



Republic of the Philippines  
**Supreme Court**  
Manila

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff-Appellee,

**G.R. No. 199875**

Present:

- versus -

VELASCO, JR., *J.*, Chairperson,  
DEL CASTILLO,\*  
ABAD,  
PEREZ,\*\* and  
MENDOZA, *JJ.*

Promulgated:

**EDWIN ISLA Y ROSSELL,**  
Accused-Appellant.

**21 November 2012**

X ----- *Macapuno* ----- X

**DECISION**

**MENDOZA, J.:**

This is an appeal from the December 17, 2010 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 28761, which affirmed the April 26, 2004 Decision<sup>2</sup> of the Regional Trial Court, Branch 98, Quezon City (RTC), finding the accused guilty beyond reasonable doubt of the crimes of Rape and Frustrated Murder.

\* Designated acting member, per Special Order No. 1352, dated November 7, 2012.

\*\* Designated acting member, per Special Order No. 1229, dated August 28, 2012.

<sup>1</sup> *Rollo*, pp. 2-13. Penned by Associate Justice Remedios A. Salazar-Fernando with Associate Justice Celia C. Librea-Leagogo and Associate Justice Michael P. Elbinias.

<sup>2</sup> *CA rollo*, pp. 281-290. Penned by Judge Evelyn Corpus-Cabochan.

On July 25, 1997, two separate Informations for Frustrated Murder and Rape were filed before the *RTC*, docketed as Criminal Case Nos. Q-97-72078 and Q-97-72079, respectively. These informations read:

*Criminal Case No. Q-97-72078*

The undersigned accuses EDWIN ISLA Y ROSSELL of the crime of Frustrated Murder, committed as follows:

That on or about the 21<sup>st</sup> day of July, 1997, in Quezon City, Philippines, the said accused, with intent to kill, with treachery and with evident premeditation, with abuse of superior strength, did then and there wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of AAA<sup>3</sup> by then and there stabbing her with a kitchen knife, hitting her twice below the chest, thereby inflicting upon said AAA serious and mortal wounds, the offender thus performing all the acts of execution which would produce death, which, however, was not produced by reason of cause independent of the will of the perpetrator, that is, the timely medical intervention, to the damage and prejudice of the said offended party.

CONTRARY TO LAW.<sup>4</sup>

*Criminal Case No. Q-97-72079*

The undersigned accuses EDWIN ISLA Y ROSSELL, of the crime of Rape, committed as follows:

That on or about the 21<sup>st</sup> day of July, 1997, in Quezon City, Philippines, the said accused by means of force and intimidation, to wit: by then and there wilfully, unlawfully and feloniously undress her and put himself on top of her, and thereafter have carnal knowledge with the undersigned complainant against her will and without her consent.

CONTRARY TO LAW.<sup>5</sup>

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<sup>3</sup> The name of the victim, her personal circumstances and other information which tend to establish or compromise her identity are not disclosed to protect her privacy. Fictitious initials are used instead. (*People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419; *People v. Gardon*, G.R. No. 169872, September 27, 2006, 503 SCRA 757).

<sup>4</sup> *CA rollo*, p. 6.

<sup>5</sup> *Id.* at 8.

**Evidence for the Prosecution**

During the trial, the prosecution presented three (3) witnesses; namely: complainant AAA; Dr. Ma. Cristina Freyra (*Dr. Freyra*), the chief of the medico-legal division of the Philippine National Police (*PNP*) Crime Laboratory; and Dr. Reynaldo Perez (*Dr. Perez*) of the East Avenue Medical Center, AAA's attending physician.

According to AAA's account, on July 21, 1997, at around 3:00 o'clock in the afternoon, she was inside her rented house together with her two (2) children, aged 1 ½ years old and 9 months old, respectively. She then noticed that accused Edwin Isla (*Isla*) was standing by the door of her kitchen. He asked her what time her landlady would be arriving and she answered that she had no idea. Thereafter, she opened the door of the kitchen, hoping that passersby would see him inside the house. After fifteen (15) minutes, she was startled when he suddenly poked a knife on her neck and pulled her inside the bedroom. By this time, she noticed that she had already closed the window and the door of the living room. She pleaded and begged for mercy but to no avail. She was warned not to shout or resist otherwise she would be stabbed.

Inside the bedroom, she was made to lie down on the floor because there was no bed. Isla placed himself on top of her and then he removed her upper clothing. He raised her bra, exposing her breasts and then kissed them. Eventually, he made her spread her legs and had carnal knowledge with her. While he was committing the dastardly act, she noticed a knife pointed at her. She also informed the trial court that during the whole ordeal, her children were present and witnessed everything.

When Isla stood up after raping her, she noticed that the knife he was holding was already bloodstained. At this point, she found out that she was stabbed with the knife. She tried to take hold of the knife while shouting for help. In response, Isla struck her the second time, this time, under her lower left breast. She also sustained a wound on her palm while trying to disarm him. Then the knife fell to the floor. It was at this moment that she was able to get hold of it and she threw it outside through a broken window in the room. Thereafter, Isla scampered out of the house through the backdoor.

In a little while, a neighbor came knocking at the door and was able to see AAA's condition. She was taken to the East Avenue Medical Center (*EAMC*) for medical attention and was confined there for five (5) days.

At the hospital, Dr. Freyra conducted an examination on AAA upon the request of the station commander of the PNP Lagro Police Station. Based on her findings, AAA sustained eleven (11) body injuries, two (2) of which were stab wounds, six (6) incised wounds and two (2) contusions. The stab wounds required medical attendance of not less than 30 days. An examination of AAA's sexual organ showed congestions and abrasion in the labia minora and yielded negative result on the presence of spermatozoa.

AAA's attending physician, Dr. Perez, on the other hand, testified that she had multiple stab wounds on the left side of the chest. Her chest x-ray result disclosed an accumulation of blood in the thorax which required him to conduct a procedure to drain the blood. He concluded that the stab wounds were severe and fatal which could have led to AAA's death had it not been for the timely medical attendance.

**Evidence for the Defense**

For the defense, accused Edwin Isla was presented together with two (2) psychiatric doctors who examined him.

Isla never denied that he raped AAA on July 21, 1997. Invoking the defense of insanity, he testified that before the incident, he and AAA had an illicit relationship for about two months until they broke up. He had to use a knife to be able to have sexual intercourse with her. It was the first time that he and AAA had sex. After raping her, he admitted stabbing AAA twice, first on her left breast and then on her lower right breast “for reason he cannot understand.”<sup>6</sup> He also punched her several times when she attempted to grab the knife from him.

As to Isla’s claim of insanity, Dr. Juan Villacorta (*Dr. Villacorta*) and Dr. Mary Gomez (*Dr. Gomez*) of the National Center for Mental Health (*NCMH*) were presented as qualified expert witnesses.

Dr. Villacorta testified that Isla was suffering from a major depressive disorder with psychotic features; that he manifested psychosis on account of his hallucinations, poor impulse control, poor judgment, and low frustration tolerance; and that he exhibited such behavioral pattern immediately prior to being jailed. Dr. Villacorta, however, could not say with definite certainty whether or not Isla was suffering from such mental disorder on July 21, 1997 as there was no examination conducted on Isla on the said date.<sup>7</sup>

To corroborate Dr. Villacorta’s findings, Dr. Gomez was presented. After a thorough interview and psychiatric testing on Isla, she likewise

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<sup>6</sup> Id. at 286.

<sup>7</sup> *Rollo*, p. 8

observed that *Isla* was suffering from a major depressive disorder which impaired his mental faculties. She said that his psychosis could have been existing prior to or about July 21, 1997 but again, like Dr. Villacorta, she opined that such finding could not be conclusive because of lack of information from other informants during that time.<sup>8</sup>

### **Ruling of the RTC**

On April 26, 2004, the *RTC* convicted *Isla* of the crimes of rape and frustrated murder. It did not give credence to his defense of insanity because it noted that *Isla* committed the crimes charged during a lucid interval. He knew that what he was doing was unlawful. There was no indication that he was deprived of reason or discernment and freedom of will when he committed all the acts attending the commission of the crime. The *RTC* gave no weight to the assertion of the defense that, based on the evaluations made by the doctors from NCMH, *Isla* was suffering from psychosis since 1992. It was of the impression that there was nothing in the testimony of these expert witnesses that *Isla* was suffering from psychosis long before the incident.<sup>9</sup> On this note, his condition could not be equated with imbecility; hence, he could not be exempt from criminal liability. Thus, the *RTC* ruled in this wise:

WHEREFORE, premises considered, judgment in these cases is hereby rendered as follows:

1. In Criminal Case No. Q-97-72079, the Court finds accused Edwin Isla y Rosell GUILTY beyond reasonable doubt of the crime of RAPE as defined and penalized under Art. 335 of the Revised Penal Code, and hereby SENTENCES him to suffer the penalty of reclusion perpetua and to indemnify complainant AAA the amount of Php50,000.00 as civil indemnity ex delicto, the amount of Php50,000.00 as moral damages, and to pay the cause of suit.

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<sup>8</sup> Id. at 9.

<sup>9</sup> CA *rollo*, p. 68.

2. In Criminal Case No. Q-97-72078, the Court finds accused Edwin Isla y Rosell GUILTY beyond reasonable doubt of the crime of Frustrated Murder and hereby SENTENCES him to suffer the indeterminate penalty of eight (8) years and one (1) day of prision mayor as minimum to seventeen (17) years and four (4) months of reclusion temporal as maximum, and to indemnify complainant the sum of P10,000.00 for actual damages, and to pay the cause of suit.

SO ORDERED.<sup>10</sup>

### **Ruling of the CA**

Aggrieved, Isla interposed an appeal with the CA. On December 17, 2010, the CA denied the appeal and affirmed the RTC decision which found Isla to have acted with discernment when he committed the crimes. According to the CA, Isla exactly knew that what he was doing was evil so much so that he had to employ cunning means, by discreetly closing the windows and the door of the house and by resorting to threats and violence, to ensure the consummation of his dastardly deed. The fact that he scampered away after AAA was able to take the knife from him, would only show that he fully understood that he committed a crime for which he could be held liable.

The CA did not give weight to the expert testimonies given by the two psychiatric doctors either. Since the mental examination on Isla was taken four to six years after the commission of the crimes, the doctors could not say with definite certainty that he was suffering from psychosis immediately before or simultaneous to the commission of the crimes which was very vital for said defense to prosper. Thus, the CA affirmed the RTC decision.<sup>11</sup>

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<sup>10</sup> Id. at 69-70.

<sup>11</sup> *Rollo*, p. 12.

Hence, the present appeal.

Both the prosecution and the defense opted not to file any supplemental briefs and manifested that they were adopting their arguments in their respective briefs filed before the CA. In his Appellant's Brief, the defense presented the following:

**I.**

**THE TRIAL COURT SERIOUSLY ERRED IN CONVICTING THE ACCUSED–APPELLANT NOTWITHSTANDING THAT HIS GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.**

**II.**

**THE TRIAL COURT GRAVELY ERRED IN NOT FINDING THAT THE ACCUSED-APPELLANT WAS INSANE AT THE TIME OF THE COMMISSION OF THE OFFENSE.**

At the outset, this Court notes that there is no more question as to whether or not AAA was raped by Isla. The latter never denied this fact which can be gleaned from his direct testimony, to wit:

Atty. Erasmo (defense counsel)

Q: So when you left at 4:00, where did you proceed?

A: To my aunt at Balintawak.

Q: How about AAA, what happened to her if you know?

A: she was raped and stabbed, sir.

Q: Who raped and stabbed AAA, if you know?

A: Me, sir.

Q: What time did this happen?

A: 3:00 o'clock, sir.



**Q: Now, how did you rape AAA?**

**A: I went inside their house.**<sup>12</sup>

(Emphases supplied)

That being so, what is left for this jurisdiction to resolve is whether or not Isla's claim of insanity is creditable so as to exculpate him of the crimes he admittedly committed.

This Court is not convinced with Isla's defense.

Article 12 of the Revised Penal Code (*RPC*) provides for one of the circumstances which will exempt one from criminal liability which is when the perpetrator of the act was an imbecile or insane, unless the latter has acted during a lucid interval. This circumstance, however, is not easily available to an accused as a successful defense. Insanity is the exception rather than the rule in the human condition. Under Article 800 of the Civil Code, the presumption is that every human is sane. Anyone who pleads the exempting circumstance of insanity bears the burden of proving it with clear and convincing evidence. It is in the nature of confession and avoidance. An accused invoking insanity admits to have committed the crime but claims that he or she is not guilty because of insanity. The testimony or proof of an accused's insanity must, however, relate to the time immediately preceding or simultaneous with the commission of the offense with which he is charged.<sup>13</sup>

In the case at bench, the defense failed to overcome the presumption of sanity. The respective testimonies of Dr. Villacorta and Dr. Gomez of the NCMH, as qualified expert witnesses, failed to support its claim of insanity. As observed by the CA, the mental examination on Isla taken four to six

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<sup>12</sup> TSN, June 5, 2001, pp. 4-5.

<sup>13</sup> *People v. Tibon*, G.R. No. 188320, June 29, 2010, 622 SCRA 510, 519.

years after the incident happened in July 1997, in effect, showed that it could not be concluded with certainty that he was suffering from such psychosis immediately before or simultaneous to the commission of the crimes. The expert witnesses themselves opined that their findings were not conclusive as to whether Isla was insane on that fateful day of July 21, 1997, as no examination was made on said day or for lack of information from other informants during that time.<sup>14</sup>

This Court also agrees with the observation of the RTC as affirmed by the CA that Isla acted with discernment as can be deduced from his acts before, during and after the commission of the crimes with which he was charged. The RTC wrote:

The overt acts committed by the accused are attributed to a criminal mind, not a lunatic. There is no indication whatsoever that he was completely deprived of reason or discernment and freedom of will when he stood for a while by the door of complainant's house, then entered it, toyed with a disconnected telephone set, and cunningly poked a knife at complainant's neck and dragged her inside the room where he raped her. The fact that he first discreetly closed the door and the window before he approached and poked a knife at complainant, then, as he laid on top of her, ordered her to undress, kissed her breast, separated apart her legs with his own legs, and satisfied his lust, all the while holding a knife with his right hand poked at complainant's body, are calculated means to ensure consummation of his lewd design. These are by no means the workings of an imbecile, but by one engulfed by lust.<sup>15</sup>

In the case of *People vs. Rafanan, Jr.*, this Court has held that the defense of insanity may be accepted as an exempting circumstance on the test of cognition, which requires a complete deprivation of intelligence, not only of the will, in committing the criminal act. Thus, when the accused in said case, threatened the victim with death in case she reported her

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<sup>14</sup> *Rollo*, pp. 10-11.

<sup>15</sup> *CA rollo*, pp. 67-68.

ravishment indicated that he was aware of the reprehensible moral depravity of that assault and that he was not deprived of intelligence.<sup>16</sup>

If Isla had become insane after the commission of the crime, such fact does not alter the situation and the Court's ruling is the same. His defense still fails considering that he was not insane during the commission of the acts charged. Any problem regarding his present mental condition should be dealt with administratively.

With respect to the stabbings, it appears that Isla committed two acts. The first was while he was ravishing AAA. The Court considers this and the rape as one continuous act, the stabbing being necessary, as far as he was concerned, for the successful perpetration of the crime. When he testified, Isla claimed that he had to use the knife so he could have sexual intercourse with her.

The second stabbing took place after consummation of the rape act. According to AAA, after her defilement, she noticed the knife bloodied and she tried to wrest it from him. In their struggle, she was stabbed under her lower left breast but she was able to force Isla to drop the knife. At this point, Isla was able to escape through the backdoor. This second stabbing is a separate and distinct offense as it was not a necessary means to commit the rape. It was intended to do away with her life. Thus, it has been written, "Where a girl was raped and then strangled to death, the crimes are the separate crimes of rape and homicide, not complex."<sup>17</sup> This was also the ruling in *People v. Dawandawan*,<sup>18</sup> where it was written:

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<sup>16</sup> *People v. Rafanan, Jr.*, G.R. No. 54135, November 21, 1991, 204 SCRA 65, 74.

<sup>17</sup> Aquino, Revised Penal Code, 1987 Ed., p. 636, citing jurisprudence.

<sup>18</sup> 263 Phil. 161, 170 (1990).

The physical injuries which could have caused the victim's death were not the result of the rape committed; neither was the slashing a necessary means for committing the rape. Independently of the slashing of the victim's neck and the stabbing, the accused was able to consummate the rape. The physical injuries were inflicted after the rape and were not a necessary means to commit the same. Hence, the crimes committed are the two separate crimes of Rape and Frustrated Homicide.

The Court, however, finds itself unable to agree that the second crime committed was frustrated murder. In the information, it was alleged that the stabbing was committed with treachery, evident premeditation and abuse of superior strength. There is, however, nothing in the records of the case that would show the presence of the said qualifying circumstances.

Evidently, there was no treachery. For treachery to exist "the offender commits any of the crimes against persons, employing means, methods, or forms in the execution, which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the offended party might make." It is important in ascertaining the existence of treachery that it be proven that the attack was made swiftly, deliberately, unexpectedly, and without a warning, thus affording the unsuspecting victim no chance to resist or escape the attack.<sup>19</sup> In the case at bench, Isla's attack was not sudden, swift, deliberate and without warning. He stabbed AAA during the course of the struggle. Thus, the prosecution failed to show that the stabbing was so calculated as not to afford AAA the chance to evade the attack.

Moreover, the attack was not with evident premeditation. The elements of evident premeditation are: (1) a previous decision by the accused to commit the crime; (2) overt act/acts manifestly indicating that the accused clung to his determination; and (3) a lapse of time between the

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<sup>19</sup> *People v. Gabrino*, G.R. No. 189981, March 9, 2011, 645 SCRA 187, 196.

decision to commit the crime and its actual execution sufficient to allow accused to reflect upon the consequences of his acts. These circumstances were not obtaining in the case at bench. An examination of the facts would reveal that there was no sufficient time that elapsed for Isla to decide to commit the crime and reflect on its consequences. Moreover, there was no showing that he performed other overt acts to show that he was determined to commit murder. The essence of evident premeditation is that the execution of the criminal act must be preceded by cool thought and reflection upon the resolution to carry out the criminal intent, during the space of time sufficient to arrive at a calm judgment.<sup>20</sup> When Isla stabbed AAA the second time, it was more of a reaction to the possibility of his being disarmed by his victim rather than a well-planned attack to kill her.

Neither was there an abuse of superior strength. There was no showing that Isla took advantage of his superior strength to consummate the crime.

For said reasons, the crime charged should have been frustrated homicide only. Consequently the penalty should be changed.

Under Article 249 of the RPC, the imposable penalty for one found guilty of Homicide is *reclusion temporal*, whose duration is from twelve (12) years and one (1) day to twenty (20) years. Considering that the crime is frustrated, Article 250 in relation to Article 50 of the RPC provides that the penalty next lower in degree of the penalty prescribed by law for the consummated felony should be imposed. Thus, the penalty should only be *prision mayor*, the duration of which is from six (6) years to twelve (12) years.

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<sup>20</sup> *People v. Garcia*, 467 Phil. 1102, 1107 (2004).

Considering that there are neither aggravating nor mitigating circumstances, Article 64 of the RPC provides that the penalty should be in its medium period which is eight (8) years and one (1) day to ten (10) years.

Applying the Indeterminate Sentence Law, the minimum term should be within the range of *prision correccional*, the penalty next lower in degree. Hence, for the crime of frustrated homicide, Isla should suffer the indeterminate penalty ranging from four (4) years of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.

With respect to the civil aspect, he should also be made to pay AAA the amount of ₱30,000.00 as exemplary damages in addition to the civil indemnity *ex delicto* and moral damages awarded. Said award is in consonance with prevailing jurisprudence on simple rape wherein exemplary damages are awarded in order to set a public example and to protect hapless individuals from sexual molestation.<sup>21</sup>

In lieu of the award of ₱10,000.00 as actual damages, an award of temperate damages should be given instead. The Court has consistently held that in order for one to be entitled to actual damages, the claim must not only be capable of proof, but must actually be proved with a reasonable degree of certainty. Courts cannot simply rely on speculation, conjecture or guesswork in determining the fact and amount of damages but there must be competent proof of the actual amount of loss. Credence can be given only to claims which are duly supported by receipts.<sup>22</sup>

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<sup>21</sup> *People v. Bayrante*, G.R. No. 188978, June 13, 2012.

<sup>22</sup> *PHILTRANCO v. Paras*, G.R. No. 161909, April 25, 2012.


In this case, AAA failed to provide receipts to substantiate her claim. This Court, however, is not unmindful of the fact that AAA was hospitalized for about five (5) days. Considering that the expenses she incurred cannot be proved with certainty, an award of temperate damages is but proper. Temperate damages may be allowed in cases where from the nature of the case, definite proof of pecuniary loss cannot be adduced, although the court is convinced that the aggrieved party suffered some pecuniary loss.<sup>23</sup> An award of ₱8,000.00 as temperate damages is, to the Court's mind, just.

**WHEREFORE**, the Court **AFFIRMS with MODIFICATION** the December 17, 2010 Decision of the Court of Appeals in CA-G.R. No. 28761 as follows:

1. In Criminal Case No. Q-97-72079, finding the accused Edwin Isla y Rossell guilty beyond reasonable doubt of the crime of Rape, the Court hereby sentences him to suffer the penalty of *reclusion perpetua*; to pay AAA ₱50,000.00 as civil indemnity *ex delicto*, and ₱50,000.00 as moral damages, ₱30,000.00 as exemplary damages; and to pay the cost of suit.

2. In Criminal Case No. Q-97-72078, finding the accused Edwin Isla y Rossell guilty beyond reasonable doubt of the crime of Frustrated Homicide, the Court hereby sentences him to suffer the indeterminate penalty of imprisonment ranging from four (4) years *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum; to pay AAA the sum of ₱8,000.00 as temperate damages; and to pay the cost of suit.

**SO ORDERED.**

  
**JOSE CATRAL MENDOZA**  
Associate Justice

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<sup>23</sup> Id.

WE CONCUR:

**PRESBITERO J. VELASCO, JR.**

Associate Justice  
Chairperson


  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**ROBERTO A. ABAD**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
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