



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 210430

Present:

VELASCO, JR.,  
*Chairperson,*  
PERALTA,  
VILLARAMA, JR.,  
REYES, and  
BERNABE,\* JJ.

- versus -

RONALD NICAL y ALMINARIO,  
Accused-Appellant.

Promulgated:

February 18, 2015,

X-----X

DECISION

REYES, J:

On automatic review is the Decision<sup>1</sup> dated April 26, 2013 of the Court of Appeals (CA), in CA-G.R. CR-HC No. 04072, which affirmed, with modification, the Decision<sup>2</sup> of the Regional Trial Court (RTC) of Dasmariñas, Cavite, Branch 90, in Criminal Case No. 4131-07 on June 5, 2009, convicting Ronald Nical y Alminario (accused-appellant) of the crime of Rape and imposing on him the penalty of *reclusion perpetua* and indemnity for the victim of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages and ₱25,000.00 as exemplary damages.

\* Additional Member per Raffle dated October 27, 2014 *vice* Associate Justice Francis H. Jardeleza.  
<sup>1</sup> Penned by Associate Justice Edwin D. Sorongon, with Associate Justices Hakim S. Abdulwahid and Marlene Gonzales-Sison concurring; *rollo*, pp. 83-94.  
<sup>2</sup> Issued by Executive Judge Perla V. Cabrera-Faller; *id.* at 9-13.

The Information dated August 28, 2007 charged the accused-appellant with the crime of rape, as follows:

That on or about the 23rd day of August, 2007, in the Municipality of Dasmariñas, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design and actuated by lust, by means of force, violence and intimidation, did, then and there, willfully, unlawfully and feloniously have carnal knowledge to one [AAA],<sup>3</sup> by inserting his [p]enis into her genital organ (vagina), against her will and consent, to the latter's damage and prejudice.

CONTRARY TO LAW.<sup>4</sup>

The accused-appellant pleaded not guilty on arraignment, and when trial ensued, the prosecution presented AAA, the victim, and Dr. Angelito Magno (Dr. Magno), a gynecologist at the Philippine General Hospital (PGH) who examined her. The accused-appellant testified alone in his defense.

AAA worked as a maid for a certain "Ate Michelle", who owned two adjacent houses, one described as "big" and the other "small", in Dasmariñas, Cavite. At around 1:00 p.m. on August 23, 2007, AAA was folding laundry in a room inside the big house when the accused-appellant, who was also a household helper staying in the small house, suddenly entered the room and immediately proceeded to embrace her. She tried to run but the accused-appellant grabbed her by her shorts and pushed her so hard against the concrete wall of the room that she hit her head against it and became dizzy. Sensing the dark intentions of the accused-appellant, AAA managed to stand up and kick him in the leg and run out of the room. The accused-appellant gave chase and caught up with her in the *sala*, where again he embraced her. At that point, AAA lost consciousness, and when she woke up, she was back inside the room she had fled, lying naked with the accused-appellant on top of her and half naked. The accused-appellant inserted his penis into her vagina and she felt pain, but she was able to muster enough strength to push him off with her knee and make her escape. She ran to the other house and told Nelyn Nacion (Nelyn), another maid, what the accused-appellant had just done to her. Nelyn then texted AAA's sister, BBB, who soon arrived, and they reported the incident to the *barangay* officials. Two days later, AAA submitted herself for examination by Dr. Magno at the PGH. From the hospital, BBB took her sister AAA away from her employer.<sup>5</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 her 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. 84.

<sup>5</sup> Id. at 10-11, 84-85.

Dr. Magno testified that he examined AAA and he entered the results in a Gynecologic Emergency Sheet. He found no signs of any injury, sexual abuse, lacerations, lesions and bleeding in the private parts of AAA, whose hymen he noted was no longer intact. Dr. Magno clarified that AAA could have had prior sexual intercourse months or years earlier, although his medical findings do not exclude the possibility that AAA was raped or sexually abused by the accused-appellant a few days earlier.<sup>6</sup>

The accused-appellant in his testimony claimed that at 1:00 p.m. on August 23, 2007, he was resting in the *sala* of the small house when AAA entered and sat on his stomach. Fearing that they might be seen by his employer, the accused-appellant pushed and shooed her away. But as he chased her off, AAA ran into a chair and tumbled. She hit her head on a hard object and lost consciousness. He lifted and carried her, laid her on the sofa and revived her by fanning and swabbing her face with a wet towel. The accused-appellant insisted that the reason AAA sued him for rape was because she was jealous of another maid, Joan, whom he was courting.<sup>7</sup>

### **Ruling of the RTC**

In its Decision<sup>8</sup> dated June 5, 2009, the RTC gave full credence to AAA's narration of her ordeal and found the accused-appellant guilty as charged:

WHEREFORE, premises considered, the Court hereby finds the accused guilty beyond reasonable doubt of the crime of simple rape, as defined and penalized under Article 335 of the Revised Penal Code and hereby sentences the accused to suffer the penalty of reclusion perpetua, and to pay the victim moral damages in the amount of Php50,000.00, civil indemnity *ex-delicto* in the amount of Php50,000.00 and exemplary damages in the amount of Php25,000.00. Costs against the accused.

SO ORDERED.<sup>9</sup>

### **Appeal to the CA**

On appeal to the CA, the accused-appellant maintained that the prosecution's evidence failed to meet the quantum of proof required to convict him. He asserted that the medical examination results negate AAA's claim that she was raped. They showed no physical injuries, sexual abuse and lacerations, and since her hymen is no longer intact, it could mean that she had intercourse months before.

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<sup>6</sup> Id. at 85.

<sup>7</sup> Id. at 85-86.

<sup>8</sup> Id. at 9-13.

<sup>9</sup> Id. at 13.

The accused-appellant also argued that the “loss of consciousness theory” advanced by the prosecution was incompatible with the information which alleged that he committed rape through force, violence and intimidation. Citing the case of *People v. Gavina*,<sup>10</sup> the accused-appellant maintained that his right to due process of law was violated because the element of unconsciousness was not alleged in the Information.

On April 26, 2013, the appellate court rendered judgment affirming the guilt of the accused-appellant, as follows:

**WHEREFORE**, premises considered, We **AFFIRM** the June 5, 2009 Decision of the Regional Trial Court of Dasmariñas, Cavite, Branch 90, subject to the modification that the award of exemplary damages is **INCREASED** from Php25,000.00 to **Php30,000.00; and, accused-appellant is further held liable to pay interest of 6% per annum** on the aspects of civil indemnity, moral damages and exemplary damages, reckoned from the finality of this Decision until full payment.

**SO ORDERED.**<sup>11</sup>

### **Automatic review by the Court**

In this automatic appeal, both the accused-appellant and the Office of the Solicitor General (OSG) waived the filing of supplemental briefs, since they would only be repeating their arguments in the court. The Court’s review of the assailed decisions yields no new matters that could prompt a reconsideration or reversal of the accused-appellant’s conviction.

### **The medical findings on AAA did not preclude rape**

In her testimony, AAA gave a clear, credible and complete narration of damning details showing that the accused-appellant did in fact assault her sexually. Pertinent portions of her testimony are reproduced below:

Pros. Jarlos: While you were inside the room of the other house, what transpired next?

A: Pagpasok ko po sa cuarto biglang pumasok si Ronald niyakap ako.

Q: Did you not lock the door when you were already inside the room?

A: Ini-locked ko po.

Q: How was he able to enter the room?

A: Mayroon po siyang susi.

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<sup>10</sup> 439 Phil. 898 (2002).

<sup>11</sup> CA *rollo*, p. 93.

Q: When he was already inside the room, what happened next?  
A: Nagpumiglas po ako sa kanya. Lalabas na sana ako nahawakan niya iyong shorts ko kaya nahila ako pabalik sa kwarto. Tinulak niya ako at nauntog ang ulo ko sa pader.

Q: What did you do when you accidentally bumped your head on the wall?  
A: Nakabangon pa po ako at tinadyakan ko si Ronald lumabas ako at hinabol niya ako.

Q: So, you kicked him and then you ran outside the room?  
A: Opo.

Q: What happened next?  
A: Inabutan nya ako dun sa sala, niyakap nya ako ulit at nawalan na ako ng malay.

Court: Bakit ka naman nawalan ng malay sa pagyakap nya lang sa iyo?  
A: Kasi po masakit ang ulo ko dahil nauntog ako. Noong nagising ako nasa kwarto na ako.

Pros. Jarlos: When you woke up, what did you find out?  
A: Masakit po ang ari ko.

Q: What about him? Where was he when you woke up?  
A: Nakapatong pa po sa akin.

Q: What was his attire when he was on top of you?  
A: Nakasuot po siya ng t-shirt tapos iyong shorts niya ay nakababa hanggang tuhod po.

Q: What about you?  
A: Nakahubad po.

Q: Nakahubo't hubad ka?  
A: Opo.

Pros. Jarlos: After you felt something painful, what did you do next?  
A: Pumunta na po ako sa kabila tapos inutusan ko iyong pinsan ko na ipa-test ako.

Q: What about him, what did he do when you left the house?  
A: Nandoon po sa bahay. Naiwan po siya doon.

Court: Papaano ka nakawala sa pagkakapatong sa iyo ni Ronald?  
A: Tinadyakan ko po siya. Hindi na niya ako hinabol uli.

Court: Naramdaman mo ba noong nagising ka na nasa ibabaw mo pa siya?  
A: Opo.

Court: Bakit nakaramdam ka ng masakit?  
A: Kasi po pinasok niya iyong ari niya sa ari ko.<sup>12</sup>

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<sup>12</sup>

Id. at 88-90.

The accused-appellant insisted that he could not be convicted of rape because the medical examination results showed that AAA suffered no lacerations, abrasions or contusions. But while AAA testified that she hit her head against the concrete wall and the hard knock caused her to pass out, Dr. Magno apparently conducted only vaginal and bodily examinations, and did not examine her for concussion or head contusion. Nonetheless, he admitted that while AAA had had previous sexual relations, it did not preclude the fact that she was sexually abused.<sup>13</sup>

It is settled that the absence of physical injuries or fresh lacerations does not negate rape, and although medical results may not indicate physical abuse or hymenal lacerations, rape can still be established since medical findings or proof of injuries are not among the essential elements in the prosecution for rape. As held in *People v. Campos*:<sup>14</sup>

But a medical examination is not indispensable in a prosecution for rape. In fact, there can be rape even if the medical examination shows no vaginal laceration. As we held in *People v. Dreu*—

It is of no moment either that the medical certificate fails to show that Josephine suffered any contusion or abrasion. Although the results of a medical examination may be considered strong evidence to prove that the victim was raped, such evidence is not indispensable in establishing accused-appellant's guilt or innocence. In *People v. Docena*, we stated:

That there was no medical examination report presented, sign of resistance during the actual copulation, or proof of violence committed against MARGIE does not detract from our conclusion that she was raped. A medical examination is not indispensable in a prosecution for rape. Medical findings or proof of injuries, virginity, or an allegation of the exact time and date of the commission of the crime are not essential in a prosecution for rape.<sup>15</sup> (Citations omitted)

In *People v. Alicante*,<sup>16</sup> the Court held that the accused may be convicted on the basis of the lone, uncorroborated testimony of the rape victim, provided that her testimony is clear, positive, convincing and consistent with human nature and the normal course of things.<sup>17</sup> Truly, the absence of lacerated wounds in the complainant's vagina does not negate

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<sup>13</sup> See Brief for the Appellee, id. at 63-64.

<sup>14</sup> 394 Phil. 868 (2000).

<sup>15</sup> Id. at 872.

<sup>16</sup> 388 Phil. 233 (2000).

<sup>17</sup> Id. at 249.

sexual intercourse.<sup>18</sup> In fact, as used in our Revised Penal Code (RPC), “carnal knowledge,” unlike its ordinary connotation of sexual intercourse, does not require that the vagina be penetrated or that the hymen be ruptured.<sup>19</sup>

The accused-appellant tried to impute jealousy on the part of AAA when she charged him with rape, yet he also admitted that he was not courting her. His testimony is rendered more incredible when he claimed that for a month before the alleged rape, the accused-appellant and AAA often exchanged kisses and “played around with each other,” and this was happening while he admitted to her that he was courting Joan. The actuations of AAA immediately after the rape belie his story. Although no person observed what transpired between him and AAA that afternoon of August 23, 2007, immediately after she managed to flee from her assailant, AAA told Nelyn that she had just been raped by the accused-appellant, and she asked her to text her sister BBB to come immediately. That same afternoon, after BBB arrived, they reported the incident to the *barangay* officials.

No young woman would admit that she was raped, make public the offense and allow the examination of her private parts, undergo the troubles and humiliation of a public trial and endure the ordeal of testifying to all the gory details, if she had not in fact been raped.<sup>20</sup>

**While the Information does not allege that the victim was unconscious when the accused-appellant raped her, it nevertheless alleges the element of use of force and violence by the accused-appellant which facilitated the commission of the rape.**

The accused-appellant insisted that the Information fatally failed to allege that he raped AAA while she was unconscious, as required under Article 266-A(1)(b) of the RPC. From AAA’s testimony, when she regained control of her senses, she was aware of the accused-appellant lying on top of her and inserting his penis into her vagina:

Pros. Jarlos: When you woke up, what did you find out?

A: Masakit po ang ari ko.

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<sup>18</sup> *People v. Banig*, G.R. No. 177137, August 23, 2012, 679 SCRA 133, 148, citing *People v. Ortoa*, 599 Phil. 232, 246-247 (2009).

<sup>19</sup> *People v. Colorado*, G.R. No. 200792, November 14, 2012, 685 SCRA 660, 673.

<sup>20</sup> *People v. Restoles*, 393 Phil. 413, 425 (2000).

Q: What about him? Where was he when you woke up?

A: Nakapatong pa po sa akin.

Q: What was his attire when he was on top of you?

A: Nakasuot po siya ng t-shirt tapos iyong shorts niya ay nakababa hanggang tuhod po.

Q: What about you?

A: Nakahubad po.

Q: Nakahubo't hubad ka?

A: Opo.

x x x x

Court: Naramdaman mo ba noong nagising ka na nasa ibabaw mo pa siya?

A: Opo.

Court: Bakit nakaramdam ka ng masakit?

A: Kasi po pinasok niya iyong ari niya sa ari ko.<sup>21</sup>

The accused-appellant now maintains that his right to due process was violated because he was convicted of a crime which was not alleged in the Information, invoking *Gavina*. In the said case, the Court overturned the conviction for rape because, while the Information alleged that the accused employed force and intimidation, the victim testified that he used no force but gave her a drink which made her unconscious, an element of the crime which the Information failed to allege. The Court said:

*Second*, in convicting appellant, the trial court relied upon a finding that complainant was unconscious when the appellant had carnal knowledge of her. This contradicts the allegation in the information. Appellant was charged with rape committed by means of force or intimidation. Otherwise put, his offense fell under Article 266-A (1) (a) of the Revised Penal Code. But in convicting him of rape committed while his victim was supposedly unconscious, the trial court applied Article 266-A (1) (b) of said Code.<sup>22</sup> The element of unconsciousness on the victim's part was not alleged much less specified in the information. It cannot be made the basis of conviction, without violating appellant's right to due process, in particular to be informed of the nature of the accusation against him. x x x.<sup>23</sup> (Citations omitted)

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<sup>21</sup> CA rollo, pp. 89-90.

<sup>22</sup> Art. 266-A. *Rape, When and How Committed*. – Rape is committed:  
(1) By a man having carnal knowledge of a woman under any of the following circumstances:  
a) Through force, threat, or intimidation;  
b) When the offended party is deprived of reason or otherwise unconscious;

x x x x

<sup>23</sup> *People v. Gavina*, supra note 10, at 908.



In another case, *People v. Mendigurin*,<sup>24</sup> the victim had a heart condition such that when the accused suddenly appeared and embraced her in a dark room, she was startled and fell unconscious. After the rape, the victim awoke and felt pain in her abdomen and noticed blood in her private part. At that moment, she saw the accused putting on his shorts with a smirk on his face. He then threatened her not to report the incident or else he would kill her sister. In acquitting the accused, the Court stated:

As the prosecution failed to present evidence to substantiate the charge of rape through force, threat and intimidation, we are duty-bound to uphold appellant's innocence. It is an elementary rule in criminal procedure that an accused cannot be convicted of an offense unless it is clearly charged in the complaint or information. If the prosecution in this case sought to convict appellant by proving that complainant was violated while in a state of unconsciousness, as provided under the 2<sup>nd</sup> paragraph of Article 355, the information should have stated so. We find, however, that the element of unconsciousness was not alleged much less specified in the information, which charged appellant for rape under the first circumstance. Hence, it cannot be made the basis of conviction without violating appellant's right to due process, in particular to be informed of the nature of the accusation against him. We have ruled that this right is accorded by the Constitution so that the accused can prepare an adequate defense against the charge against him. Convicting him of a ground not alleged while he is concentrating his defense against the ground alleged would plainly be unfair and underhanded.

The trial court, in holding for conviction, relied on the *praesumptio hominis* that no young Filipina would cry rape if it were not true. However, its decision totally disregarded the paramount constitutional presumption that an accused is deemed innocent until proven otherwise. Where the evidence gives rise to two possibilities, one consistent with the accused's innocence and the other indicative of his guilt, that which favors the accused should be properly considered.<sup>25</sup> (Citations omitted)

On the other hand, although the Information below does not allege that the accused-appellant raped AAA while she was unconscious, the prosecution however alleged and proved the use of force and violence against her. Article 266-A(1)(a) of the RPC was satisfied because accused-appellant grabbed and pulled AAA by her shorts and then pushed her hard against the concrete wall, and the impact of her head bouncing against the wall made her dizzy, weak, and then unconscious, and this enabled the accused-appellant to consummate his bestial design on her. Her unconsciousness resulted directly from the force and violence employed by the accused-appellant against her.

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<sup>24</sup> 456 Phil. 328 (2003).

<sup>25</sup> Id. at 343-344.

The accused-appellant is being charged under Article 266-A(1)(a) of the RPC, and the element of use of force is not in any way disproved when the RTC found that AAA was partly conscious when it said that the “private complainant felt the penis of the accused[-appellant] inside her vagina and she felt pain.”<sup>26</sup> The appellate court noted too that AAA was not totally unconscious, saying that this contradicted the accused-appellant’s insistence that the RTC found that she was unconscious during the rape. The OSG also did not agree that AAA was totally unconscious, but as the Court has already noted, this point is entirely irrelevant. What is clear is that sufficient force was used which facilitated the consummation of the accused-appellant’s lewd design when AAA became weak and momentarily unconscious.

Coming now to the imposable penalty, the lower courts correctly sentenced the accused-appellant to *reclusion perpetua* pursuant to Article 266-B and Article 266-A<sup>27</sup> of the RPC. As to the monetary damages, as held in *People of the Philippines v. Adel Ramos y Abellana*<sup>28</sup> and a long line of the latest cases, the accused-appellant is liable to AAA for civil indemnity in the amount of ₱50,000.00, moral damages of ₱50,000.00, exemplary damages of ₱30,000.00, plus six percent (6%) *per annum* interest on all these monetary awards<sup>29</sup> from finality hereof until full satisfaction.

**WHEREFORE**, premises considered, the Decision dated April 26, 2013 of the Court of Appeals in CA-G.R. CR-H.C. No. 04072, finding accused-appellant Ronald Nical y Alminario guilty beyond reasonable doubt of the crime of Rape, is **AFFIRMED**.

**SO ORDERED.**

  
**BIENVENIDO L. REYES**  
Associate Justice

<sup>26</sup> CA rollo, p. 12.

<sup>27</sup> 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;

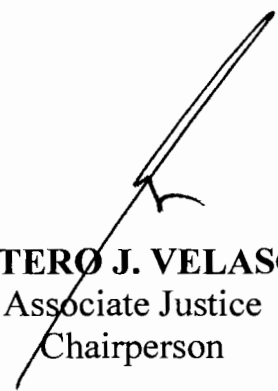
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Art. 266-B. *Penalty*. – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

<sup>28</sup> G.R. No. 200077, September 17, 2014.

<sup>29</sup> See Monetary Board Circular No. 799.

**WE CONCUR:**



**PRESBITERO J. VELASCO, JR.**

Associate Justice  
Chairperson



**DIOSDADO M. PERALTA**

Associate Justice



**MARTIN S. VILLARAMA, JR.**

Associate Justice



**ESTELA M. PERLAS-BERNABE**

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

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## 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

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