



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 177357

Present:

VELASCO, JR., J., Chairperson,
LEONARDO-DE CASTRO,*
PERALTA,
ABAD, and
MENDOZA, JJ.

- versus -

VAL DELOS REYES,
Accused-Appellant.

Promulgated:

17 October 2012

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DECISION

MENDOZA, J.:

For final review is the December 19, 2006 Decision¹ of the Court of Appeals and its February 22, 2007 Resolution,² in CA-G.R. CR H.C. No. 01642, affirming with modification the June 28, 2005 Joint Decision³ of the Regional Trial Court (RTC), Branch 15, Tabaco City, Albay, which convicted accused Val Delos Reyes (*Delos Reyes*) of three (3) counts of rape against

* Designated acting member, per Special Order No. 1343, dated October 9, 2012.

¹ *Rollo*, pp. 2-22. Penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justice Noel G. Tijam and Associate Justice Arturo G. Tayag, concurring.

² *CA rollo*, pp. 218-219.

³ *Id.* at 97-126.

AAA.⁴ The case bears intimate relation with the proceedings in G.R. Nos. 139331, 140845-46, 130714, and 139634, as will be shown hereunder.

The Facts:

On March 30, 1995, Delos Reyes and Donel Go (*Go*) were charged with three (3) counts and two (2) counts of rape, respectively, in three (3) separate Informations. The accusatory portions of the Informations read:

Crim. Case No. T-2639

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, the above-named accused by means of force and intimidation and rendering AAA almost unconscious by forcing private complainant to drink two (2) bottles of beer, willfully, unlawfully and feloniously did lie and succeeded in having carnal knowledge of AAA, against her will, to her damage and prejudice.

ACTS CONTRARY TO LAW.⁵

Crim. Case No. T-2640

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, DONEL GO, with the indispensable cooperation and help of VAL DE LOS REYES, by means of force and intimidation and rendering AAA almost unconscious by forcing private complainant to drink two (2) bottles of beer, willfully, unlawfully and feloniously did lie and succeeded in having carnal knowledge of AAA, against her will, to her damage and prejudice.

ACTS CONTRARY TO LAW.⁶

⁴ The Court shall use fictitious initials in lieu of the real names and circumstances of the victim and the latter's immediate family members other than accused-appellant. See *People v. Gloria*, G.R. No. 168476, September 27, 2006, 503 SCRA 742; citing Sec. 29 of Republic Act (R.A.) No. 7610, Sec. 44 of R.A. No. 9262, and Sec. 40 of the Rule on Violence Against Women and Their Children; and *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

⁵ Records, p. 50.

⁶ *Rollo* (G.R. Nos. 130714 and 139634), p. 5.

Crim Case No. T-2641

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 AAA almost unconscious by forcing private complainant to drink two (2) bottles of beer, VAL DE LOS REYES, willfully, unlawfully and feloniously did lie and succeeded in having carnal knowledge of AAA, against her will, to her damage and prejudice.

ACTS CONTRARY TO LAW.⁷

Criminal Case No. T-2640 was raffled to Branch 15, RTC, Albay (*RTC-Br. 15*) while Criminal Case Nos. T-2639 and T-2641 were raffled to Branch 16 of the same court (*RTC-Br. 16*). On motion of the prosecution,⁸ T-2640 was consolidated with the two other cases in RTC-Br. 16.

Considering that Delos Reyes was at large at that time, only Go was arraigned. Before the prosecution could finish presenting evidence, Go jumped bail and was tried *in absentia*.

In its June 25, 1997 Decision,⁹ RTC-Br. 16 found Go guilty beyond reasonable doubt of two (2) counts of rape in Criminal Case Nos. T-2640 and T-2641, sentencing him to suffer the death penalty for each count. An alias warrant of arrest against Delos Reyes was issued and the cases against him were ordered archived. The cases against Go were brought to the Court on automatic review and were docketed as G.R. Nos. 130714 and 139634.

After Delos Reyes was finally apprehended by the police, on August 17, 1997, RTC-Br. 16 ordered the revival of the cases against him. During his arraignment on August 26, 1997, Delos Reyes pleaded "Not Guilty" to

⁷ *Rollo* (G.R. Nos. 130714 and 139634), p. 7.

⁸ Records (Volume 1), pp. 55-56.

⁹ *Id.* at 300-323.

all three charges of rape.¹⁰ On December 3, 1997, the cases against him were transferred to RTC-Br. 15, which was designated by this Court as a special court to try cases involving heinous crimes.

The prosecution then adopted and marked in evidence the testimonies of the prosecution witnesses given in Criminal Case Nos. T-2640 and T-2641, particularly, those of the victim, AAA; her mother, BBB; her sister, CCC; and Dr. Marissa S. Saguinsin (*Dr. Saguinsin*), the City Health Physician of Tabaco City. Also presented in evidence were the panty worn by AAA on that fateful day, her broken wristwatch, the Certificate of Entry in the Police Blotter, the Medico-Legal Certificate issued by Dr. Marissa S. Saguinsin, the Referral Form of ABS-CBN, and the Decision rendered in Criminal Case Nos. T-2640 and T-2641.

In its February 22, 1999 Joint Judgment,¹¹ the RTC-Br. 15 found Delos Reyes guilty beyond reasonable doubt of three counts of rape and sentenced him to suffer the penalty of *reclusion perpetua* in each case. He sought reconsideration¹² of his conviction but his motion was denied by the RTC-Br. 15 in its March 29, 1999 Resolution. His appeal, elevated to the CA, was accepted by the Court in its Resolution, dated January 17, 2000.¹³ His appeal, docketed as G. R. Nos. 139331 and 140845-46, and that of Go as G.R. Nos. 130714 and 139634, were consolidated.¹⁴

Considering that the prosecution witnesses in the trial of Delos Reyes merely affirmed their testimonies given on direct examination in the trial of Go, the Court found that there was a violation of his constitutional right to confront and cross-examine the witnesses against him. Thus, in its Resolution,¹⁵ dated December 27, 2002, the Court resolved:

¹⁰ Id. at 79.

¹¹ Id. at 358-374.

¹² Id. at 375-382.

¹³ *Rollo* (G.R. Nos. 130714 and 139634), p. 48.

¹⁴ Id. at 140.

¹⁵ Records (Volume 1), pp. 398-418.

WHEREFORE, the Court Resolved to *VACATE* the judgment of Branch 15 of the Regional Trial Court of Tabaco, Albay in Criminal Case Nos. T-2639-41, "People v. Val de los Reyes," and to *SET ASIDE* Exhibits "A," "B," "C," "D," "E-2," "E-2-A" to "E-2-I," "F," "G" and "H." Said criminal cases are *REMANDED* to Branch 15 of the Regional Trial Court of Tabaco, Albay for the immediate rehearing of the testimonies of witnesses BBB, AAA, CCC and Dr. Marissa Saguinsin, in accordance with this Court's above disquisition. The trial court is further directed to conduct said proceedings and render a decision thereon within 90 days from receipt of this Resolution. Following Section 6 (a), Rule 121 of the Revised Rules of Court, the trial court may, in the interest of justice, allow the introduction of additional evidence.

Pending these rehearing proceedings in the trial court, the automatic review of the cases against Donel Go in G. R. Nos. 130714 and 139634 is held in abeyance.

In the rehearing of the case, the evidence of the prosecution established that on December 22, 1994, at around 4:00 o'clock in the afternoon, AAA was requested by CCC to deliver the pictures taken during the christening of her niece to Go, one of the godfathers. AAA and CCC then left the house on board a tricycle. AAA dropped off CCC at the Philtranco bus terminal and proceeded to the house of Go in San Roque, Tabaco City, to deliver the pictures.

Arriving at the place, AAA saw Go standing by the roadside talking to a man, who was later introduced to her as Delos Reyes. According to AAA, there was a sudden downpour before she could leave. Upon invitation of Go, she took shelter in his house. She noticed that there was nobody in the house. Alarmed and fearful, she tried to leave despite the pouring rain but Go stopped her by forcibly pulling her.

Delos Reyes then joined the two, bringing with him two (2) bottles of beer. He proceeded to the kitchen, took two (2) drinking glasses and poured the beer. He and Go urged AAA to drink. Not being used to drinking beer, she refused. Delos Reyes then forced her to drink by pinching her nose while

Go was forcibly opening her mouth. Despite her resistance, the two succeeded in pouring beer into her mouth. Shortly, thereafter, she felt weak, dizzy and her stomach began aching. She suspected that the beer was laced with some substance.

Delos Reyes then brought AAA to a construction site near Go's house. He made her lie down on some lumber and removed her pants and underwear. He then undressed himself. She shouted for help but he started squeezing her neck. He then raised her blouse, bit her breast, neck and other parts of her body, and then forcefully inserted his penis into her vagina. Still not satisfied, he forced his organ into her mouth. She almost vomitted because of its bad smell.

Go arrived and helped Delos Reyes in dressing up AAA. They then returned to Go's house and she was brought inside the bedroom. While Delos Reyes restrained her hands, Go started taking off her clothes. She again tried to shout for help but Delos Reyes pressed her neck. Go seized the moment to raise her blouse and bite her breasts, neck and other parts of her body. He then forced his organ into her vagina and, thereafter, into her mouth, making it difficult for her to breathe.

After Go was done with her, Delos Reyes again satisfied his lust for the second time. While Delos Reyes was doing it, Go was holding her hands and neck. Delos Reyes inserted his penis inside her vagina and then into her mouth. Delos Reyes again bit her breasts, neck and other parts of her body. Feeling tired and weak, she fell unconscious.

When she regained consciousness, AAA noticed that she was already dressed up. Delos Reyes and Go then accompanied her in going home on board a tricycle, but warned her not to tell anyone what happened, otherwise, they would kill her. After dropping her off at her house, the two hurriedly

left. Scared and confused, she did not inform her mother about what befell her. Instead, she went straight to her bedroom. Feeling pain all over her body, she covered herself with a blanket and slept without eating.

The next day, AAA could not stand up and could not eat breakfast. She only drank Milo and then went back to bed. The following day, December 24, 1994, she forced herself to stand up. She was only able to eat lunch. Feeling dirty and uncomfortable, she went to the bathroom and washed herself. There she noticed her neck, breast and feet with hematoma, contusions and bruises. She also found out that her panty was bloodied with garter detached and her wristwatch broken. Then, she went back to bed.

Apprehensive of AAA's strange behavior, BBB confronted her. Right then and there, AAA bared her horrifying ordeal to her mother and CCC. Immediately, they brought her to the Tabaco Police Station where she gave her statement on her suffering in the hands of Delos Reyes and Go. Upon the advice of the Chief of Police, they also had the incident entered in the blotter of Barangay San Roque where Delos Reyes resided. They then went to the hospital for medical examination.

On January 26, 1995, AAA felt pain in her vagina. After an examination, she was found positive for urinary tract infection.

In support of the prosecution, BBB recounted that on that day, CCC requested AAA to deliver the baptismal pictures to Go. Late in the afternoon, BBB got worried because AAA had not returned. So, she went to Go's place to fetch her. Upon reaching Go's place, she noticed that Go appeared uneasy and shaking. When she inquired about her daughter, he replied that she had already left. She, thus, went home but AAA was not yet there. Later that night, however, she saw her being accompanied by Go and Delos Reyes, who immediately left. AAA went straight to bed without eating

and she remained in bed the following day. Upon her urging, AAA disclosed what the two had done to her and their threats to kill her.

Dr. Marissa Saguinsin, the City Health Physician, testified that she received a letter-request from the Tabaco Police Station to conduct a physical and medical examination on AAA. Upon examination, she issued the corresponding Medical Certificate¹⁶ stating the following findings:

External: Fairly developed and fairly nourished female adult.

Internal:

- 1.) Pubic hair fully grown.
- 2.) Labia majora and menora are coaptated.
- 3.) No tear on sharp angle base on the fourchette.
- 4.) Healed superficial hymenal laceration corresponding to 4.6 & 8 o'clock positions in the face of the clock.
- 5.) Hymenal orifice admits 2 fingers with moderate resistance.

Conclusion:

Physical virginity lost.

On the other hand, the defense presented five (5) witnesses, namely: Delos Reyes himself; his sister, Maribel Delos Reyes (*Maribel*); a co-worker of CCC, Zenaida Borjal (*Zenaida*); Arlene Nonato (*Arlene*); and Hernando Pantojo, Jr. (*Pantojo*) of PAGASA.

Maribel and Arlene both testified that they resided near the house of Go and Delos Reyes; that Go and AAA were sweethearts; and that AAA used to frequent the house of Go.

Zenaida testified that she was the co-worker of CCC at the Dr. Cabredo Hospital; that on December 25, 1994, CCC was absent; that CCC

¹⁶ Id. at 211.

informed her that she did not go to work on that day because she had beaten up AAA and that out fear of what she had done, she brought her to the hospital.

When it was his turn at the witness stand, Delos Reyes stated that on December 22, 1994, he, Jose Bolber and Jun de los Santos were in the house of Go drinking a few bottles of beer. At around 4:00 o'clock in the afternoon, AAA arrived carrying pictures taken at a baptism. When Go invited her inside the house, he and his other companions went home. At around 8:30 o'clock in the evening, he went out of his house and saw AAA, Go, Jose Bolber, and Jun de los Santos talking to each other along a nearby alley. He then approached the group and joined the conversation. Later, upon the invitation of Go, they all rode on a *pedicab* and brought her home. They stayed in her house for ten (10) minutes and then left. Two days later, on December 24, 1994, he saw AAA waiting for him in his house. When he asked what was wrong, she told him that she had a problem. He noticed that she had bruises and contusions all over her body. She then told him that she was beaten up by CCC. Afraid to go home, she asked him if he could marry her. Shocked by the proposal, he accompanied her to the house of Go and informed him of her problem. It was the last time he saw her. Sometime thereafter, he received a letter from her asking for his forgiveness.

Pantojo, Region 5 PAGASA Chief Meteorological Officer, stated that on December 22, 1994, the area of Legaspi City and an area spanning fifty (50) kilometers, including Tabaco City, experienced intermittent rains.

On rebuttal, AAA was again presented. She denied having a relationship with Go and also disowned the letter addressed to Delos Reyes.¹⁷ She then offered in evidence a specimen of her own handwriting.¹⁸

¹⁷ *Rollo*, pp. 127-128; records (Volume I), pp. 331-331-A.

¹⁸ Records, p. 332.

On June 28, 2005, the RTC rendered judgment¹⁹ finding Delos Reyes guilty beyond reasonable doubt for three (3) counts of rape. Thus, the RTC disposed:

WHEREFORE, judgment is hereby rendered, finding the accused VAL DEL LOS REYES guilty beyond reasonable doubt of the crime of RAPE as defined and penalized under Article 335 of the Revised Penal Code, as amended, and hereby sentences him as follows:

In Criminal Case No. T-2639, as principal by direct participation, to suffer the penalty of DEATH and additionally to indemnify the victim AAA the sum of Fifty Thousand (P50,000.00) Pesos as damages, together with interest at the rate of six (6%) percent per annum computed from the time of the filing of the complaint;

In Criminal Case No. T-2640, as principal [by] indispensable cooperation, to suffer the penalty of DEATH and to indemnify the private offended party AAA, the sum of Fifty Thousand (P50,000.00) Pesos as damages, together with interest at the rate of six (6%) percent per annum computed from the time of the filing of the complaint; and,

In Criminal Case No. T-2641, as principal by direct participation, to suffer the penalty of DEATH and additionally to indemnify AAA the sum of Fifty Thousand (P50,000.00) Pesos as damages, together with interest at the rate of six (6%) percent per annum computed from the time of the filing of the complaint.

SO ORDERED.²⁰

Undaunted, Delos Reyes interposed his appeal before the CA, which, on December 19, 2006, promulgated the assailed decision affirming his conviction. The CA, however, reduced the penalty from death to *reclusion perpetua*, pursuant to Republic Act (R.A.) No. 9346.²¹ Despite the reduction of the penalty, the CA was of the view that the award of civil indemnity should be maintained at P50,000.00.²² The CA also found the award of moral damages warranted, but similarly limited the amount to P50,000.00.²³

¹⁹ CA *rollo*, pp. 97-126.

²⁰ Id. at 125-126.

²¹ An Act Prohibiting the Imposition of Death Penalty in the Philippines.

²² CA Decision, p. 19; *rollo*, p. 20.

²³ Id.

The dispositive portion of the CA decision reads:

WHEREFORE, premises considered, the appeal is hereby DENIED and the assailed joint decision dated June 28, 2005 of the RTC, Branch 15, Tabaco City in Criminal Cases Nos. T-2639 to T-2641 is hereby AFFIRMED with MODIFICATIONS:

1. the death penalty is reduced to reclusion perpetua; and
2. moral damages of ₱50,000.00 is granted to victim AAA.

The rest of the decision stands.

SO ORDERED.

In its March 22, 2007 Resolution,²⁴ the Court gave due course to Delos Reyes' appeal. In its Resolution,²⁵ dated June 27, 2007, the Court required the parties to file their respective supplemental briefs within thirty (30) days from notice, if they so desired.

In its *Manifestation*,²⁶ dated September 7, 2007, the Office of the Solicitor General (*OSG*) opted to stand by its brief filed before the CA. On September 24, 2007, the counsel for Delos Reyes filed his Supplemental Brief²⁷ presenting the following arguments:

I.

THE HONORABLE COURT OF APPEALS FAILED TO APPRECIATE THAT THE PROSECUTION EVIDENCE IS ON THE WHOLE IMPROBABLE AND INSUFFICIENT TO SUSTAIN THE RULING OF THE TRIAL COURT THAT THE ACCUSED-PETITIONER IS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.

A. THE HONORABLE COURT OF APPEALS OVERLOOKED THE INCONSISTENCIES ON MATERIAL POINTS OF THE STATEMENT AND TESTIMONY OF THE PLAINTIFF-APPELLEE AND THE PROSECUTION WITNESSES

²⁴ Id. at 24.

²⁵ Id. at 25.

²⁶ Id. at 35.

²⁷ Id. at 44-79.

B. THE HONORABLE COURT OF APPEALS OVERLOOKED THE IMPROBABILITIES OF THE STATEMENT AND TESTIMONY OF THE PLAINTIFF-APPELLEE, WHICH IF PROPERLY CONSIDERED ARE MANIFESTLY CONTRARY TO HUMAN NATURE AND EXPERIENCE

C. THE HONORABLE COURT OF APPEALS OVERLOOKED THE INSUFFICIENCY OF EVIDENCE ADDUCED BY THE PLAINTIFF-APPELLE[E] TO SUSTAIN A CONVICTION BEYOND REASONABLE DOUBT

II.

THE HONORABLE COURT OF APPEALS ERRED WHEN IT SUSTAINED THE TRIAL COURT CONVICTING THE ACCUSED-APPELLANT OF AN OFFENSE NOT CHARGED IN THE COMPLAINT.

III.

THE HONORABLE COURT OF APPEALS ERRED WHEN IT SUSTAINED THE ORDER OF THE TRIAL COURT AND DID NOT GIVE WEIGHT TO THE EVIDENCE OF THE DEFENSE.²⁸

In the main, Delos Reyes argues that there were inconsistencies and improbabilities in the prosecution's evidence which vitiate its integrity. On the inconsistencies, he points out that AAA's testimony in court is inconsistent with her sworn statement on a) how she was forced to drink beer; b) where she was when she was forced to stay in the house of Go; and c) what Delos Reyes was doing when Go was raping her. He also asked the Court to consider that BBB's testimony on the circumstances when she was brought home by the two accused was not corroborated by AAA herself. Also, AAA's claim that there was a heavy downpour was belied by the meteorologist of PAGASA who testified that there were merely intermittent rains on that day.

²⁸ Id. at 48-49.

On how she was forced to drink beer, AAA testified that Delos Reyes pressed her nose and Go forcibly opened her mouth. In her sworn statement, however, she stated that because of her fear, she drank the beer. Regarding where she was when Go forced her to stay, she testified that she was already inside the house of Go but her sworn statement stated that she was still outside. With respect to what Delos Reyes was doing when Go was raping her, she testified that Delos Reyes was holding her while her sworn statement stated that he was just watching them.

Aside from the inconsistencies, Delos Reyes claims there are improbabilities in her story that render it hard to believe as they are contrary to human experience. These are, among others: 1) that she did not cry out when she could have, while she was being forced to drink beer or threatened with rape; 2) that she did not run when she could have, when Delos Reyes was taking off his clothes with his two hands; 3) that the two accused still inserted their penises in her mouth after they had satisfied their lust; 4) that she did not bite their penises when she could have and should have done it; 5) that she was still brought to a place under construction when she could be defiled right then and there in the house of Go; and 6) that the two still brought her home even after they had molested her.

After due consideration of the evidence on record, the Court affirms the conviction of Delos Reyes.

The rule is well-settled that when the decision hinges on the credibility of witnesses and their respective testimonies, the trial court's observations and conclusions deserve great respect and are accorded finality, unless the records show facts or circumstances of material weight and substance that the lower court overlooked, misunderstood or misappreciated, and which, if properly considered, would alter the result of the case.²⁹ The

²⁹ *People v. Espino, Jr.*, G.R. No. 176742, June 17, 2008, 554 SCRA 682, 696-697.

Court finds no reason to deviate from the general rule under the proven circumstances of this case.

The testimony of AAA on the elements constituting the crime of rape, as committed on three separate occasions through force and intimidation after she was rendered almost unconscious after being forced to drink two (2) bottles of beer, was clear, categorical and positive. In the absence of corroboration, the insinuation of Delos Reyes that he was only included in the complaint because he refused to marry her deserves scant consideration. A candid narration by a rape victim deserves credence particularly where no ill motive is attributed to the rape victim that would make her testify falsely against the accused. For no woman in her right mind will admit to having been raped, allow an examination of her most private parts and subject herself as well as her family to the humiliation and shame concomitant with a rape prosecution, unless the charges are true. Where an alleged rape victim says she was sexually abused, she says almost all that is necessary to show that rape had been inflicted on her person, provided her testimony meets the test of credibility.³⁰

The Court finds it hard to reconcile the allegation of Delos Reyes that Go and AAA were sweethearts and his contention that the only reason why he was being implicated in the charges of rape was because of his refusal to accept her demand for marriage. In this regard, the Court quotes, with affirmation, the disquisition of the RTC. Thus:

x x x If it is true that Donel Go and AAA are lovers as the accused Delos Reyes now claims, the Court could hardly imagine why the victim should demand that accused Delos Reyes should marry her with the defense ostensibly arguing that because Delos Reyes refused to such proposal, these three (3) cases for rape were filed against him. It is highly imaginable that a woman single and of good repute would ambivalently be linked in so swift a time to two male persons whom she is not fully acquainted with. The records clearly showed that accused Donel Go was only known to AAA five (5) days prior to the rape incident on the occasion of him standing

³⁰ *People v. Sampior*, 383 Phil. 775 (2000).

as sponsor in the christening of her niece, and accused Val Delos Reyes having just been introduced to her that fateful day of December 22, 1994.³¹

On the inconsistencies between her oral testimony and her sworn statement, raised by the accused, the Court sees them as minor and cannot be categorized as prevarication, sufficient to render the case doubtful. On the contrary, these alleged inconsistencies are signs that AAA was not rehearsed and that she was telling the truth. Inconsistencies in the testimony of witnesses, when referring only to minor details and collateral matters, do not affect the substance of their declaration, their veracity or the weight of their testimony. They do not impair the credibility of the witnesses where there is consistency in relating the principal occurrence and positive identification of the assailants.³² Such inconsistency is insignificant and cannot have any bearing on the essential fact testified to.³³

On this point, it should be borne in mind that more than ten (10) years had elapsed from the time of the incident to the time AAA gave her last testimony. Surely, one cannot expect that she could vividly remember every minor detail that transpired on that fateful day of December 22, 1994.

At any rate, these alleged inconsistencies do not militate against her credibility as the Court has repeatedly held that sworn statements are almost always incomplete and inaccurate and do not disclose the complete facts for want of inquiries or suggestions.³⁴ It is a matter of judicial experience that an affidavit, being taken *ex parte*, is almost always incomplete and often inaccurate and is generally considered to be inferior to a testimony given in open court as the latter is subject to the test of cross-examination.³⁵

³¹ *Joint Decision*, p. 26; *CA rollo*, pp. 121-122.

³² *People v. De Leon*, 387 Phil. 779, 791 (2000); *People v. Vicente Valla*, 380 Phil. 31, 43 (2000).

³³ *People v. Macapanas*, G.R. No. 187049, May 4, 2010, 620 SCRA 54; *People v. Sabardan*, G.R. No. 132135, May 21, 2004, 429 SCRA 9, 19.

³⁴ *People v. Bajada*, G.R. No. 180507, November 20, 2008, 571 SCRA 455; and *People v. Alegado*, G.R. No. 80532, November 8, 1993, 227 SCRA 514, 520.

³⁵ *People v. Ebet*, G.R. No. 181635, November 15, 2010, 634 SCRA 689.

The forensic evidence showing old lacerations of AAA's hymen corroborates her claim that she had been sexually assaulted. When a woman states that she had been raped, she says in effect all that is necessary to show that rape was committed.³⁶ When such testimony corresponds with medical findings, there is sufficient basis to conclude that the essential requisites of carnal knowledge have been established.³⁷ Contrary to what Delos Reyes would like the Court to believe, the bite marks on her neck, breasts and thighs are not indicative of sexual foreplay. Rather, these marks are badges of bestiality which are a testament to his depravity.

The Court also looks into the so-called improbabilities claimed by the accused and finds them as not totally contrary to human experience. Rape is not commonly experienced by a woman. Thus, there is no common reaction to it. The failure of AAA to run away when Delos Reyes was taking his pants off using both his hands can be explained by the fear already instilled in her as well as the effect of having been forced to imbibe two (2) bottles of beer, a beverage she was not used to drink.

The same can be said of the failure of AAA to shout for help, kick the accused or bite their penises during the assault. It has been said that though a man lays no hand on a woman, yet if by an array of physical forces, he so overpowers her mind that she does not resist, or she ceases resistance through fear of greater harm, the consummation of the sexual act is recognized in jurisprudence as rape.³⁸ Physical resistance need not be established in rape when intimidation is exercised upon the victim and the latter submits herself against her will to the rapist's embrace because of fear for life and personal safety.³⁹ Threats, intimidation, violence, fear, and terror all combined to suppress the will to resist, kick, shout, or struggle against the

³⁶ *People v. Jacob*, G.R. No. 177151, August 22, 2008, 563 SCRA 191, 207.

³⁷ *People v. Tuazon*, G.R. No. 168102, August 22, 2008, 563 SCRA 124, 135.

³⁸ *People v. Sagun*, 363 Phil. 1, 18 (1999).

³⁹ *Id.*; *People v. Rabosa*, 339 Phil. 339 (1997); *People v. Gumahob*, 332 Phil. 855, 870 (1996); *People v. Padre-e*, 319 Phil. 545, 554 (1995); *People v. Angeles*, G.R. Nos. 104285-86, May 21, 1993, 222 SCRA 451.

rapist. AAA added that she could not shout because Delos Reyes was squeezing her neck.

The close physical proximity of other residents and passersby at the construction site or the neighbors of Go does not render impossible the commission of the crime. It has been repeatedly emphasized that rape can be committed even in places where people congregate, in parks, along the roadside, within school premises, inside a house where there are other occupants, and even in the same room where other members of the family are also sleeping. Lust is not a respecter of time and place.⁴⁰ The fact that it could have been more convenient for Delos Reyes to rape AAA in the house of Go instead of bringing her to the construction site and back again does not affect her credibility. The choice was that of her ravisher, not hers.

Neither does the Court find strange the testimony of AAA that after she was raped, Delos Reyes and Go had the guts to bring her home in a *pedicab*. Again, it was the choice of her assailants, not hers. The records, moreover, reveal that while bringing her home, he and Go warned her not to tell anyone of what they did to her, otherwise, they would kill her. Coming from persons who just forcibly imposed their bestiality on her, they were not empty threats.

AAA cannot be faulted either if she failed to corroborate her mother's testimony that she saw the two accompany her daughter. Her failure has no controlling significance. It should not be taken against her or the prosecution.

The failure to immediately report the dastardly acts to her family or to the authorities at the soonest possible time or her failure to immediately change her clothes is not enough reason to cast reasonable doubt on the guilt

⁴⁰ *People v. Bernabe*, 421 Phil. 805 (2001); and *People v. Cura*, 310 Phil. 237 (1995).

of Delos Reyes. This Court has repeatedly held that delay in reporting rape incidents, in the face of threats of physical violence, cannot be taken against the victim.⁴¹ Further, it has been written that a rape victim's actions are oftentimes overwhelmed by fear rather than by reason. It is this fear, springing from the initial rape, that the perpetrator hopes to build a climate of extreme psychological terror, which would, he hopes, numb his victim into silence and submissiveness.⁴²

Contrary to the assertions of the accused, the trial court took into consideration the evidence presented by the defense. The undated letter, allegedly written by AAA to him seeking his forgiveness, was vehemently denied by her. Comparing the copied portion of the letter by AAA and the letter presented by him,⁴³ one could readily see that there are marked differences in the strokes of the handwriting. Delos Reyes could have helped his case had he presented the person who handed to him the said letter to prove that it was AAA who wrote the letter, but he never did.

The testimony of PAGASA meteorologist Pantojo that there was only intermittent rainfall on the night of December 22, 1994, was properly considered by the lower court. The trial court, however, also took into consideration his statements during cross-examination that weather conditions were not the same in all places, and that while some places might have heavy rains, other places within the 50-kilometer radius could have no rainfall at all.⁴⁴

The argument of Delos Reyes that he was convicted for an offense not charged in the sworn complaint simply lacks merit. As aptly explained by the CA:

⁴¹ *People v. Ibay*, 260 Phil. 334 (1990); *People v. Lucas*, 260 Phil. 334 (1990), *People v. Valdez*, 234 Phil. 399 (1987); *People v. Ibal*, 227 Phil. 294 (1986); *People v. Sculles*, 217 Phil. 294 (1984).

⁴² *People v. Melivo*, 323 Phil. 412 (1996).

⁴³ Records (Volume 1), pp. 331 and 332

⁴⁴ TSN, June 7, 2005, pp. 8-9.

A close scrutiny of the sworn complaint reveals that accused-appellant De los Reyes was charged with the crime of rape. Similarly, the Informations filed against him (Crim. Cases Nos. T-2639, T-2640 and T-2641) charged him of the same crime of rape, penalized under Art. 335 of the Revised Penal Code, now found under Art. 266-A. Surely accused-appellant De los Reyes has been afforded his fundamental right to be apprised of the nature and cause of the accusation against him.

The Information alleged that accused-appellant De los Reyes, by means of force and intimidation and rendering the victim AAA almost unconscious by forcing her to drink two (2) bottles of beer, succeeded in having carnal knowledge against her will. If accused-appellant De los Reyes found the Information to be insufficient or defective, he should have filed a motion to quash the information or a bill of particulars before he was arraigned, but he never did. He was assisted by counsel during his arraignment and he pleaded not guilty. The Information was read to him but he did not complain that the charge against him was defective or insufficient. Whatever objections he had as to the form and substance of the information is thus, deemed to have been waived by him. Accused-appellant De los Reyes, *ergo*, has no right to object to whatever evidence which could be lawfully introduced and admitted under said information which sufficiently charged him of the crime of rape.

Accused-appellant De los Reyes actively participated in the trial of this case. He presented evidence for his defense and cross-examined the prosecution witnesses. It is now too late in the day for him to declare that his right to be informed of the nature and cause of the accusation against him was violated. Accused-appellant De los Reyes could not raise this issue for the first time on appeal.

It is not the designation of the offense in the Information that governs, rather it is the allegations that must be considered in determining what crime is charged.⁴⁵ (Citations omitted.)

The contention of Delos Reyes that the RTC erred in denying his motion to have an ocular inspection of the construction site also deserves scant consideration. It has been said that ocular inspection rests within the sound discretion of the court. Inspection may be granted only where it is reasonably certain that it will be of substantial aid to the court in reaching a correct verdict. The trial court in this case correctly refused to make the inspection where testimonial evidence adequately pictured the condition of

⁴⁵ CA Decision, pp. 14-16; *rollo*, pp. 15-16.

the place. Thus, a view of the place would serve no useful purpose.⁴⁶ As correctly noted by the CA, considering the long lapse of time since the rape, the construction site would have been finished and many houses erected within the vicinity.

The CA, however, in reducing the penalty from death to *reclusion perpetua*, failed to state in the dispositive portion that the reduction should be without eligibility for parole as held in the case of *People v. Antonio Ortiz*.⁴⁷ This should be rectified.

The CA also limited the amount of civil indemnity to ₱50,000.00. On this score, the discussion of the Court in *People of the Philippines v. Rodolfo Lopez*⁴⁸ is worth noting. Thus:

On pecuniary liability, this Court ruled in *People of the Philippines v. Sarcia* that:

The principal consideration for the award of damages, under the ruling in *People v. Salome* and *People v. Quiachon* is the **penalty provided by law or imposable for the offense because of its heinousness, not the public penalty actually imposed on the offender.** Regarding the civil indemnity and moral damages,

People v. Salome explained the basis for increasing the amount of said civil damages as follows:

The Court, likewise, affirms the civil indemnity awarded by the Court of Appeals to Sally in accordance with the ruling in *People v. Sambrano* which states:

As to damages, we have held that **if the rape is perpetrated with any of the attending qualifying circumstances that require the imposition of the death penalty, the civil indemnity for the victim shall be Php75,000.00 . . .** Also, in rape cases, moral damages are [a]warded without the need of proof other than

⁴⁶ *People v. Baniel*, 341 Phil. 471 (1997).

⁴⁷ G.R. No. 179944, September 4, 2009, 598 SCRA 452.

⁴⁸ G.R. No. 179714, October 2, 2009, 602 SCRA 517, 529-530.

the fact of rape because it is assumed that the victim has suffered moral injuries entitling her to such an award. However, the trial court's award of Php50,000.00 as moral damages should also be increased to Php75,000.00 pursuant to current jurisprudence on qualified rape.”

It should be noted that while the new law prohibits the *imposition* of the death penalty, the penalty provided for by law for a heinous offense is still death and the offense is still heinous. Consequently, the civil indemnity for the victim is still Php75,000.00.

People v. Quiachon also ratiocinates as follows:

With respect to the award of damages, the appellate court, following prevailing jurisprudence, correctly awarded the following amounts; Php75,000.00 as civil indemnity which is awarded if the crime is qualified by circumstances warranting the imposition of the death penalty; Php75,000.00 as moral damages because the victim is assumed to have suffered moral injuries, hence, entitling her to an award of moral damages even without proof thereof, x x x.

Even if the penalty of death is not to be imposed on the appellant because of the prohibition in R. A. No. 9346, the civil indemnity of Php75,000.00 is still proper because, following the ratiocination in *People v. Victor*, the said award is not dependent on the actual imposition of the death penalty but on the fact that qualifying circumstances warranting the imposition of the death penalty attended the commission of the offense. The Court declared that the award of P75,000.00 shows “not only a reaction to the apathetic societal perception of the penal law and the financial fluctuations over time but also the expression of the displeasure of the court of the incidence of heinous crimes against chastity.”

The litmus test therefore, in the determination of the civil indemnity is the heinous character of the crime committed, which would have warranted the imposition of the death penalty, regardless of whether the penalty actually is reduced to *reclusion perpetua*. [Citations omitted. Emphases included]

Finally, an award of exemplary damages of ₱30,000.00 for each count of rape is also warranted. In *People v. Rayos*,⁴⁹ it was said that “Article 2229 of the Civil Code sanctions the grant of exemplary or correction damages in order to deter the commission of similar acts in the future and to allow the courts to mould behaviour that can have grave and deleterious consequences to society.” It goes without saying that the civil liabilities imposed and modified herein should bear interest at the legal rate of 6% reckoned from the filing of the complaint up to the finality of this judgment, after which the rate should be 12% per annum.


WHEREFORE, the December 19, 2006 Decision of the Court of Appeals in CA-G.R. CR H.C. No. 001642, finding accused Val Delos Reyes guilty of three (3) counts of rape is **AFFIRMED WITH MODIFICATIONS**. For each count of rape, accused Val delos Reyes is hereby sentenced to suffer the penalty of *reclusion perpetua*, without eligibility for parole; and to pay AAA 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 ₱30,000.00, plus interest at the legal rate of 6% reckoned from the filing of the complaint up to the finality of this judgment, after which the rate should be 12% per annum.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

⁴⁹ 404 Phil. 151, 169 (2001).

WE CONCUR:



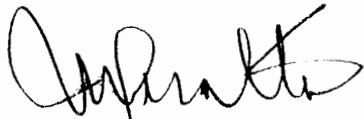
PRESBITERO J. VELASCO, JR.

Associate Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO

Associate Justice



DIOSDADO M. PERALTA

Associate Justice



ROBERTO A. ABAD

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