

*Wilfredo V. Lapitan*  
WILFREDO V. LAPITAN  
Division Clerk of Court  
Third Division  
JUL 17 2017



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,      G.R. No. 218942  
*Plaintiff-Appellee,*

Present:

- versus -

CARPIO, J.,\*  
VELASCO, JR., *Chairperson,*  
BERSAMIN,  
REYES, and  
TIJAM, JJ.

ROLANDO BISORA y LAGONOY,  
*Accused-Appellant.*

Promulgated:

June 5, 2017

*Wilfredo V. Lapitan*

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DECISION

TIJAM, J.:

Accused-appellant Rolando Bisora y Lagonoy challenges in this appeal the October 10, 2014 Decision<sup>1</sup> promulgated by the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 06282, which affirmed the judgment<sup>2</sup> of conviction for Rape rendered against him on June 28, 2013 by Branch 172 of the Valenzuela City Regional Trial Court (RTC) in Criminal Case No. 552-V-12.

\* Designated as an additional member as per Raffle dated February 20, 2017.

<sup>1</sup> Penned by Associate Justice Isaias P. Dican and concurred in by Associate Justices Agnes Reyes-Carpio and Victoria Isabel A. Parèdes; *rollo*, pp. 2-11.

<sup>2</sup> Penned by Judge Nancy Rivas-Palmones, *CA rollo*, pp. 57-60.

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### The Facts

Accused-appellant was charged under the following information:

That on or about May 23, 2012, in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of force and intimidation employed upon the person of one AAA, 16 years old, DOB: August 17, 1995 (complainant), did then and there wilfully, unlawfully and feloniously have sexual intercourse with the said minor complainant against her will and without her consent, thereby subjecting the said minor complainant to sexual abuse which debased, degraded and demeaned her intrinsic worth and dignity as a human being.<sup>3</sup>

Upon arraignment, accused-appellant pleaded not guilty.

AAA,<sup>4</sup> the complainant, testified that she was raped by accused-appellant twice: on September 9, 2011 and May 23, 2012. AAA declared that accused-appellant started courting her in September 2011, and they became sweethearts one month thereafter. AAA and accused-appellant's relationship remained a secret as AAA was afraid of her parents.

On September 9, 2011, AAA narrated that she was requested by her grandmother to call her uncle at the billiard hall. Accused-appellant, who was also at the same place, asked AAA if they could talk. Accused-appellant then brought AAA to the restroom where he forced her to have sexual intercourse with him. Fearing that her parents would know what happened between her and accused-appellant, AAA went away and stayed with her aunt in Cavite. Nevertheless, AAA's parents learned about the incident. AAA alleged that she wanted to file a complaint then but she did not know accused-appellant's surname.

Meanwhile, AAA was again raped on May 23, 2012, at around 2 o'clock in the afternoon. AAA was then at her house when accused-appellant invited her to talk. Accused-appellant brought AAA to the neighbor's comfort room. While inside, accused-appellant told AAA to remove her shorts. Fearing accused-appellant, AAA complied. Accused-appellant then inserted his penis inside AAA's vagina, while in a standing position. AAA pushed accused-appellant, but to no avail.

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<sup>3</sup> Id. at 12.

<sup>4</sup> In line with the Court's ruling in *People v. Cabalquinto*, 533 Phil. 703, 709 (2006), citing Rule on Violence Against Women and their Children, Sec. 40; Rules and Regulations Implementing Republic Act No. 9262, Rule XI, Sec. 63, otherwise known as the "*Anti-Violence Against Women and their Children Act*," the real names of the rape victims will not be disclosed. The Court will instead use fictitious initials to represent them throughout the decision. The personal circumstances of the victims of any other information tending to establish or compromise their identities will likewise be withheld.

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Through their neighbors, AAA's parents had learned what happened. AAA's parents then brought her to the police station where she executed a written statement regarding the incident. AAA declared in open court that she was a minor when she was raped by accused-appellant.

Aside from AAA, the prosecution also presented Police Senior Inspector (PSI) Jocelyn P. Cruz, the medico-legal officer of the Northern Police District Crime Laboratory who examined AAA. She testified that AAA's hymen showed clear signs of blunt penetration trauma, which could have been caused by an erect penis or finger.

Accused-appellant, on the other hand, denied that he raped AAA. He stated that he was merely introduced to AAA by a common friend, after which they became sweethearts. He admitted to being in the billiard hall and seeing AAA therein on May 23, 2012, when AAA was allegedly raped, but denied that he had a sexual encounter with her.

On June 28, 2013, the RTC rendered judgment, finding accused-appellant guilty of Rape under paragraph 1(a) of Art. 266-A of the Revised Penal Code (RPC), sentencing him to suffer the penalty of *reclusion perpetua*, and ordering him to pay the complainant moral damages of PhP50,000, civil indemnity of PhP50,000, and exemplary damages of PhP25,000.

Seeing merit on the RTC ruling, the CA, in its October 10, 2014 Decision, affirmed the RTC decision in its entirety. Accused-appellant then comes before this Court, maintaining that the prosecution failed to prove his guilt beyond reasonable doubt.

### **The Ruling of the Court**

We dismiss the appeal.

For conviction in the crime of rape, the following elements must be proved beyond reasonable doubt: (1) that the accused had carnal knowledge of the victim; and (2) that said act was accomplished (a) through the use of force or intimidation, or (b) when the victim is deprived of reason or otherwise unconscious, or (c) when the victim is under 12 years of age or is demented.<sup>5</sup>

In this case, We find no merit in accused-appellant's argument that the prosecution failed to establish force or intimidation.

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<sup>5</sup> *People of the Philippines v. Elmer Baldo y Santain*, G.R. No. 175238, February 24, 2009.

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AAA's failure to shout or to tenaciously resist accused-appellant should not be taken against her since such negative assertion would not *ipso facto* make voluntary her submission to accused-appellant's criminal act. In rape, the force and intimidation must be viewed in the light of the victim's perception and judgment at the time of the commission of the crime. As already settled in our jurisprudence, not all victims react the same way. Some people may cry out, some may faint, some may be shocked into insensibility, while others may appear to yield to the intrusion. Some may offer strong resistance while others may be too intimidated to offer any resistance at all. Moreover, resistance is not an element of rape. A rape victim has no burden to prove that she did all within her power to resist the force or intimidation employed upon her. As long as the force or intimidation is present, whether it was more or less irresistible is beside the point.<sup>6</sup>

In this case, We find that accused-appellant employed force upon AAA when he forcibly held AAA by the hand as he led her to the comfort room. We also find that intimidation facilitated the commission of the offense, considering accused-appellant's persistent threats to AAA in saying "*subukan mong magsumbong sa magulang mo*". We are cognizant of the fact that the victim, AAA, was then a 16-year old girl who heavily feared her parents, while accused-appellant was a 42-year old man. Evidently, it is not unreasonable to discern that AAA was cowed to surrendering to accused-appellant's bestial desires. We note that in AAA's direct testimony, she narrated that she felt afraid when accused-appellant uttered the said statement.<sup>7</sup>

Neither do We find meritorious accused-appellant's claim questioning AAA's failure to immediately report the incident. Suffice it to state that delay in reporting an incident of rape is not an indication of fabrication and does not necessarily cast doubt on the credibility of the complainant. This is because the victim may choose to keep quiet rather than expose her defilement to the harsh glare of public scrutiny. Only when the delay is unreasonable or unexplained may it work to discredit the complainant.<sup>8</sup>

As to accused-appellant's claim that he and AAA were sweethearts, such fact does not necessarily negate AAA's lack of consent to the sexual encounter with accused-appellant. As has been consistently ruled, "*a love affair does not justify rape, for the beloved cannot be sexually violated against her will. Love is not a license for lust.*"<sup>9</sup>

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<sup>6</sup> Id.

<sup>7</sup> See CA rollo, p. 47.

<sup>8</sup> *People of the Philippines v. Dandito Lastrollo y Doe*, G.R. No. 212631, November 7, 2016.

<sup>9</sup> *People of the Philippines v. Johnlie Lagangga y Dumpa*, G.R. No. 207633, December 9, 2015.

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Finally, the level of healing of AAA's hymen does not cast any doubt to the conclusion that she was raped. The essence of rape is the carnal knowledge of a woman against her consent. A freshly broken hymen is not one of its essential elements. Even if the hymen of the victim was still intact, the possibility of rape cannot be ruled out. Penetration of the penis by entry into the lips of the vagina, even without rupture or laceration of the hymen, is enough to justify a conviction for rape. To repeat, rupture of the hymen or laceration of any part of the woman's genitalia is not indispensable to a conviction for rape.<sup>10</sup>

In sum, the prosecution was able to establish accused-appellant's guilt of the crime charged beyond reasonable doubt.

As to the penalty, Article 266-B of the RPC, as amended by R.A. No. 8353, prescribes *reclusion perpetua* as the penalty for the crime of simple rape. The trial court, concurred by the appellate court, thus correctly imposed the penalty of *reclusion perpetua*. The Court also resolves to increase the amount of civil indemnity of PhP50,000 to PhP75,000; moral damages of PhP50,000 to PhP75,000; and exemplary damages of PhP25,000 to PhP75,000 pursuant to prevailing jurisprudence.<sup>11</sup> The amount of damages awarded should earn interest at the rate of 6% per annum from the finality of this judgment until said amounts are fully paid.<sup>12</sup>

**WHEREFORE**, the instant appeal is **DISMISSED**. The Court of Appeals Decision in CA-G.R. CR-H.C. 06282 dated October 10, 2014 which found accused-appellant Rolando Bisora y Lagonoy **GUILTY** of rape in Criminal Case No. 552-V-12 is **AFFIRMED**, with **MODIFICATIONS** that: (1) the awards of civil indemnity, moral damages and exemplary damages are each increased to PhP75,000; and, (2) all damages awarded shall earn interest at the rate of 6% per annum from date of finality of this judgment until fully paid.

Considering that the accused-appellant is a detention prisoner, he is hereby credited with the full length of time he has been under detention.

**SO ORDERED.**

  
**NOEL GOMEZ TIJAM**  
Associate Justice

<sup>10</sup>*People Of The Philippines and AAA v. Court of Appeals*, G.R. No. 183652, February 25, 2015.

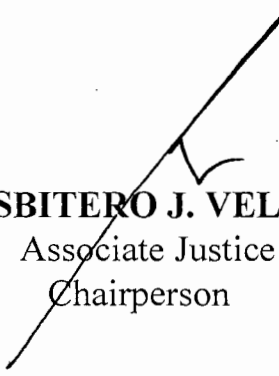
<sup>11</sup>*People Of The Philippines v. Ireneo Jugueta*, G.R. No. 202124, April 5, 2016.

<sup>12</sup>*People Of The Philippines v. Vivencio Ausa*, G.R. No. 209032, August 3, 2016.

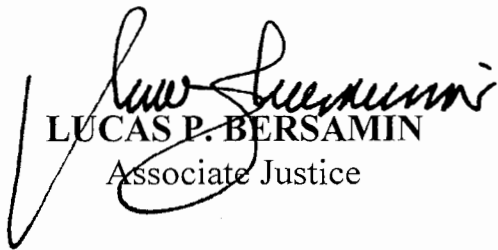
**WE CONCUR:**



**ANTONIO T. CARPIO**  
Associate Justice



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson




**LUCAS P. BERSAMIN**  
Associate Justice



**BIENVENIDO L. REYES**  
Associate Justice

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third Division



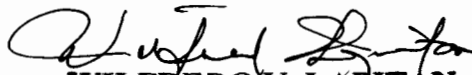
## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice

**CERTIFIED TRUE COPY**



**WILFREDO V. LAPITAN**  
Division Clerk of Court  
Third Division

JUL 17 2017

