



**Republic of the Philippines**  
**Supreme Court**  
**Manila**

**FIRST DIVISION**

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

**G.R. No. 200882**

Present:

SERENO, *CJ.*,  
Chairperson,  
LEONARDO-DE CASTRO,  
BERSAMIN,  
VILLARAMA, and  
REYES, *JJ.*

- versus -

**ABEL DIAZ,**  
Accused-Appellant.

Promulgated:

**JUN 13 2013**

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**DECISION**

**LEONARDO-DE CASTRO, J.:**

This an appeal from the Decision<sup>1</sup> dated March 31, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 03691 denying the appeal of the accused-appellant Abel Diaz and affirming the Decision<sup>2</sup> dated November 12, 2008 of the Regional Trial Court (RTC) of Tarlac City, Branch 65 in Criminal Case No. 12650, which found the accused-appellant guilty of the crime of rape.

The Information filed against the accused-appellant in the trial court reads:

That on March 30, 2003 at around 3:00 o'clock [sic] in the morning at Tarlac City, and within the jurisdiction of this Honorable Court, the accused did then and there willfully, unlawfully and feloniously, have carnal knowledge of [Mara],<sup>3</sup> 17 years old, against her

<sup>1</sup> Rollo, pp. 2-18; penned by Associate Justice Rebecca de Guia-Salvador with Associate Justices Sesinando E. Villon and Amy C. Lazaro-Javier, concurring.

<sup>2</sup> CA rollo, pp. 10-20.

<sup>3</sup> Pursuant to Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004), its implementing rules and relevant jurisprudence beginning with *People v. Cabalquinto*

will and consent, and through force and intimidation.<sup>4</sup>

The accused-appellant pleaded not guilty to the charge when arraigned.<sup>5</sup> Pre-trial was conducted and, thereafter, trial ensued.

The prosecution established that the offended party, 17-year old Mara, and the accused-appellant were neighbors as they both resided at X Compound, Y Subdivision, Barangay Z, Tarlac City. Mara was living alone in a studio-type unit beside the house of her elder sister, *Ditse*, while the accused-appellant lived five houses or some 30 meters away. He was familiar to her as he used to bring her to school in the tricycle he was driving at that time. He also had previously made cable TV installation in her unit.<sup>6</sup>

At early dawn of March 30, 2003, Mara was suddenly awakened when she felt somebody on top of her. While the lights in her room were switched off, light coming from outside illuminated her room and allowed her to recognize the then shirtless accused-appellant as the intruder. Startled, she pushed the accused-appellant away and shouted “*Umalis ka sa harap ko! Go away!*” but she was not able to free herself as he held her hands and he was straddling her. She called *Ditse* but the accused-appellant boxed her stomach and told her not to make any noise or else he would stab her. Because of the pain caused by the punch, Mara almost lost consciousness but she continued to struggle. Despite her resistance, however, the accused-appellant was able to raise her loose shirt and removed her panty. She continued to resist the accused-appellant’s advances but the latter boxed her thighs, numbing her legs. Weakened by her struggle, the accused-appellant was able to penetrate her. The dastardly deed done, the accused-appellant stood up, wore his pants and left.<sup>7</sup>

Her ordeal left Mara very weak and she could only cry in her bed feeling sorry for herself. After a few minutes, she regained some strength and immediately went to the house of *Ditse* to inform the latter about what happened to her.<sup>8</sup>

*Ditse* called their eldest sister, *Ate*, at her residence in V Village, Tarlac City. When *Ate* arrived, she accompanied Mara and *Ditse* to the police station to report the incident. Thereafter, they went to the Tarlac Provincial Hospital where Mara was examined. The medical examination of Mara showed that she had multiple “hematoma” or bruises in the neck and lower jaw. She also had a bruise in the front portion of her thigh. She also suffered abrasions in her genitalia which, according to the examining doctor, meant that there was sexual intercourse within the past 24 hours. Another

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(533 Phil. 703 [2006]), the real names of the victim and the members of her immediate family have been withheld and fictitious names have been used instead to protect the victim’s privacy.

<sup>4</sup> Records, p. 1.

<sup>5</sup> Id. at 25; Order dated May 13, 2004.

<sup>6</sup> Id. at 3-9.

<sup>7</sup> TSN, November 16, 2004, pp. 4-6 and TSN, February 15, 2005, pp. 7-13.

<sup>8</sup> Id. at 6-7 and 13-15.

proof of recent intercourse was the presence of sperm cells in her vagina.<sup>9</sup>

In his defense, the accused-appellant denied the accusation against him. He claimed that, in the evening of March 29, 2003, he attended the birthday party of a neighbor in the same X Compound where he and Mara were both residing at that time. He drank liquor with three other men at the party. They were drinking until around 1:00 in the morning of the following day when, after consuming their fourth bottle of Emperador brandy, he went home as he was already groggy and had vomited. Upon reaching his house and after being let in by the daughter of his live-in partner, he had coffee and threw up again.<sup>10</sup> He then washed his face and went to bed to rest.<sup>11</sup> He woke up at around 6:00 in the morning, had breakfast, took a bath, drove his tricycle, and plied his ordinary route until around 5:00 in the afternoon. When he returned home from driving, he was told that *Ditse* wanted to see him. When he went to *Ditse*'s place, *Ditse* told him that Mara was raped and that he was the culprit. The police soon arrived and brought the accused-appellant to the police station where a sample of his pubic hair was taken and he was made to face Mara. He was then allowed to go home. On the following day, he again plied his route. The next day, he went to his mother's house at Luisita Homesite in San Miguel, Tarlac City and stayed there until his arrest in December 2003.<sup>12</sup>

After weighing the respective evidence of the parties, the trial court found Mara's testimony categorical, spontaneous and consistent. It was supported by the physical evidence, particularly the result of her medical examination on the same day of the incident complained of. No ill motive on her part was shown and she courageously and willingly recounted her harrowing experience in public during the trial of the case. In contrast, the trial court found the testimony of the accused-appellant "deceptive, evasive, hollow and deep in half-truths." His alibi – his claim that he was in his room sleeping at the time Mara was raped – did not preclude the possibility of his presence at the place of the crime at the time of its commission.<sup>13</sup> Thus, in a Decision dated November 12, 2008, the trial court found the accused-appellant guilty beyond reasonable doubt of the crime of rape committed against Mara. The dispositive portion of the decision reads:

WHEREFORE, this court finds accused Abel Diaz GUILTY beyond reasonable doubt of the crime of rape as defined and penalized in Article 335 of the Revised Penal Code and to suffer [the] penalty of reclusion perpetua.

He is further ordered to pay complainant the amount of ₱75,000.00 as moral damages and ₱50,000.00 actual damages and to pay the costs.

Let the records of this case be forwarded to the Court of Appeals

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<sup>9</sup> *Rollo*, pp. 4-6.

<sup>10</sup> *Id.* at 7-8.

<sup>11</sup> TSN, August 29, 2006, p. 4.

<sup>12</sup> *Rollo*, pp. 8-9.

<sup>13</sup> *Id.* at 16-17.

upon filing of the notice of appeal in accordance with Administrative Circular No. 20-2005 issued on April 19, 2005.<sup>14</sup>

The accused-appellant appealed his case to the Court of Appeals. For him, the trial court gave undue credence to the testimony of Mara. In particular, her identification of him was contrary to human experience as she admitted that her room was dark and she was not wearing her eyeglasses at the time of the alleged assault.<sup>15</sup>

The accused-appellant also claimed that his guilt was not proven beyond reasonable doubt. For him, the prosecution failed to prove the element of force or intimidation as there was an absence of any “real apprehension of dangerous consequences or serious bodily harm that would overpower the mind of the victim and prevent her from offering resistance.” While claiming that she was verbally threatened of being stabbed, Mara admitted that she did not see any knife in his possession. Mara also failed to make an outcry during the two hours that the accused-appellant allegedly stayed in her room.<sup>16</sup>

The Court of Appeals rejected the contentions of the accused-appellant. Mara positively identified the accused-appellant as her assailant. While the lights in her room were switched off, light coming from outside illuminated her room sufficiently and enabled her to see her assailant’s face. She also demonstrated that the fact that she was not wearing her grade 1.25 eyeglasses could not have materially affected her ability to identify the accused-appellant.<sup>17</sup>

The Court of Appeals also pointed out that the prosecution clearly established the element of force or intimidation. Mara testified that the accused-appellant repeatedly hit and forcibly held her. The punches to her stomach and thighs caused her pain, weakened her and almost made her lose consciousness. Her injuries in the neck, thigh and genital areas, visible hours after the incident, proved that violent force was used on her. Rather than negating the element of force or intimidation, the “invisible knife” – the threat of infliction of further bodily harm, added to Mara’s helpless state and facilitated the accused-appellant’s evil design.<sup>18</sup>

According to the Court of Appeals, Mara’s testimony that the accused-appellant stayed for two hours in her room did not make her credibility doubtful. It was a mere estimate and could not be expected to be accurate with rigorous exactitude. Besides, the precise duration or the exact time or date of the commission of the rape is not an essential element of the felony. Rape is no respecter of time and place.<sup>19</sup>

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<sup>14</sup> CA *rollo*, pp. 19-20.

<sup>15</sup> *Rollo*, p. 11.

<sup>16</sup> *Id.* at 14.

<sup>17</sup> *Id.* at 11-14.

<sup>18</sup> *Id.* at 14-15.

<sup>19</sup> *Id.* at 15.

Thus, in a Decision dated March 31, 2011, the Court of Appeals denied the appeal of the accused-appellant and affirmed the Decision dated November 12, 2008 of the trial court which found the accused-appellant guilty of the crime of rape and sentenced him to suffer *reclusion perpetua*. The decretal portion of the Decision dated March 31, 2011 reads:

**WHEREFORE**, the appeal is **DENIED**. The Decision of the RTC of Tarlac City dated November 12, 2008 in Criminal Case No. 12650 is hereby **AFFIRMED *in toto***.<sup>20</sup>

This appeal is the accused-appellant's last-ditch attempt to secure an acquittal. Unfortunately, both the law and the evidence are against him.

Under Article 266-A(1)(a) of the Revised Penal Code, rape is committed "by a man who shall have carnal knowledge of a woman" "through force, threat, or intimidation." The trial and the appellate courts were unanimous in finding that, beyond reasonable doubt, the accused-appellant forcibly held Mara's hand while straddling her, punched her in the stomach when she cried for help, continuously threatened to stab her as she resisted his advances, punched her thighs to weaken her, and had sexual intercourse with her. Justice therefore demands the denial of his appeal.

Moreover, even if we consider the grounds raised by the accused-appellant, his appeal still fails.

The appeal of the accused-appellant boils down to a question of credibility of the prosecution's primary witness, the private complainant Mara. As a rule, however, credibility is the sole province of the trial court.<sup>21</sup> It is well-settled that:

[W]hen the issues revolve on matters of credibility of witnesses, the findings of fact of the trial court, its calibration of the testimonies of the witnesses, and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings, are accorded high respect, if not conclusive effect. This is so because the trial court has the unique opportunity to observe the demeanor of witnesses and is in the best position to discern whether they are telling the truth. x x x.<sup>22</sup> (Citation omitted.)

In the absence of any clear showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight and substance that would have affected the result of the case, the trial court's findings on the matter of credibility of witnesses will not be disturbed on appeal.<sup>23</sup> On the one hand, this judicial deference is a recognition of the role of trial judges in fact-finding – trial judges have the unique opportunity of having the

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<sup>20</sup> Id. at 18.

<sup>21</sup> *People v. Nelmidia*, G.R. No. 184500, September 11, 2012, 680 SCRA 386, 413.

<sup>22</sup> Id.

<sup>23</sup> Id.

privilege of a front-row seat to observe first-hand the details of a testimony, the demeanor and deportment of witnesses, and the drama during the trial. On the other hand, this is an acknowledgment by this Court of the limitations of its review in appealed cases – this Court stands outside the trial court, is far-removed from the witness stand, and relies solely on the records of the case.

Acutely aware of the Court's position as the last resort of litigants, we have nevertheless carefully sifted through the records of this case but found nothing that indicates to us that the trial and the appellate courts overlooked or failed to appreciate facts that, if considered, would change the outcome of the case. Thus, we uphold the Court of Appeals ruling that Mara made a clear and positive identification of the accused-appellant as her sexual assaulter. The records bear this out.<sup>24</sup>

We also agree with the Court of Appeals that the prosecution sufficiently proved the element of force or intimidation which attended the sexual assault against Mara. It cannot be denied that the accused-appellant forcibly held, repeatedly punched and violently ravished Mara. The injuries which she sustained in the neck, thigh and genital areas, documented in the medico legal-report of the examination conducted on the very same day her person was violated, trump accused-appellant's contrary claim. Weak and in pain, the repeated threats of being stabbed coupled with the blows already inflicted on her, certainly intimidated Mara and created a numbing fear in her mind that her assailant was capable of hurting her more and carrying out his threats.

We also affirm the finding of the Court of Appeals that Mara's credibility was not eroded by her testimony that the accused-appellant tarried for two hours in her room. The Court of Appeals said it well: when one is being raped, forcibly held, weak and in great pain, and in shock, she cannot be reasonably expected to keep a precise track of the passage of time down to the last minute.<sup>25</sup> Indeed, for a woman undergoing the ordeal that Mara underwent in the hands of the accused-appellant, every moment is like an eternity of hell and the transit of time is a painfully slow crawl that she would rather forget. In addition, the precise duration of the rape is not material to and does not negate the commission of the felony. Rape has no regard for time and place.<sup>26</sup> It has been committed in all manner of situations and in circumstances thought to be inconceivable.

As regards his defenses, the accused-appellant's denial and alibi crumble in the face of his positive identification by Mara. In particular, his alibi is worthless as his presence at a mere 30 meters away from the scene of the crime at the time of its commission definitely does not constitute a

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<sup>24</sup> TSN, November 16, 2004, p. 3.

<sup>25</sup> *Rollo*, p. 15.

<sup>26</sup> It is well-established that rape is no respecter of time and place. See *People v. Alimon*, 327 Phil. 447, 469 (1996) and *People v. Fucio*, 467 Phil. 327, 339 (2004).

physical impossibility for him to be at Mara's room at the time of the rape. On the contrary, it is in fact an implied admission that there is facility of access for the accused-appellant to be at the place where the crime happened when it happened.

As to the award of damages, the award of ₱50,000.00 as civil indemnity, instead of "actual damages" referred to in the RTC Decision, is proper but the award of ₱75,000.00 moral damages should be reduced to ₱50,000.00 to conform to current case law.<sup>27</sup> Moreover, ₱30,000 exemplary damages should be awarded to Mara, who was still a minor when she was raped by the accused-appellant, to set a public example and serve as deterrent against elders who abuse and corrupt the youth and to protect the latter from sexual assault.<sup>28</sup>

In addition, interest at the rate of six percent (6%) *per annum* shall be imposed on all damages awarded from the date of finality of this judgment until fully paid, pursuant to prevailing jurisprudence.<sup>29</sup>

**WHEREFORE**, the appeal is hereby **DENIED** and the Decision dated March 31, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 03691 affirming the Decision dated November 12, 2008 of the Regional Trial Court of Tarlac City, Branch 65 in Criminal Case No. 12650 which found the accused-appellant Abel Diaz **GUILTY** beyond reasonable of the crime of rape is **AFFIRMED with MODIFICATION**. The dispositive portion of the trial court's Decision dated November 12, 2008 is hereby modified to read as follows:

**WHEREFORE**, this court finds accused Abel Diaz **GUILTY** beyond reasonable doubt of the crime of rape as defined and penalized in Article 266-A (1)(a) of the Revised Penal Code and to suffer the penalty of *reclusion perpetua*.

He is further **ORDERED** to pay complainant the amounts of ₱50,000.00 civil indemnity, ₱50,000.00 moral damages, and ₱30,000.00 exemplary damages.

He is further **ORDERED** to pay legal interest on the civil indemnity, moral damages and exemplary damages awarded at the rate of six percent (6%) *per annum* from the date of finality of this judgment until fully paid.


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<sup>27</sup> See *People v. Penilla*, G.R. No. 189324, March 20, 2013; *People v. Saludo*, G.R. No. 178406, April 6, 2011, 647 SCRA 374, 397.


<sup>28</sup> *People v. Deligero*, G.R. No. 189280, April 17, 2013; *People v. Cañada*, G.R. No. 175317, October 2, 2009, 602 SCRA 378, 398.

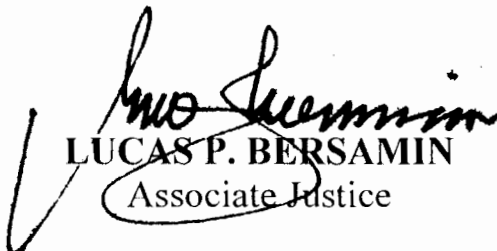
<sup>29</sup> *Sison v. People*, G.R. No. 187229, February 22, 2012, 666 SCRA 645, 667.

**SO ORDERED.**

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

WE CONCUR:

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

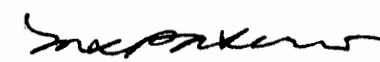
  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, 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