

RESOLUTION

PERLAS-BERNABE, J.:

This refers to the June 25, 1997 Decision¹ of the Regional Trial Court (RTC) of Tabaco, Albay, Branch 16, convicting appellant Donel Go (appellant) of two (2) counts of rape and sentencing him to suffer the death penalty for each count and to pay moral damages and attorney's fees. By reason of the penalty imposed, these cases were elevated to the Court for automatic review.

The Factual Antecedents

On December 22, 1994, at around 4:00 o'clock in the afternoon, complainant Imelda B. Brutas (Imelda), upon the request of her sister Clara, went to the house of appellant at San Roque, Tabaco, Albay to bring some pictures. Upon arrival thereat, Imelda saw appellant by the road outside his house talking to another man, whom appellant introduced to her as Val De Los Reyes (Val). However, because it suddenly rained, the three of them took shelter inside appellant's house, where appellant and Val forced Imelda to drink two bottles of beer, causing her to feel dizzy. It was under this condition that Val succeeded in having sexual intercourse with her against her will. Thereafter, appellant took his turn with Imelda, aided by Val who covered her mouth and held her hands.

¹ *Rollo* (G.R. Nos. 130714 & 139634), pp. 21-44.

Apparently not satisfied, Val once again ravished Imelda, with the assistance of appellant who likewise covered her mouth and held her hands.

Thus, Imelda filed criminal complaints for rape against appellant and Val, who were jointly charged in two (2) Informations, as follows:

Criminal Case No. T-2640²

That on or about the 22nd day of December, 1994 at more or less between the hours of 4:00 o'clock in the afternoon and 10:00 o'clock in the evening at Barangay San Roque, Tabaco, Albay, [Philippines, and within the jurisdiction of this Honorable Court,] DONEL GO, with the indispensable cooperation and help of VAL DE LOS REYES, by means of force and intimidation and rendering IMELDA B. BRUTAS almost unconscious by forcing private complainant to drink two bottles of beer, DONEL GO, wilfully, unlawfully and feloniously did lie and succeeded in having carnal knowledge of IMELDA B. BRUTAS, against her will, to her damage and prejudice.

Criminal Case No. T-2641³

That on or about the 22nd day of December, 1994 at more or less between the hours of 4:00 o'clock in the afternoon and 10:00 o'clock in the evening at Barangay San Roque, Tabaco, Albay, Philippines, and within the jurisdiction of this Honorable Court, VAL DE LOS REYES, with the indispensable cooperation and help of DONEL GO, by means of force and intimidation and rendering IMELDA B. BRUTAS almost unconscious by forcing private complainant to drink two bottles of beer, VAL DE LOS REYES, wilfully, unlawfully and feloniously did lie and succeeded in having carnal knowledge of IMELDA B. BRUTAS, against her will, to her damage and prejudice.

Unfortunately, the authorities were able to arrest only appellant while Val remained at large. Thus, appellant was arraigned and pleaded *not guilty* to the crime charged, but before the prosecution could conclude the presentation of its evidence, he jumped bail. Consequently, he was tried *in absentia*.

² Id. at 4.

³ Id. at 6.

On June 25, 1997, the RTC convicted⁴ appellant of two (2) counts of rape and sentenced him to suffer the death penalty for each count and to pay moral damages and attorney's fees. In view of the penalty of death imposed upon him, the case was elevated to the Court on automatic review, herein docketed as G.R. Nos. 130714 and 139634. Meanwhile, the cases against Val were sent to the archives pending his arrest.

On August 19, 1997, the RTC revived⁵ the criminal cases against Val, who, after trial, was likewise found guilty beyond reasonable doubt of the three (3) charges of rape filed against him.⁶ Through counsel, Val appealed his conviction before the Court, docketed as G.R. Nos. 139331 and 140845-46.

On August 14, 2000, the Court ordered⁷ the consolidation of the five (5) cases.

On December 27, 2002, the Court En Banc rendered a Decision⁸ vacating the judgment of conviction against Val, upon a finding that the RTC violated Sections 1 and 2, Rule 132 and Section 1, Rule 133 of the then Revised Rules of Court which required that the testimonies of the witnesses be given orally. It would appear from the records that during Val's trial, the prosecution merely adopted the transcript of the stenographic notes during the trial against appellant and asked the prosecution witnesses to affirm their previous testimonies. Thus, finding that the proceedings against Val were abbreviated and irregular, the Court **remanded** G.R. Nos. 139331 and

⁴ Supra note 1.

⁵ *Rollo* (G.R. Nos. 139331 & 140845-46), p. 47.

⁶ Id. at 27-44.

⁷ Id. at 140.

⁸ *Rollo*, (G.R. Nos. 130714 & 139634), pp. 285-305.

140845-46 to the RTC for rehearing. Meanwhile, the automatic review of the cases against appellant in G.R. Nos. 130714 and 139634 was held in abeyance.

Val was tried anew before the RTC, which, in its Joint Decision⁹ dated June 28, 2005, eventually convicted him for three (3) counts of rape and sentenced him to suffer the death penalty as well as to pay private complainant ₱50,000.00 as damages for each count. He appealed his conviction to the Court of Appeals (CA), docketed as CA-G.R. CR-H.C. No. 01642 which in its December 19, 2006 Decision,¹⁰ affirmed his conviction, with the modification reducing the penalty of death to *reclusion perpetua* for each count, and ordering the payment of the amount of ₱50,000.00 by way of moral damages to the victim. Val's motion for reconsideration was likewise denied,¹¹ hence, his separate appeal before the Court, docketed as G.R. No. 177357, pending before the Court's Third Division. With the foregoing factual backdrop, only appellant's appeal is left before the Court *En Banc* for resolution.

The Court's Ruling

At the outset, the Court notes that these cases were elevated to Us on automatic review in view of the RTC's imposition of the death penalty upon appellant in its June 25, 1997 Decision. However, with the Court's pronouncement in the 2004 case of *People v. Mateo*¹² providing for and making mandatory the intermediate review by the CA of cases involving the death penalty, *reclusion perpetua* or life imprisonment, the proper course of

⁹ CA *rollo*, pp. 97-126.

¹⁰ Id. at 177-196.

¹¹ Id. at 218.

¹² G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

action would be to remand these cases to the appellate court for the conduct of an intermediate review.

After a judicious review of the records, however, the Court no longer sees the necessity of transferring these cases to the CA for intermediate review and instead, deems it more appropriate to dismiss the instant appeal.

Records reveal that the appellant jumped bail during the proceedings before the RTC and was, in fact, tried and convicted *in absentia*. There is dearth of evidence showing that he has since surrendered to the court's jurisdiction. Thus, he has no right to pray for affirmative relief before the courts. Once an accused escapes from prison or confinement, jumps bail as in appellant's case, or flees to a foreign country, he loses his standing in court, and unless he surrenders or submits to the jurisdiction of the court, he is deemed to have waived any right to seek relief therefrom.¹³

Thus, even if the Court were to remand these cases to the CA for intermediate review, the CA would only be constrained to dismiss appellant's appeal, as he is considered a fugitive from justice. On this score, Section 8, Rule 124 of the Rules of Court is relevant, which provides:

SEC. 8. *Dismissal of appeal for abandonment or failure to prosecute.* – The Court of Appeals may, upon motion of the appellee or *motu proprio* and with notice to the appellant in either case, dismiss the appeal if the appellant fails to file his brief within the time prescribed by this Rule, except where the appellant is represented by a counsel *de officio*.


¹³ *Villena v. People*, G.R. No. 184091, January 31, 2011, 641 SCRA 127, 136.

The Court of Appeals may also, upon motion of the appellee or *motu proprio*, dismiss the appeal if the appellant escapes from prison or confinement, jumps bail or flees to a foreign country during the pendency of the appeal.¹⁴ (Emphasis supplied)

It bears to stress that the right to appeal is merely a statutory privilege, and, as such, may be exercised only in the manner and in accordance with the provisions of the law. The party who seeks to avail of the same must comply with the requirements of the Rules, failing which, the right to appeal is lost.¹⁵

WHEREFORE, the appeal is **DISMISSED**.

SO ORDERED.


ESTELA M. PERLAS-BERNABE,
Associate Justice

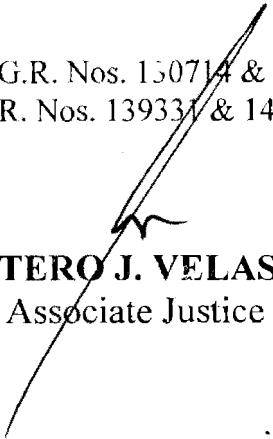
WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice

¹⁴ Id.

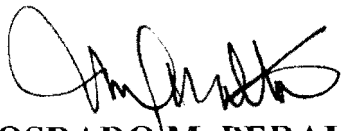
¹⁵ Id. at 137.

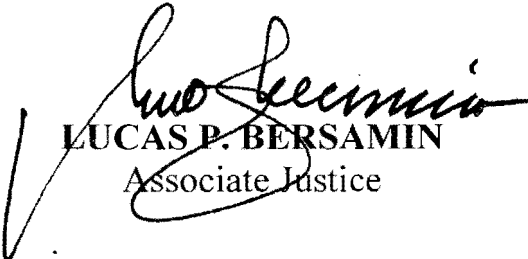
On official leave
ANTONIO T. CARPIO
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PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
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ARTURO D. BRION
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MARTIN S. VILLARAMA, JR.
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JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice

On official business
BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

I certify that the conclusions in the above Resolution had been reached in consultation before the cases were assigned to the writer of the opinion of the Court.


MARIA LOURDES P. A. SERENO
Chief Justice