetua*, the amounts of civil indemnity, moral damages, and exemplary damages shall be ₱75,000.00 each, all subject to six percent (6%) interest *per annum* from the date of finality of judgment until fully paid.

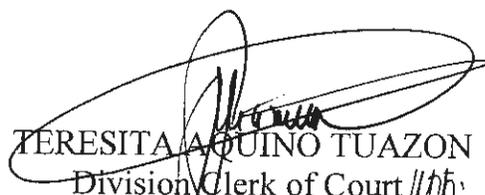
WHEREFORE, the Court **AFFIRMS** the findings of fact and conclusions of law of the Court of Appeals in its February 26, 2018 Decision in CA-G.R. CR-HC No. 07983. Accused-appellant Michael Pascual y Alvarado is found **GUILTY** beyond reasonable doubt of robbery with rape punishable under Article 294 of the Revised Penal Code and is hereby **SENTENCED** to suffer the penalty of *reclusion perpetua*.

Accused-appellant is **DIRECTED** to return to private complainant her Nokia 2300 mobile phone and the cash in the amount of Three Hundred Pesos (₱300.00) or, in the alternative, as when restitution is no longer plausible, to **PAY** said complainant the value of the items stolen, particularly the amount of Five Thousand Three Hundred Pesos (₱5,300.00).

He is likewise **ORDERED** to **PAY** private complainant civil indemnity in the amount of ₱75,000.00, moral damages in the amount of ₱75,000.00 and exemplary damages in the amount of ₱75,000.00, with interest at the rate of six percent (6%) *per annum* from the finality of this Resolution until full payment.

SO ORDERED." (Rosario, J., on leave.)

By authority of the Court:


TERESITA AQUINO TUZON
Division Clerk of Court *llh*
27 MAY 2021 5:27

⁹ 783 Phil. 806 (2016).

PUBLIC ATTORNEY'S OFFICE (reg)
Special & Appealed Cases Service
Department of Justice
PAO-DOJ Agencies Building
NIA Road corner East Avenue
1104 Diliman, Quezon City

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

MR. MICHAEL PASCUAL y ALVARADO (reg)
Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (reg)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 10
Malolos City, 3000 Bulacan
(Crim. Case No. 2003-M-2008)

JUDGMENT DIVISION (x)
Supreme Court, Manila

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Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR-HC No.07983

Please notify the Court of any change in your address.
GR249304. 03/01/2021B(96)URES(m) *ATL*