



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

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

**G.R. No. 202842**

Present:

SERENO, *C.J.*,  
*Chairperson,*  
 LEONARDO-DE CASTRO,  
 BERSAMIN,  
 REYES, and  
 LEONEN, \* *JJ.*

- versus -

**FLORENTINO GALAGAR, JR.,**  
 Accused-Appellant,

Promulgated:

**OCT 09 2013**

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**RESOLUTION**

**REYES, J.:**

Before the Court is an appeal from the Decision<sup>1</sup> dated December 20, 2011 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00620-MIN, affirming with modification the Judgment<sup>2</sup> dated May 26, 2008 of the Regional Trial Court (RTC) of Gingoog, Branch 43, which found Florentino Galagar, Jr. (accused-appellant) guilty of rape under Article 266-A of the Revised Penal Code (RPC), as amended by Republic Act (R.A.) No. 8353.

The Information charging the accused-appellant reads as follows:

\* Acting member per Special Order No. 1545 (Revised) dated September 16, 2013.  
<sup>1</sup> Penned by Associate Justice Abraham B. Borreta, with Associate Justices Romulo V. Borja and Melchor Q.C. Sadang, concurring; *CA rollo*, pp. 81-96.  
<sup>2</sup> Issued by Acting Presiding Judge/Executive Judge Dan R. Calderon; *id.* at 28-40.

That on April 13, 2003, at more or less 8:00 o'clock in the evening, in [S]itio Taon-Taon, Bal-ason, Gingoog City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, did then and there wilfully, unlawfully and feloniously force and intimidate [AAA]<sup>3</sup>, by threatening to kill her and then forcibly committed sexual intercourse with the said [AAA], against her will.

Contrary to and in violation of Article 266-A of the Revised Penal Code in relation to Republic Act No. 8353.<sup>4</sup>

AAA testified that on April 13, 2003 at around 8:00 p.m., while she was inside her house with her children, the accused-appellant called her from outside, informing her that he brought a letter from her husband, BBB, who was then working in a sugar plantation in Bukidnon. When AAA opened the door, the accused-appellant pulled a kitchen knife and pointed it to her. He grabbed her hand and bumped her head against the wall, making her dizzy. The accused-appellant then forced AAA to lie on the floor, forcibly pulled down her jogging pants and panty, pinned her down while he was on top of her, inserted his penis in her vagina, and subsequently ejaculated therein. He did all these while pointing the knife at her.<sup>5</sup>

After having carnal knowledge with her, the accused-appellant threatened to kill AAA and her whole family, including her special child, if she would report to the authorities. AAA's special child could not talk but she witnessed the incident from the upper portion of the house. AAA claimed she decided to keep her silence to protect her family from harm's way.<sup>6</sup>

However, when BBB returned home from Bukidnon on April 30, 2003, he noticed a sudden change in AAA who was always crying and was withdrawn. BBB asked AAA what was troubling her. The latter revealed what transpired – how the accused-appellant violated her person and threatened to kill her and her loved ones. Thereafter, AAA and her husband confronted the accused-appellant. The accused-appellant's wife begged for forgiveness but AAA and BBB refused. They reported the incident to the *barangay*. *Barangay* Captain Regino Tecson called the parties to a meeting in order to convince them to settle the matter by signing an agreement called "*Malinawon Nga Kasabutan*" dated May 24, 2003, but AAA refused to sign the same.<sup>7</sup>

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<sup>3</sup> The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of their immediate family or household members, shall not be disclosed to protect her privacy and fictitious initials shall, instead, be used, in accordance with *People v. Cabalquinto* (533 Phil. 703 [2006]), and A.M. No. 04-11-09-SC dated September 19, 2006.

<sup>4</sup> CA rollo, p. 28.

<sup>5</sup> Id. at 29-30; 82-83.

<sup>6</sup> Id. at 30, 83.

<sup>7</sup> Id. at 30-31, 83.

On May 14, 2003, AAA went to a doctor at Gingoog District Hospital for a medical examination. The doctor, however, refused to conduct the examination, explaining that it would only be useless since she already had her menstruation and thus semen could no longer be found in her organ.<sup>8</sup>

For his defense, the accused-appellant presented three (3) witnesses: Bonifacio Palma (Palma) who was the Chief of the *Barangay Tanod* of *Barangay* Bal-ason from 1996 to 2004; Regino Tecson (Tecson) who was the *Barangay* Captain of *Barangay* Bal-ason, Gingoog City from 1994 until 2007; and the accused-appellant himself.

The accused-appellant denied the charge against him. He claimed that on April 13, 2003 at about 6:00 p.m., he was at the Civilian Volunteer Organization (CVO) outpost to conduct a roving operation. He alleged that he was with *Lupon* member Rosendo Labadan (Labadan), *Barangay Kagawad* Raymund Capito (Capito), and three other members of the CVO, namely, Mariano Badana, Rolando Bonbon and Palma. They divided themselves into two (2) groups and the accused-appellant was grouped with Capito and Palma. He claimed staying with his companions, Capito and Palma at the outpost up to 10:00 p.m., after which, they started their roving operation in the six (6) *puroks* of their *barangay*. The accused-appellant and his companions roved around *Purok* Lipunan, Sugma and Sun Flower-A. They finished roving before midnight and returned to their outpost and stayed there until 2:00 a.m. Thereafter, they exchanged areas with the other group and thus inspected the *Centro* of the *barangay* and ended at *Purok* Lapak. At 3:30 a.m. of April 14, 2003, the group of the accused-appellant ended their roving operation and stayed at the outpost until 5:00 a.m. Subsequently, they went to their respective homes.<sup>9</sup>

The accused-appellant stated that aside from being the *Lupon* member of *Barangay* Balason, Gingoog City, he was also the *Purok* Chairman of *Sitio* Taon-taon. He claimed that during the confrontation meeting at the *barangay*, BBB's complaint was not about the rape of AAA. The document named "*Malinawon Nga Kasabutan*" contained a promise that he would not pass by or go to the house of AAA and BBB, nor buy cigarettes from the couple's store. However, the said document was signed only by the accused-appellant, while AAA and BBB did not sign it. He admitted that his house was only fifty (50) meters away from the house of AAA and BBB and that they have been neighbors for nine (9) years. He also admitted knowing that BBB went to work in a farm in Bukidnon. He testified that in the afternoon of March 18, 2003, he bought cigarettes from the store of AAA and asked for a light, which AAA who was in the kitchen supplied. AAA actually complained about being embraced by him on this occasion. He further testified that on March 25, 2003, he went to the house of the couple

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<sup>8</sup> Id. at 30, 83-84.

<sup>9</sup> Id. at 31-32, 84.

to negate their claim of his alleged molestation of AAA, and countered that when he was lighting his cigarette from the lamp given by AAA, the light was put out, and AAA even jokingly knocked his head, saying that his nostrils are so big.<sup>10</sup>

To corroborate the testimony of the accused-appellant, Palma testified that on April 13, 2003, his companions, including the accused-appellant, started their duty at 6:00 p.m. until 4:00 a.m. of the following day. He testified that the accused-appellant was at the outpost with them from 6:00 p.m. to 10:00 p.m.; and at 10:00 p.m., he was in one group while the accused-appellant was with another group (Capito and Labadan). They then returned to the outpost at 11:00 p.m. for coffee break and then went back to roving. After which, they returned to the outpost at 3:00 a.m. and thereafter they went home. When asked about the logbook of the CVO outpost where the presence and duty hours of the members were recorded, he alleged that it could not longer be found.<sup>11</sup>

Witness Tecson also testified for the accused-appellant. He claimed that on May 24, 2003 a confrontation meeting between the spouses AAA and BBB and the accused-appellant transpired. He alleged that the complaint of the couple concerned trespass to dwelling, and not rape. He also confirmed the existence of “*Malinawon Nga Kasabutan*”; that the accused-appellant in the confrontation meeting asked for the couple’s forgiveness because of the charge of trespass to dwelling and not for rape; that when he executed the certification marked as Exhibit “D” for the prosecution, certifying that Palma was on duty on April 13, 2003, the same was not based on the records of the CVO because these were lost; that he was only told by Capito of the accused-appellant’s presence and duty schedule on April 13, 2003; that the records of the *Barangay* concerning night-guard duty on April 13, 2003 had been lost; that the houses of the complaining couple and of the accused-appellant, who were neighbors in *Sitio* Taon-taon, were about one (1) kilometer away from the CVO outpost, and could be reached by walking for ten (10) to fifteen (15) minutes.<sup>12</sup>

On May 26, 2008, the RTC of Gingoog City, Branch 43, rendered Judgment<sup>13</sup> finding the accused-appellant guilty of violating Article 266-A of the RPC, as amended by R.A. No. 8353.

The RTC gave credence to the testimony of the victim AAA who narrated her ordeal in a straightforward, convincing, and consistent manner. She was unshaken even under rigid cross-examination. The accused-appellant’s *alibi* that he was with his companions from the CVO at the time

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<sup>10</sup> Id. at 32-33, 84-85.

<sup>11</sup> Id. at 33-34, 85.

<sup>12</sup> Id. at 34-35, 86.

<sup>13</sup> Id. at 28-39.

of rape did not convince the trial court despite the testimonies of Palma and Tecson. *First*, the trial court found contradictions in the testimonies of the accused-appellant and Palma. The accused-appellant claimed to belong to the group of Palma, while Palma testified that he belonged to another group. *Second*, the trial court took note of the fact that neither Capito nor Labadan, the alleged companions of the accused-appellant in the team, testified on his presence in the roving activity. *Third*, the testimony of Tecson as to the presence of the accused-appellant was hearsay since the same information was relayed to him only by Capito and the accused-appellant himself. In fact, he admitted that he did not base his certification about Palma's duty schedule on any record or logbook of attendance or duty schedule of the CVO because such record was lost. *Last*, the distance between the outpost and the house of AAA was mere 10 to 15-minute walk and that there was no testimony to the effect that the accused-appellant never left his station. Thus, there was no physical impossibility for the accused-appellant to be present at the scene of the crime. Indeed, the trial court held that for *alibi* to prosper it must be so convincing so as to preclude any doubt of the accused-appellant's physical presence at the crime scene at the time of the incident.<sup>14</sup>

The trial court sentenced the accused-appellant to suffer the penalty of *reclusion perpetua* and to pay the offended party the amount of ₱75,000.00 as indemnity *ex delicto* and another ₱75,000.00 for moral damages. The *fallo* of the decision reads as follows:

**WHEREFORE**, finding that Prosecution evidence has established the guilt of the accused beyond reasonable doubt, the accused **FLORENTINO GALAGAR, JR.** is adjudged **GUILTY** of the crime charged and he is sentenced to suffer the penalty of **RECLUSION PERPETUA**. The accused is likewise ordered to pay the private offended party the amount of [₱]75,000.00 as indemnity *ex deli[c]to*, and another [₱]75,000.00 for moral damages in light of prevailing jurisprudence that the victim is assumed to have suffered such damages.

**SO ORDERED.**<sup>15</sup>

The accused-appellant appealed to the CA. He questioned the credibility of AAA who failed to immediately report the incident to authorities and to present a medical certificate supporting her claim of rape. Addressing these issues, the CA gave weight to the findings of the trial court, explaining "that in passing upon the credibility of witnesses, the highest degree of respect must be afforded to the findings of the trial court."<sup>16</sup> The CA found that the trial court did not overlook or disregard material facts and circumstances which when considered would change the result of the decision. In fact, it agreed with the trial court that AAA "was

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<sup>14</sup> Id. at 35-38.

<sup>15</sup> Id. at 39.

<sup>16</sup> Id. at 91.

able to, in simple yet positive language, give details of her sexual abuse.”<sup>17</sup> The CA also ruled that AAA’s failure to immediately report her ordeal did not diminish her credibility, considering the fear that the accused-appellant instilled in her. Likewise, the absence of a medical examination did not affect AAA’s credibility since the medical examination of the victim is not indispensable in the prosecution for rape. It is not essential to prove rape; it is in fact merely corroborative evidence.<sup>18</sup> Finally, the CA found the accused-appellant’s defense of *alibi* weak in the light of AAA’s positive identification pointing to the accused-appellant as the perpetrator of the crime.<sup>19</sup>

The CA affirmed the trial court’s ruling but modified it by awarding exemplary damages in the amount of ₱30,000.00.<sup>20</sup>

Hence, the instant appeal.

After a careful review of the records of this case, we see no reason to reverse or modify the findings of the RTC, as affirmed by the CA, albeit with modification as to the award of exemplary damages.

Both the RTC and the CA gave credence to the testimony of the victim who narrated her ordeal in a straightforward, convincing, and consistent manner. The Court also agrees with the observations of the RTC and the CA regarding the contradictions in the testimonies of the accused-appellant and Palma, the absence of documentary records to prove the accused-appellant’s claim, and the proximity of the outpost to the house of AAA, which all lead to the guilt of the accused-appellant.

The failure of AAA to report her ordeal is not unique in her case. Many victims of rape would choose to suffer in silence rather than put the life of their loved ones in danger. “[I]t is well entrenched that delay in reporting rape cases does not by itself undermine the charge, where the delay is grounded in threats from the accused.’ Delay in revealing the commission of a crime such as rape does not necessarily render such charge unworthy of belief. This is because the victim may choose to keep quiet rather than expose her defilement to the harsh glare of public scrutiny. Only when the delay is unreasonable or unexplained may it work to discredit the complainant.”<sup>21</sup>

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<sup>17</sup> Id. at 92.

<sup>18</sup> Id. at 93.

<sup>19</sup> Id. at 93-95.

<sup>20</sup> Id. at 95.

<sup>21</sup> *People v. Navarette, Jr.*, G.R. No. 191365, February 22, 2012, 666 SCRA 689, citing *People v. Ariola*, 418 Phil. 808, 821 (2001).

As to the failure of AAA to present a medical certificate or report, the Court has consistently held that in proving rape the medical examination of the victim or the presentation of a medical report is not essential. The victim's testimony alone, if credible, is sufficient to convict the accused of the crime. The medical examination of the victim and the corresponding medical certificate are merely corroborative pieces of evidence.<sup>22</sup>

All things considered, AAA was able to prove that the accused-appellant is guilty of the crime charged.

The Court sustains the penalty of *reclusion perpetua* but modifies the award of damages in this case. As aptly explained in *People v. Macapanas*,<sup>23</sup>:

Articles 266-A and 266-B of the Revised Penal Code, as amended, respectively provide:

“Art. 266-A. *Rape, When and How Committed*.—  
Rape is committed—

1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a) Through force, threat, or intimidation;

x x x x

Art. 266-B. *Penalties*.—Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

Whenever the rape is committed with the **use of a deadly weapon** or by two or more persons, the penalty shall be *reclusion perpetua* to death.

x x x x”

For one (1) to be convicted of qualified rape, at least one (1) of the aggravating/qualifying circumstances mentioned in Article 266-B of the Revised Penal Code, as amended, must be alleged in the Information and duly proved during the trial. In the case at bar, appellant used a sharp-pointed bolo locally known as *sundang* in consummating the salacious act. This circumstance was alleged in the Information and duly proved during trial. Being in the nature of a qualifying circumstance, “use of a deadly weapon” increases the penalties by degrees, and cannot be treated merely as a generic aggravating circumstance which affects only the period of the penalty. This so-called qualified form of rape committed with the use of a deadly weapon carries a penalty of *reclusion perpetua* to death. As such,

<sup>22</sup> *People v. Dion*, G.R. No. 181035, July 4, 2011, 653 SCRA 117, 137, citing *People v. Ferrer*, 415 Phil. 188, 199 (2001).

<sup>23</sup> G.R. No. 187049, May 4, 2010, 620 SCRA 54.

the presence of generic aggravating and mitigating circumstances will determine whether the lesser or higher penalty shall be imposed. When, as in this case, neither mitigating nor aggravating circumstance attended the commission of the crime, the minimum penalty, *i.e.*, *reclusion perpetua*, should be the penalty imposable pursuant to Article 63 of the Revised Penal Code. Thus, both trial and appellate courts properly imposed on appellant the penalty of *reclusion perpetua*.

As to the award of damages, the trial court awarded ₱50,000.00 as civil indemnity. The Court of Appeals, in addition thereto, awarded moral damages in the amount of ₱50,000.00. Under the present law, an award of ₱50,000.00 as civil indemnity is mandatory upon the finding of the fact of rape. This is exclusive of the award of moral damages of ₱50,000.00, without need of further proof. The victim's injury is now recognized as inherently concomitant with and necessarily proceeds from the appalling crime of rape which *per se* warrants an award of moral damages.

Exemplary damages should likewise be awarded pursuant to Article 2230 of the Civil Code since the special aggravating circumstance of the use of a deadly weapon attended the commission of the rape. When a crime is committed with an aggravating circumstance, either qualifying or generic, an award of ₱30,000.00 as exemplary damages is justified. This kind of damages is intended to serve as deterrent to serious wrongdoings, as a vindication of undue sufferings and wanton invasion of the rights of an injured, or as punishment for those guilty of outrageous conduct.<sup>24</sup> (Citations omitted and emphasis supplied)

Accordingly, the civil indemnity should be reduced to ₱50,000.00. Likewise, moral damages should only be ₱50,000.00. In line with recent jurisprudence on the matter, the accused-appellant is not eligible for parole considering the penalty imposed upon him;<sup>25</sup> and that the amounts awarded to the victim shall earn interest at the rate of six percent (6%) *per annum*, to earn from the date of finality of judgment until fully paid.<sup>26</sup>

**WHEREFORE**, the Decision dated December 20, 2011 of the Court of Appeals in CA-G.R. CR-HC No. 00620-MIN is hereby **AFFIRMED with modifications**. Accused-appellant Florentino Galagar, Jr. is **ORDERED** to pay ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages and ₱30,000.00 as exemplary damages.

The penalty of *reclusion perpetua* imposed on accused-appellant Florentino Galagar, Jr. shall be without eligibility for parole. Moreover, the damages awarded shall earn interest at the rate of six percent (6%) *per annum* from the date of the finality of this resolution until fully paid.

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<sup>24</sup> Id. at 75-77.

<sup>25</sup> *People v. Subesa*, G.R. No. 193660, November 16, 2011, 660 SCRA 390, 403, citing *People v. Ortiz*, G.R. No. 179944, September 4, 2009, 598 SCRA 452, 463.


<sup>26</sup> *People of the Philippines v. Rolando Cabungan*, G.R. No. 189355, January 23, 2013.




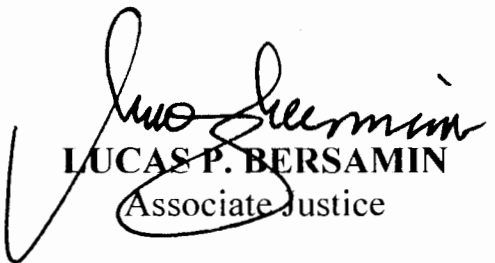
**SO ORDERED.**

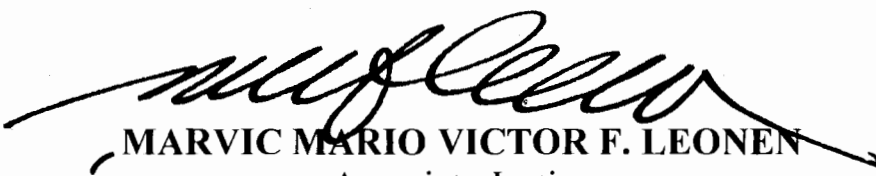
  
**BIENVENIDO L. REYES**  
Associate Justice

**WE CONCUR:**

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

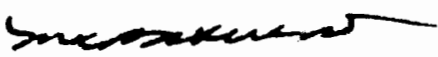
  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**MARVIC MARIO VICTOR F. LEONEN**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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