



Republic of the Philippines  
**Supreme Court**  
Manila

EN BANC

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

**G.R. No. 175592**

Present:

SERENO, C.J.,  
CARPIO,  
VELASCO, JR.,  
LEONARDO-DE CASTRO,  
\*BRION,  
\*\*PERALTA,  
BERSAMIN,  
\*\*\*DEL CASTILLO,  
PEREZ,  
MENDOZA  
REYES,  
\*\*\*\*PERLAS-BERNABE,  
LEONEN,  
\*\*\*\*\*JARDELEZA, and  
CAGUIOA, JJ.

- versus -

**EDISON C. MAGBITANG,**  
Accused-Appellant.

Promulgated:

June 14, 2016

x-----*Edison C. Magbitang*-----x

**DECISION**

**BERSAMIN, J.:**

Every child of sound mind with the capacity to perceive and make known his perception can be believed in the absence of any showing of an improper motive to testify.

· On official leave.  
\*\* On official leave.  
\*\*\* On wellness leave.  
\*\*\*\* No part due to prior participation in the Court of Appeals.  
\*\*\*\*\* On official leave.

## The Case

We resolve the appeal of accused Edison C. Magbitang of the July 21, 2006 decision,<sup>1</sup> whereby the Court of Appeals (CA) affirmed his conviction for the composite crime of rape with homicide.

## Antecedents

Magbitang was charged with rape with homicide under the information filed by the Provincial Prosecutor of Nueva Ecija on February 22, 1999 in the Regional Trial Court (RTC) in Guimba, Nueva Ecija, alleging as follows:

That on or about the 25<sup>th</sup> day of December 1998, in the Municipality of Guimba, Province of Nueva Ecija, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, and taking advantage of the tender age of one [AAA], a seven year old girl, and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of the latter against her will and without her consent and after having satisfied his bestial lust, the accused, with intent to kill, did then and there willfully, unlawfully and feloniously strangle the neck and choke the child victim to death, to the damage and prejudice of her family and heirs, in such amount as may be awarded to them under the Civil Code of the Philippines.

CONTRARY TO LAW.<sup>2</sup>

Evidence for the State shows that at around 5 p.m. of December 25, 1998, 7-year old AAA<sup>3</sup> asked permission from her mother, BBB, to go to a nearby store. BBB allowed her daughter to leave the house, but the child did not return home. Later that evening, the child's lifeless body was found by the riverbank. The post-mortem examination of her cadaver revealed that she had succumbed to asphyxiation, and that there were "incidental findings compatible to rape."<sup>4</sup> The lone witness to what had befallen AAA was 6-year old CCC, who recalled in court that he and AAA had been playing when Magbitang approached AAA; and that Magbitang brought AAA to his house. CCC testified on re-direct examination that he had witnessed Magbitang raping AAA (*inasawa*), as well as burning her face with a cigarette (*sininit-sinit*).<sup>5</sup>

<sup>1</sup> *Rollo*, pp. 3-21; penned by Associate Justice Hakim S. Abdulwahid (retired), with Associate Justice Andres B. Reyes, Jr. (now Presiding Justice) and Associate Justice Estela M. Perlas-Bernabe (now a Member of the Court) concurring.

<sup>2</sup> *Records*, p. 1.

<sup>3</sup> Pursuant to Republic Act No. 9262 (*Anti-Violence Against Women and Their Children Act of 2004*), and its implementing rules, the real names of the victims, as well those of their immediate family or household members, are withheld, and fictitious initials are instead used to represent them, to protect their privacy. See *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

<sup>4</sup> Exhibit "A," RTC records, p. 6.

<sup>5</sup> TSN, February 6, 2002, p. 3.

Magbitang, denying the accusation, claimed that he had attended a baptismal party on December 25, 1998, and had been in the party from 4:00 p.m. to 5:00 p.m.; that from the party he had gone looking for his nephew to have the latter tend to his watermelon farm; that he had returned home by around 6 p.m.; that at around 7:30 p.m., he had gone to his farm to check on his nephew; and that he and his wife had remained in the farm until 4 a.m. of the following day.<sup>6</sup>

### **Ruling of the RTC**

In its decision rendered on April 22, 2003,<sup>7</sup> the RTC found Magbitang guilty beyond reasonable doubt of rape with homicide, disposing as follows:

WHEREFORE, finding the accused guilty beyond reasonable doubt of the crime charged, this court hereby sentences him to death and to pay the heirs of [AAA], the following

1. ₱100,000.00 in actual damages for the death of Rachelle Mendoza, and
2. ₱50,000.00 in moral damages.

SO ORDERED.<sup>8</sup>

The RTC held that CCC had the capacity to observe, recollect and communicate what he had witnessed; hence, he was entitled to credence. It ruled that sufficient circumstantial evidence pointing to Magbitang as the author of the rape with homicide existed in the records considering his being the last person seen with AAA; that he had admitted leaving the drinking session at the party around 4:00 p.m. or 5:00 p.m., thereby substantiating CCC's testimony; and that AAA's lifeless body had been found at the back of his house.

### **Ruling of the CA**

On appeal, the CA affirmed the conviction. It agreed with the RTC that CCC was a competent witness despite his tender age because he showed his capacity to observe, recollect and communicate whatever he had witnessed; that CCC, being only a child, was not expected to give the exact details of the incident he had witnessed; that CCC was able to positively identify Magbitang during the trial as the culprit;<sup>9</sup> and that the evidence adduced by the Defense consisted only of the uncorroborated and self-serving testimony by Magbitang.

<sup>6</sup> TSN, April 24, 2002, pp. 2-6

<sup>7</sup> CA *rollo*, pp. 24-27; penned by Judge Ismael P. Casabar..

<sup>8</sup> *Id.* at 27.

<sup>9</sup> *Rollo*, pp. 16-19.

### Issues

In this appeal, Magbitang contends that the CA committed the following reversible errors, to wit:

#### I

THE TRIAL COURT GRAVELY ERRED IN GIVING CREDENCE TO THE MATERIALLY INCONSISTENT TESTIMONY OF THE 6-YEAR OLD WITNESS [CCC].

#### II

THE LOWER COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF RAPE WITH HOMICIDE DEPSITE THE FACT THAT THE LATTER'S GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

#### III

THE LOWER COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF RAPE WITH HOMICIDE BASED ON CIRCUMSTANTIAL EVIDENCE.<sup>10</sup>

### Ruling of the Court

We sustain the conviction but modify the penalty.

To start with, the Court generally defers to the factual findings of the trial court by virtue of the latter's better position to observe and determine matters of credibility of the witnesses, having heard the witnesses and observed their deportment during trial.<sup>11</sup> This deference becomes firmer when the factual findings of the trial court were affirmed by the intermediate reviewing court. The Court does not disturb such factual findings unless the consideration of certain facts of substance and value that were plainly overlooked or misappreciated by the lower courts could affect the outcome of the case.<sup>12</sup>

A review of the records persuades the Court to declare that the RTC and the CA correctly appreciated the evidence adduced herein. Hence, their factual findings are upheld.

Secondly, Magbitang's contention that CCC, being a child of tender age, was not a competent witness because his testimony was filled with inconsistencies and suffered from improbabilities was unfounded.

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<sup>10</sup> CA rollo, p. 42.

<sup>11</sup> *People v. Ending*, G.R. No. 183827, November 12, 2012, 685 SCRA 180, 190.

<sup>12</sup> *People v. Mangune*, G.R. No. 186463, November 14, 2012, 685 SCRA 578, 588-589.

Under the *Rules of Court*, a child may be a competent witness, unless the trial court determines upon proper showing that the child's mental maturity is such as to render him incapable of perceiving the facts respecting which he is to be examined and of relating the facts truthfully.<sup>13</sup> The testimony of the child of sound mind with the capacity to perceive and make known the perception can be believed in the absence of any showing of an improper motive to testify.<sup>14</sup> Once it is established that the child fully understands the character and nature of an oath, the testimony is given full credence.<sup>15</sup> In the case of CCC, the Defense did not persuasively discredit his worthiness and competence as a witness. As such, the Court considers the reliance by the trial court on his recollection fully justified.

And, thirdly, we dismiss the argument of Magbitang that the trial court erroneously relied on circumstantial evidence to establish his criminal responsibility for the rape with homicide. The evidence of guilt against him consisted in both direct and circumstantial evidence. The direct evidence was supplied by CCC's testimony, while the circumstantial evidence corroborated CCC's testimony. Such evidence, combined, unerringly pointed to Magbitang, and to no other, as the culprit.

In this connection, it is worth reminding that circumstantial evidence is not necessarily weaker in persuasive quality than direct evidence. As the Court said in *People v. Villaflores*:<sup>16</sup>

We have often conceded the difficulty of proving the commission of rape when only the victim is left to testify on the circumstances of its commission. The difficulty heightens and complicates when the crime is *rape with homicide*, because there may usually be no living witnesses if the rape victim is herself killed. Yet, the situation is not always hopeless for the State, for the *Rules of Court* also allows circumstantial evidence to establish the commission of the crime as well as the identity of the culprit. Direct evidence proves a fact in issue directly without any reasoning or inferences being drawn on the part of the factfinder; in contrast, circumstantial evidence indirectly proves a fact in issue, such that the factfinder must draw an inference or reason from circumstantial evidence.<sup>17</sup> To be clear, then, circumstantial evidence may be resorted to when to insist on direct testimony would ultimately lead to setting a felon free.<sup>18</sup>

The *Rules of Court* makes no distinction between direct evidence of a fact and evidence of circumstances from which the existence of a fact may be inferred; hence, no greater degree of certainty is required when the evidence is circumstantial than when it is direct. In either case, the trier of

<sup>13</sup> Section 21(b), Rule 130, *Rules of Court*.

<sup>14</sup> *People v. Gacho*, G.R. No. 60990, 23 September 1983, 124 SCRA 677.

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

<sup>16</sup> G.R. No. 184926, April 11, 2012, 669 SCRA 365, 384.

<sup>17</sup> *Id.*, citing *People v. Ramos*, G.R. No. 104497, January 18, 1995, 240 SCRA 191, 198; citing Gardner, *Criminal Evidence, Principles, Cases and Readings*, West Publishing Co., 1978 ed., p. 124.

<sup>18</sup> *Id.*, citing *Amora v. People*, G.R. No. 154466, January 28, 2008, 542 SCRA 485, 491.

fact must be convinced beyond a reasonable doubt of the guilt of the accused.<sup>19</sup> Nor has the quantity of circumstances sufficient to convict an accused been fixed as to be reduced into some definite standard to be followed in every instance. Thus, the Court said in *People v. Modesto*:<sup>20</sup>

The standard postulated by this Court in the appreciation of circumstantial evidence is well set out in the following passage from *People vs. Ludday*:<sup>21</sup> “No general rule can be laid down as to the quantity of circumstantial evidence which in any case will suffice. All the circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent, and with every other rational hypothesis except that of guilt.”

Notwithstanding our concurrence with the findings of the RTC and the CA, we reduce the penalty of death to *reclusion perpetua* in view of the intervening enactment of Republic Act No. 9346,<sup>22</sup> but without eligibility for parole of Magbitang.<sup>23</sup>

Conformably with the ruling in *People v. Jugueta*,<sup>24</sup> which the Court recently promulgated in order to lay to rest the inconsistencies in the fixing of damages as part of the civil liabilities in crimes, we modify the awards by imposing civil indemnity of ₱100,000.00; moral damages of ₱100,000.00; and exemplary damages of ₱100,000.00 because the penalty of death, although proper, had to be reduced to *reclusion perpetua* in deference to the application of Republic Act No. 9346.<sup>25</sup> In addition, although we delete the actual damages for failure to prove them, the heirs of AAA were entitled to temperate damages of ₱50,000.00.

Lastly, interest at the rate of 6% *per annum* shall be charged on all the damages herein awarded reckoned from the finality of this decision.<sup>26</sup>

**WHEREFORE**, the Court **AFFIRMS** the conviction of **EDISON C. MAGBITANG** for rape with homicide; **REDUCES** his penalty from death to *reclusion perpetua*, without eligibility for parole pursuant to Republic Act No. 9346; **DELETES** the award of actual damages; **GRANTS** to the heirs of AAA temperate damages of ₱50,000.00, exemplary damages of

<sup>19</sup> Id., citing *People v. Ramos*, *supra*, note 14; citing *Robinson v. State*, 18 Md. App. 678, 308 A2d 734 (1973).

<sup>20</sup> No. L-25484, September 21, 1968, 25 SCRA 36, 41.

<sup>21</sup> 61 Phil. 216, 221-222 (1935).

<sup>22</sup> *An Act Prohibiting the Imposition of Death Penalty in the Philippines (repealing Republic Act 8177 otherwise known as the Act Designating Death by Lethal Injection, Republic Act 7659 otherwise known as the Death Penalty Law and All Other Laws, Executive Orders and Decrees)*.

<sup>23</sup> Section 3, R.A. No. 9346.

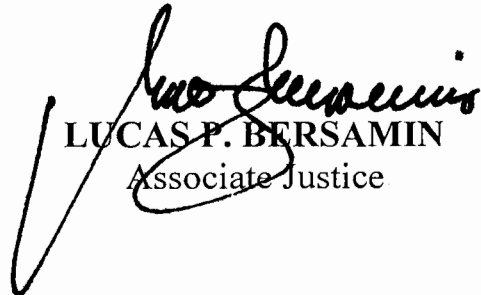
<sup>24</sup> *People v. Jugueta*, G.R. No. 202124, April 5, 2016.

<sup>25</sup> See *People v. Notarion*, G.R. No. 181493, August 28, 2008, 563 SCRA 618, 631.


<sup>26</sup> *People v. Combate*, G.R. No. 189301, December 15, 2010, 638 SCRA 797, 824; *Nacar v. Gallery Frames*, G.R. No. 189871, August 13, 2013, 703 SCRA 439.


₱100,000.00, civil indemnity of ₱100,000.00, and moral damages of ₱100,000.00; **IMPOSES** interest of 6% *per annum* on all the damages herein awarded reckoned from the finality of this decision; and **ORDERS** the appellant to pay the costs of suit.


**SO ORDERED.**


  
**LUCAS P. BERSAMIN**  
Associate Justice

**WE CONCUR:**

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

  
**ANTONIO T. CARPIO**  
Associate Justice

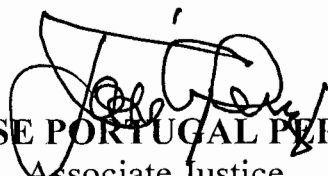
  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice

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

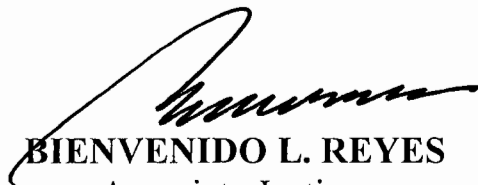
(On Official Leave)  
**ARTURO D. BRION**  
Associate Justice

(On Official Leave)  
**DIOSDADO M. PERALTA**  
Associate Justice


(On Wellness Leave)  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

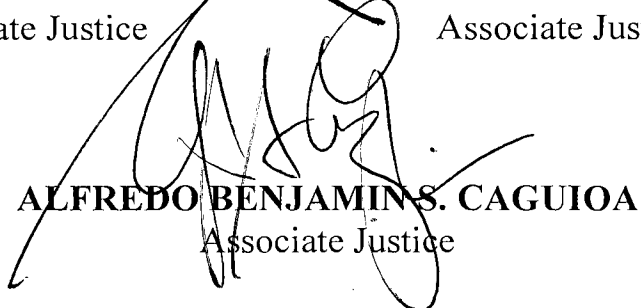
  
**JOSE CATRAL MENDOZA**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

(No Part)  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice


  
**MARVIC M.V.F. LEONEN**  
Associate Justice

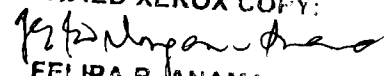
(On Official Leave)  
**FRANCIS H. JARDELEZA**  
Associate Justice

  
**ALFREDO BENJAMINS. CAGUIOA**  
Associate Justice

**CERTIFICATION**

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.

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

**CERTIFIED XEROX COPY:**  
  
**FELIPA B. ANAMA**  
CLERK OF COURT, EN BANC  
SUPREME COURT