



Republic of the Philippines  
**Supreme Court**  
Manila

**FIRST DIVISION**

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

**G.R. No. 199445**

Present:

SERENO, C. J.,  
Chairperson  
LEONARDO-DE CASTRO,  
BERSAMIN,  
PEREZ, and  
PERLAS-BERNABE, JJ.

-versus-

**PACITO ESPEJON y  
LEBIOS,**  
Accused- Appellant.

Promulgated:

**FEB 04 2015**

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**DECISION**

**PEREZ, J.:**

For our judgment is this appeal<sup>1</sup> from the Decision<sup>2</sup> dated 2 June 2011 of the Court of Appeals in CA-G.R. CEB CR-HC No. 00670.

The antecedents:

<sup>1</sup>  
<sup>2</sup>

By way of an ordinary appeal pursuant to Section 3(c) of Rule 122 of the Rules of Court.  
Rollo, pp. 3-12. The decision was penned by Associate Justice Eduardo B. Peralta, Jr. for the Nineteenth (19<sup>th</sup>) Division of the Court of Appeals with Associate Justices Pampio A. Abarintos and Gabriel T. Ingles, concurring.

On 15 June 2004, five (5) criminal informations<sup>3</sup> for rape were filed against appellant Pacito L. Espejon before the Regional Trial Court (RTC) of Naval, Biliran. The informations accused appellant of raping—on five separate occasions in 2003—AAA,<sup>4</sup> a girl then only twelve (12) years old.

After his arrest, appellant entered a plea of not guilty. Trial then followed.

The evidence-in-chief of the prosecution consisted of the *testimony of AAA*, AAA's *birth certificate* and the *medico-legal report* of doctors Armando L. Manijas and Palmera Isip-Baltazar.

The testimony of AAA mainly revolved around the events that took place on the 10<sup>th</sup> of August, the 28<sup>th</sup> of September, the 26<sup>th</sup> of October, the 9<sup>th</sup> of November and the 8<sup>th</sup> of December, all in the year 2003. AAA testified that on those dates, the appellant, armed with a *bolo*,<sup>5</sup> brought her to the lower “*shrubby*” portion of the XYZ elementary school<sup>6</sup> wherein she was either undressed or was made to undress.<sup>7</sup> The details of what transpired thereafter for each incident were revealed by AAA as follows:

*RE: AUGUST 10, 2003 INCIDENT*<sup>8</sup>

Pros. G. Cruz

Q: And after he [appellant] undressed you, what happened?

AAA

A: He kissed me.

Q: Where?

A: In the lips.

Q: And after that what did he do you next?

A: He touched my breast.

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<sup>3</sup> Docketed as Criminal Cases No. N-2300, N-2301, N-2302, N-2303 and N-2304. CA rollo, pp. 19-23.

<sup>4</sup> The real name of the victim is withheld pursuant to Section 44 of Republic Act No. 9262 and Section 40 of the Rule on Violence Against Women and their Children. See *People v. Cabalquinto*, 533 Phil. 703, 705-706. (2006).

<sup>5</sup> In some parts of the records, a *lampas*, a large cutting knife with a bended blade.

<sup>6</sup> The real name of the school is withheld pursuant to Section 44 of Republic Act No. 9262 and Section 40 of the Rule on Violence Against Women and their Children. See *People v. Cabalquinto*, supra note 4.

<sup>7</sup> See Transcript of Stenographic Notes (TSN), 31 March 2005, pp. 4, 7, 9, 11, 13 and 20.

<sup>8</sup> TSN, 31 March 2005, pp. 5-6.

- Q: And then?  
A: He touched my vagina.
- Q: After he touched your vagina, what did he do next?  
A: He put himself on top of me.
- Q: Was he dressed or naked when he put himself on top of you?  
A: He was naked.
- Q: Was he able to insert his penis into your vagina?  
A: No sir.
- Q: Why?  
A: Because I felt pain.

x x x x

*RE: SEPTEMBER 28, 2003 INCIDENT<sup>9</sup>*

Pros. G. Cruz

- Q: After you undressed yourself as he [appellant] ordered, what happened?

AAA

- A: He kissed me and touched my breast.
- Q: And then after touching your breast, what did he do?  
A: He touched my vagina.
- Q: What did he do next?  
A: He placed himself on top of me.
- Q: When he placed himself on top of you, was he naked or dressed?  
A: Naked.
- x x x x
- Q: You mentioned that after [appellant] placed himself on top of you and he was naked, did he place his penis to your vagina?  
A: No sir.

x x x x

*RE: OCTOBER 26, 2003 INCIDENT<sup>10</sup>*

Pros. G. Cruz

- Q: What happened next?

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<sup>9</sup> TSN, 31 March 2005, pp. 7-8.

<sup>10</sup> TSN, 31 March 2005, p. 10.

AAA

A: He [appellant] kissed me and touched my breast.

Q: And then?

A: He touched my vagina.

Q: And then?

A: He put himself on top of me.

Q: [Was] he able to insert his penis [into] your vagina?

A: Yes sir.

Q: [Did] [i]t penetrate [your] vagina?

A: No sir.

Q: Why?

A: Because I felt pain.

Q: But did he try to insert his penis...

xxx

A: Yes sir.

*RE: NOVEMBER 9, 2003 INCIDENT*<sup>11</sup>

Pros. G. Cruz

Q: After you undressed yourself, what did he [appellant] do?

AAA

A: He kissed me, touched my breast and touched my vagina.

Q: After touching your vagina, what happened next?

A: He placed himself on top of me.

xxx

Q: Was he naked?

A: Yes sir.

xxx

Q: When he placed himself on top of you, did he put his penis [into] your vagina?

A: Yes sir.

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<sup>11</sup> TSN, 31 March 2005, pp. 11-12.

Q: Did it penetrate [your] vagina?  
A: No sir.

Q: Why?  
A: Because I felt pain.

x x x x

*RE: DECEMBER 8, 2003 INCIDENT*<sup>12</sup>

Pros. G. Cruz

Q: After you undress[ed] yourself, what happened?

AAA

A: He [appellant] kissed me, touched my breast and touched my vagina.

Q: What did [he] do next?  
A: He placed himself on top of me.

Q: Was he naked?  
A: Yes sir.

Q: Did he insert his penis [into] your vagina?  
A: No sir.

x x x x

AAA narrated that in all five incidents appellant was never able to penetrate her but had always, *except* in the last one, forced her to masturbate him.<sup>13</sup> AAA said that after masturbating appellant, the latter would then give her ₱20.00.<sup>14</sup>

AAA related that it was only after the last incident of 8 December 2003 that her mother learned of what the appellant had been doing to her. AAA's mother was so apprised by one Jandell Ybañez, a neighbor, who happened to have witnessed the last incident.<sup>15</sup> According to AAA, she had never told anyone about what she had gone through prior to the last incident as she was afraid of what the appellant—who often came by her house and who knew her parents—may do to her.<sup>16</sup>

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<sup>12</sup> TSN, 31 March 2005, p. 14.

<sup>13</sup> TSN, 31 March 2005, pp. 6, 8, 11 and 13.

<sup>14</sup> TSN, 31 March 2005, pp. 6, 9, 11 and 12.

<sup>15</sup> TSN, 31 March 2005, p. 15.

<sup>16</sup> TSN, 31 March 2005, pp. 22-23.

The prosecution also presented AAA's birth certificate<sup>17</sup> to prove that she was only twelve (12) years of age during the events described in her testimony.

Furthermore, the prosecution presented a medico-legal report<sup>18</sup> executed by doctors Armando L. Manijas (Manijas) and Palmera Isip-Baltazar (Isip-Baltazar). The report, which contained the results of the clinical examination conducted by the two doctors upon AAA on 18 December 2003, stated that no physical finding of penetration was apparent on AAA's vagina and that the latter's hymen is intact. The testimony of doctors Manijas and Isip-Baltazar, however, were dispensed with after the defense admitted the report's authenticity.<sup>19</sup>

The defense, on the other hand, relied on the testimonies of the appellant and of his wife, Maria Espejon (Maria).

The testimony of the appellant is one of denial and alibi. Appellant denied having raped AAA and proffered the excuse that, during the same time and dates mentioned by AAA in her testimony, he had been busy doing various chores.<sup>20</sup> Thus, on 10 August and 28 September 2003, appellant claimed that he was only in his house filling soil; on 26 October 2003, he advanced that he was merely repairing a window of his house; on 9 November 2003, he averred that he was at his rice field cutting grass; and on 18 December 2003, he claimed that he was likewise at his rice fields doing, that time, irrigation work.<sup>21</sup> When asked about whether he knew any explanation as to why and how he could have been accused of rape, on the other hand, appellant ventured to add that the same might have been precipitated by a recent rift between Maria and AAA's father wherein the former accused the latter of stealing her (Maria's) mangoes.<sup>22</sup>

Maria's testimony corroborated the appellant's on all material points.<sup>23</sup>

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<sup>17</sup> Original records, p. 41.

<sup>18</sup> Id. at 9.

<sup>19</sup> TSN, 31 March 2005, p. 25.

<sup>20</sup> TSN, 23 June 2005, pp. 2-7.

<sup>21</sup> Id.

<sup>22</sup> TSN, 23 June 2005, p. 7.

<sup>23</sup> TSN, 10 November 2005.

### ***Ruling of the RTC***

On 1 March 2006, the RTC rendered judgment<sup>24</sup> finding the appellant *guilty* beyond reasonable doubt of five (5) counts of rape as charged. In so finding, the RTC accorded full weight and credence upon the testimony of AAA but assigned little value upon the testimonies of the appellant and Maria.

Accordingly, the RTC sentenced the appellant to suffer *reclusion perpetua* and to pay AAA ₱50,000.00 civil indemnity and ₱50,000.00 moral damages, for each count of rape. The dispositive part of the judgment of the RTC reads:

WHEREFORE, premises considered, this Court finds the [appellant] Pacito Espejon y Lebios GUILTY beyond reasonable doubt of the crime of Rape in five (5) counts, hereby imposing upon him the penalty of Reclusion Perpetua for each count.

The [appellant] shall pay AAA the amount of P50,000.00 in civil indemnity for the rape committed. He shall further pay P50,000.00 to AAA in moral damages.

SO ORDERED.<sup>25</sup>

Aggrieved, the appellant filed an appeal with the Court of Appeals.

### ***Ruling of the Court of Appeals***

On 2 June 2011, the Court of Appeals rendered a decision<sup>26</sup> modifying the judgment of the RTC as follows:

- a. Appellant was found guilty of only two (2) counts of rape and three (3) counts of attempted rape.
- b. For each of the three (3) counts of attempted rape, appellant was sentenced to suffer an indeterminate penalty of two (2) years, four (4) months and one (1) day of prision correccional as minimum, to eight (8) years and one (1) day of prision mayor as maximum. Moreover, appellant was required to pay AAA civil

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<sup>24</sup> CA rollo, pp. 65-83.

<sup>25</sup> Id. at 83.

<sup>26</sup> Rollo, pp. 3-17.

indemnity of ₱30,000.00, moral damages of ₱25,000.00 and exemplary damages of ₱10,000.00.

- c. For the other two (2) counts of rape, appellant original sentence of *reclusion perpetua* for each count was retained. However, appellant was now adjudged to pay AAA, for each count of rape, a civil indemnity in the amount ₱75,000.00, moral damages in the amount of ₱75,000.00 and exemplary damages in the amount of ₱30,000.00.

In its decision, the Court of Appeals found the appellant guilty of only two (2) counts of rape and three (3) counts of *attempted* rape. The Court of Appeals held that, insofar as the evidence of the prosecution was concerned, the crime of rape was only established to have been *consummated* by the appellant during the events of 23 October and 9 November 2003 but not so during the 10 August, 28 September and 8 December 2003 incidents.<sup>27</sup> In this connection, the appellate court particularly pointed to the testimony of AAA with respect to events that took place on 10 August, 28 September and 8 December 2003—all relating that appellant's penis did not at all make contact with AAA's vagina.<sup>28</sup> Hence, given such void, the Court of Appeals opined that appellant was proven to have committed only the crime of *attempted* rape during the 10 August, 28 September and 8 December 2003 incidents.

Unsatisfied and adamant about his absolute innocence of all charges, appellant filed the present appeal before this Court.

### ***The Present Appeal***

In this appeal, appellant contends that the RTC and the Court of Appeals erred in giving full weight and credence upon the testimony AAA. He submits that the testimony of AAA is peppered with unexplained anomalies inconsistent with ordinary human experience that ultimately makes it unreliable and not deserving of belief. Appellant, in particular, cites the following anomalies in AAA's version:

1. It is unnatural that AAA did not immediately reveal to her parents about her being raped after the alleged first incident on 10 August 2003. It is contrary to human experience for an innocent barrio

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<sup>27</sup> Id. at 7-9, 11.

<sup>28</sup> Id.



lass, such as what AAA is portrayed to be, to not tell her parents about the degradation of her womanhood at the very first available occasion.<sup>29</sup>

2. It is illogical that AAA, after allegedly being forced to perform masturbation on the appellant, would still willingly accept ₱20.00 from the appellant. Such actuation by AAA defies reasonable expectations of how a supposed victim of rape would behave under the same circumstance.<sup>30</sup>

In view of these perceived inconsistencies in AAA's testimony, the appellant thus urges this Court to consider his alternate version of events as the truth of what happened in this case.

### OUR RULING

We deny the appeal. The RTC and the Court of Appeals did not err in giving the testimony of AAA, as opposed to the testimonies of the appellant and Maria, full weight and credence.

It is a well-settled rule in our jurisdiction that the assessment of a trial court in matters pertaining to the credibility of witnesses, are accorded great respect—if not finality—on appeal.<sup>31</sup> The rationale behind this rule is the recognition of the trial court's unique and distinctive position to be able to observe, first hand, the demeanor, conduct and attitude of the witness whose credibility has been put in issue.<sup>32</sup>

The above rule, however, is concededly *not* absolute. Indeed, this Court, in not a few cases, had underscored that factual findings of a trial court, including its assessment of credibility of a witness, may—by way of exception to the rule—be disturbed on appeal whenever there is a clear showing that it had “*overlooked certain facts of substance and of value which, if considered, might affect the outcome of the case.*”<sup>33</sup>

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<sup>29</sup> CA rollo, p. 62.

<sup>30</sup> Id. at 63.

<sup>31</sup> *People v. Piosang*, G.R. No. 200329, 5 June 2013, 697 SCRA 587, 594-595.

<sup>32</sup> *People v. Costelo*, 375 Phil. 381, 391 (1999).

<sup>33</sup> *People v. Realon*, 187 Phil. 765, 787 (1980), citing *People v. Repato*, 180 Phil. 388, 395 (1979) and *People v. Espejo*, 146 Phil. 894, 913-914 (1970). See also *People v. Laganzon, et al.*, 214 Phil. 294, 307 (1984) citing *People v. Surban*, 123 SCRA 232-233; *People v. Balmaceda*, 176 Phil. 430, 438-439 (1978); *People v. Ancheta*, 158 Phil. 542, 547-548 (1974); *People v. Geronimo*, 153 Phil. 1, 13 (1973) 53 SCRA 246; *People v. Abboc*, 152 Phil. 436, 444 – 445 (1973).

The appellant, in the present appeal, argues that the exception, rather than the general rule, ought to be applied in this case. It is claimed that the RTC and the Court of Appeals erred in their appreciation of AAA's testimony as they overlooked circumstances in the latter's version of events that makes the same implausible and unbelievable.

We do not agree.

*First.* The mere fact that AAA did not tell her parents about what happened to her immediately after the first incident on 10 August 2003 does not discredit her accusations of rape and sexual molestation against the appellant. Delay or vacillation in making a criminal accusation does not necessarily impair the credibility of witnesses if such delay is satisfactorily explained.<sup>34</sup> In this connection, fear of reprisal, social humiliation, familial considerations, and economic reasons have all been considered by this Court as sufficient explanations for such delay.<sup>35</sup>

In this case, AAA herself explained why she held her tongue after the first incident of 10 August 2003:

Atty. Fabio Albao, Jr.

Q: You did not exert effort to tell anybody [these] incidents because you wanted these things to be kept secret between you and [appellant]?

AAA

A: I was afraid of what [appellant] may do to me.<sup>36</sup>

AAA is young and has, presumably, an impressionable mind. Given her harrowing and traumatic experience with the appellant, it is thus not difficult to understand that AAA had grown to fear the appellant and what the latter may do should she decide to tell her parents what happened. We find such fear to be reasonably founded especially considering that appellant, as AAA revealed, is only a neighbor who frequently visits the house of her parents.<sup>37</sup>

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<sup>34</sup> *People v. Fuensalida*, 346 Phil. 463, 472 (1997), citing *People v. Gornes*, G.R. No. 104869, 23 February 1994, 230 SCRA 270, 279-280.

<sup>35</sup> *Id.* See also *People v. Lusa*, 351 Phil. 537, 546 (1998).

<sup>36</sup> TSN, 31 March 2005, p. 23.

<sup>37</sup> TSN, 31 March 2005, p. 22.

*Second.* AAA's receipt of ₱20.00 from the appellant right after the former was forced to masturbate the latter is not prejudicial to the accusations of rape or attempted rape against the appellant. It neither excuses appellant's dastardly acts nor implies AAA's consent thereto.

What is most notable is the fact that the money was an *unsolicited* thing that was handed to AAA after the ruttish subjection, such act which is indignity upon insult being part and parcel of the whole crime that started with the abductive taking to the bushes. The fear that numbed the person of AAA was, at the time of the lustful offer, still was overpowering.

Then too, we must consider that AAA is a *12-year-old* victim of rape whose reputation for purity and chastity had never been sullied prior to her encounters with the appellant. It is incomprehensible that for an ordinary 12-year-old *Filipina* girl, who hitherto had only the faintest notion of carnal matters if at all, would just suddenly, and without any explanation whatsoever, surrender herself to the sexual desires of a married man almost four times her elder in exchange for money.<sup>38</sup>

We, therefore, opine that it would be gravely erroneous to ascribe too much significance to AAA's act of receiving ₱20.00 from the appellant. It is the act of giving, parcel of the criminal whole as already stated, that must be given significance; not the forced and fearful acceptance.

Verily, it becomes abundantly clear to this Court that AAA's testimony regarding the events that took place on the 10<sup>th</sup> of August, the 28<sup>th</sup> of September, the 26<sup>th</sup> of October, the 9<sup>th</sup> of November and the 8<sup>th</sup> of December 2003 is deserving of the full weight and credence accorded to it by the RTC and the Court of Appeals. Such testimony is categorical, explicit and replete with the details of how appellant carried out his sexual designs against AAA. Against such testimony, and in the absence of any convincing proof that it was physically impossible for him to have been at the *locus criminis* at the time of the commission of the crimes, the denial and alibi of the appellant must inevitably fail.<sup>39</sup>

**WHEREFORE**, premises considered, the instant appeal is **DISMISSED**. The Decision dated 2 June 2011 of the Court of Appeals in CA-G.R. CEB CR-HC No. 00670 is hereby **AFFIRMED in toto**.

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<sup>38</sup> Appellant was 48 years old when he testified on 23 June 2005. See TSN, 23 June 2005, p. 2.


<sup>39</sup> *People v. Del Castillo*, 548 Phil. 721, 731 (2008).

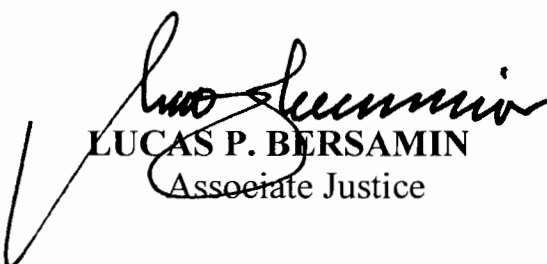
**SO ORDERED.**


  
**JOSE PORTUGAL PEREZ**  
Associate Justice

**WE CONCUR:**

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


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

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified 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.

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