



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 201103

Present:

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
REYES,
PERLAS-BERNABE,* and
LEONEN,** JJ.

- versus -

JIMMY CEDENIO y PERALTA,
Accused-Appellant.

Promulgated:

SEP 25 2013

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RESOLUTION

REYES, J.:

Appealed in this case is the Decision¹ dated July 29, 2011 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04220, affirming with modification the Decision² dated September 21, 2009 rendered by the Regional Trial Court (RTC) of Pasay City, Branch 119, in Criminal Case No. 04-2742 for Rape. The dispositive portion of the CA's Decision provides:

FOR THE STATED REASONS, the assailed RTC Decision convicting accused-appellant Jimmy Cedenio of the crime of rape is **AFFIRMED** with the **MODIFICATION** that, in addition to the award of

* Acting member per Special Order No. 1537 (Revised) dated September 6, 2013.

** Acting member per Special Order No. 1545 (Revised) dated September 16, 2013.

¹ Penned by Associate Justice Mario V. Lopez, with Associate Justices Magdangal M. De Leon and Socorro B. Inting, concurring; *CA rollo*, pp. 116-128.

² Issued by Judge Pedro De Leon Gutierrez; *id.* at 25-34.

[P]50,000.00 as civil indemnity, he is **ORDERED** to pay [AAA]³ the amount of [P]50,000.00 as moral damages.

SO ORDERED.⁴

The evidence for the prosecution established the following: Twenty one (21)-year old AAA and accused-appellant Jimmy Cedenio (Cedenio) rented separate rooms on the same floor of a building in Pasay City. AAA lives with her boyfriend BBB and two (2) other persons, while Cedenio lives with his family. They all use a common bathroom. At around 9:30 a.m. of October 20, 2004, after her roommates left for work, AAA went back inside the room after taking a bath. She noticed that the light inside the room was on. Upon entering the room, Cedenio, from behind the door, placed his arm around her and poked a fan knife at her side. She pleaded for him not to kill or rape her but he told her that he only wanted to talk. Cedenio, however, then told her to lie down on the foam spread on the floor, and grabbed the towel wrapped around her. She pleaded with him to spare her and told him that she was having her period, to no avail. After Cedenio was able to have sex with AAA, he threatened to kill her if she tells anybody about it. With Cedenio still inside the room, AAA hurriedly dressed up and left. She went to Baclaran Mall where BBB was working and related her ordeal to him. They immediately went to the *barangay* hall to report the incident. While there, AAA saw Cedenio in the vicinity and told BBB who immediately ran after Cedenio. BBB was joined by *barangay tanods* and Cedenio was eventually collared. At that point, PO3 Herman Abanilla, who was on board a tricycle, saw the fracas, arrested Cedenio and brought him to the police headquarters.⁵

Cedenio denied the accusation against him and set up the defense of *alibi*. He claimed that he was out selling cigarettes and candies in Pasay Rotunda at the time of the incident. He went back home at around 10:30 a.m. to put down his goods and thereafter fetched his children from school. He was near the *barangay* hall in the afternoon to buy food when the *tanods* approached him and, after confirming his identity, arrested him.⁶

Both the RTC and the CA gave more weight and credit to the prosecution's version of the incident and did not heed Cedenio's *alibi*. Both courts did not find any reason to disbelieve AAA's testimony and ruled that Cedenio failed to establish any ill-motive on AAA's part for her to maliciously implicate him. The CA further disregarded Cedenio's claim that

³ The name of the victim, her personal circumstances and other information which tend to establish or compromise her identity 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.

⁴ CA *rollo*, p. 127.

⁵ Id. at 26-27, 117-118.

⁶ Id. at 89, 119.

AAA's lack of physical resistance is contrary to common human behavior, ruling that AAA was at knife point at that instance and there is no uniform reaction from rape victims.⁷ The CA thus affirmed Cedenio's conviction for Rape, the imposition of *reclusion perpetua* as penalty and the award of ₱50,000.00 as civil indemnity. The CA also awarded moral damages in the amount of ₱50,000.00.⁸

Upon review, the Court does not find any reason to overturn Cedenio's conviction of the crime of Rape.

Under Article 266-A(1)(a) of the Revised Penal Code, as amended, rape is committed when: (1) the offender had carnal knowledge of a woman; and (b) that the same was committed by using force and intimidation.⁹ In this case, the prosecution's evidence established that Cedenio was able to forcibly have carnal knowledge of AAA on October 20, 2004 after he poked her with a knife and threatened to kill her. The Court, like the CA, cannot sustain Cedenio's claim that AAA's lack of physical resistance is not a normal behavior in such cases. "Physical resistance need not be established in rape cases when intimidation is exercised upon the victim who submits against her will because of fear for her life and personal safety."¹⁰ If a knife on one's side is not a sufficient source and cause of fear, then what is?

Moreover, Cedenio's defense of *alibi* is an inherently weak defense that is easy to fabricate.¹¹ Cedenio failed to present clear and convincing evidence that he was in a place other than the *situs criminis* at the time the crime was committed, such that it was physically impossible for him to have been at the scene of the crime when it was committed.¹² The CA noted that Cedenio's job gave him mobility and it was easy for him to go home and commit the crime; thus, his *alibi* cannot prosper.¹³

The CA also correctly affirmed the imposition of *reclusion perpetua* as penalty.¹⁴ The same should be imposed without eligibility for parole.¹⁵

⁷ Id. at 125.

⁸ Id. at 127.

⁹ *People v. Malana*, G.R. No. 185716, September 29, 2010, 631 SCRA 676, 685.

¹⁰ *People v. Aguilar*, G.R. No. 185206, August 25, 2010, 629 SCRA 437, 449.

¹¹ *People v. Arpon*, G.R. No. 183563, December 14, 2011, 662 SCRA 506, 529.

¹² Id.

¹³ CA rollo, p. 125.

¹⁴ REVISED PENAL CODE, as amended, Article 266-A.

¹⁵ Section 3 of Republic Act No. 9346 (An Act Prohibiting the Imposition of Death Penalty in the Philippines) provides that "[p]ersons convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to *reclusion perpetua*, by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended." See also *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, 457; *People v. Bulagao*, G.R. No. 184757, October 5, 2011, 658 SCRA 746, 761.

As to the civil liability, both the RTC and the CA ordered Cedenio to pay AAA ₱50,000.00 as civil indemnity. The CA further awarded ₱50,000.00 as moral damages. Civil indemnity is mandatory upon the finding of the fact of rape, while moral damages are proper without need of proof other than the fact of rape by virtue of the undeniable moral suffering of AAA due to the rape.¹⁶ The amounts awarded are all in accord with prevailing jurisprudence.¹⁷


The Court, however, further awards exemplary damages in the amount of ₱30,000.00. The award of exemplary damages is justified under Article 2229 of the Civil Code to set a public example or correction for the public good.¹⁸ In addition, interest at the rate of six percent (6%) *per annum* shall be imposed on all the damages awarded, to earn from the date of the finality of the Court's resolution until fully paid.¹⁹

WHEREFORE, the appeal is hereby **DISMISSED**. The Decision dated July 29, 2011 of the Court of Appeals in CA-G.R. CR-HC No. 04220 is **AFFIRMED**, with modifications that exemplary damages in the amount of THIRTY THOUSAND PESOS (₱30,000.00) be awarded and that the penalty of *reclusion perpetua* imposed on accused-appellant Jimmy Cedenio shall be without eligibility for parole. Moreover, the damages awarded in this case shall earn an interest at the rate of six percent (6%) *per annum* from the date of the finality of this Resolution until fully paid.

SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

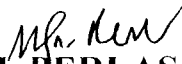
¹⁶ *People v. Arcillas*, G.R. No. 181491, July 30, 2012, 677 SCRA 624, 637.

¹⁷ Section 3 of Republic Act No. 9346 entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines"; *People v. Tejero*, G.R. No. 187744, June 20, 2012, 674 SCRA 244, 260.

¹⁸ *People v. Delabajan*, G.R. No. 192180, March 21, 2012, 668 SCRA 859, 868.

¹⁹ *People of the Philippines v. Rolando Cabungan*, G.R. No. 189355, January 23, 2013.



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ESTELA M. BERLAS-BERNABE
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