Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee,	**G.R. No. 175327**
	Present:
- *versus* -	SERENO, *CJ.*, Chairperson, LEONARDO-DE CASTRO, BERSAMIN, VILLARAMA, JR., and PEREZ,* *JJ.*
EDMUNDO VITERO, Accused-Appellant.	Promulgated: **APR 3 2013**

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DECISION

LEONARDO-DE CASTRO, *J*.:

Before Us is the appeal from the Decision[1] dated July 18, 2006 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00070, affirming the Decision dated October 9, 2003[2] of the Regional Trial Court (RTC), Branch 13, Ligao City,[3] in Criminal Case Nos. 4242-47, which found accused-appellant Edmundo Vitero guilty beyond reasonable doubt of the crime of qualified rape as defined by Article 266-A, paragraph 1(a),[4] in relation to Article 266-B, paragraph 5(1)[5] of the Revised Penal Code, as amended by Republic Act No. 8353. In lieu of the death penalty originally imposed by the RTC, the Court of Appeals sentenced accused-appellant to suffer the penalty of *reclusion perpetua*, pursuant to Republic Act No. 9346.[6]

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* Per Raffle dated March 13, 2013.

1 *Rollo,* pp. 3-30; penned by Associate Justice Enrico A. Lanzanas with Associate Justices Bienvenido L. Reyes (now a member of this Court) and Regalado E. Maambong, concurring.

2 CA *rollo,* pp. 17-27; penned by Judge Pedro R. Soriao.

3 The Municipality of Ligao, Province of Albay, became the City of Ligao by virtue of Republic Act No. 9008 enacted on February 21, 2001. Depending on the time frame, Ligao is referred to herein as a municipality or a city.

4 *Infra.*

5 *Infra.*

6 An Act Prohibiting the Imposition of Death Penalty, which took effect on June 24, 2006.

Accused-appellant was charged with six counts of rape in six Informations filed before the RTC on March 21, 2001, which uniformly read:

> That sometime in the month of April, 1998, at around 7:00 o'clock in the evening, more or less, at Barangay [XXX], Municipality of Ligao, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd and unchaste design, by means of force, threat and intimidation, did then and there wilfully, unlawfully and feloniously have carnal knowledge [of] his own daughter, 13-year-old [AAA[7]], against her will and consent, to her damage and prejudice.[8]

When arraigned on June 14, 2001, accused-appellant pleaded not guilty to all six rape charges.

The six rape cases against accused-appellant were jointly tried.

The prosecution presented as witnesses AAA, the victim herself; BBB, the mother of AAA; and Doctor Lea Remonte (Dr. Remonte), Ligao Municipal Health Officer. It also submitted as documentary evidence the Marriage Certificate of accused-appellant and BBB, the Birth Certificate of AAA, and the Medico-Legal Report of Dr. Remonte.

The defense, for its part, called to the witness stand accused-appellant himself; Ireneo Vitero (Ireneo), accused-appellant's uncle;[9] and Vilma Prelligera (Vilma), accused-appellant's sister.

The RTC rendered a Decision on October 9, 2003. According more weight and credibility to the testimonies of the prosecution witnesses as compared to those of the defense, the trial court found accused-appellant guilty beyond reasonable doubt of raping his minor daughter, AAA. However, the RTC held that the prosecution was only able to prove one of the six counts of rape against accused-appellant. Thus, the RTC decreed:

> WHEREFORE, Premises Considered, judgment is rendered finding the accused EDMUNDO VITERO GUILTY beyond reasonable doubt of committing the crime of RAPE for one (1) count as such crime is defined and punished by Article 266-A, paragraph 1, sub-paragraph a, in relation to Article 266-B, fifth paragraph, sub-paragraph 1, The Revised Penal Code, As Amended by Republic Act No. 8353, and this Court hereby imposes on him the supreme penalty of DEATH. As his civil liability, he shall pay the victim [AAA] the amount of 75,000 pesos as civil indemnity, the amount of 50,000 pesos as moral damages, and the

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7 The real name of the victim is withheld to protect her identity and privacy pursuant to Section 29 of Republic Act No. 7610, Section 44 of Republic Act No. 9262, and Section 40 of A.M. No. 04-10-11-SC. *See* our ruling in *People v. Cabalquinto*, 533 Phil. 703 (2006).

8 Records, p. 20.

9 TSN, October 29, 2002, pp. 3-4.

> amount of 25,000 pesos as exemplary damages. He shall pay the costs of suit.
>
> For the other remaining five (5) counts of rape, finding reasonable doubt, this Court finds the [accused-appellant] EDMUNDO VITERO NOT GUILTY, and hereby ACQUITS him of such criminal charges.
>
> Elevate the entire record[s] of the six (6) above-entitled cases to the Honorable Supreme Court for automatic review and judgment by such Court en banc pursuant to Article 47 of The Revised Penal Code, As Amended by Section 22 of Republic Act No. 7659.[10]

The entire records of the cases were brought before us, but we transferred the same to the Court of Appeals in a Resolution[11] dated August 24, 2004, pursuant to our ruling in *People v. Mateo*.[12]

The Court of Appeals summarized the evidence of the prosecution, to wit:

> Edmundo Vitero, accused, and [BBB] were married on April 5, 1984. Out of the marriage, they begot six (6) children, four (4) girls ([AAA], the eldest, [CCC], [DDD] and [EEE]) and two (2) boys ([FFF] and [GGG]). In September 1996, accused and BBB separated. She left the conjugal home bringing with her [CCC], [EEE], and [GGG] and established her own residence at Barangay [XXX], Polangui, Albay.
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> [AAA], [DDD] and [FFF] were left to the custody of the accused. They transferred to the house of the parents of the accused at Barangay [XXX], Ligao City, Albay. The said house, a one-storey structure has two (2) rooms. One room was occupied by the parents of the accused while the other was occupied by accused and his three children.
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> Sometime in the month of April 19[9]8, at around 7 o'clock in the evening, [AAA], then already thirteen (13) years old, having been born on April 30, 1985, was sleeping in their room with the accused, her sister [DDD], and her brother [FFF]. [AAA] slept in the extreme right portion of the room, immediately beside the wall separating their room from that [of] her grandparents. To her left was the accused followed by [DDD] and [FFF].
>
> [AAA] was roused from her sleep when she felt somebody on top of her. When she opened her eyes, she saw her own father mounting her. After stripping [AAA] naked, accused brought out his penis and inserted it into [AAA's] vagina and made a pumping motion. At the same time, he was kissing her lips and neck and fondling her breasts. [AAA] felt searing pain and her vagina bled. She started to cry, but he was unmoved and warned her not to make any noise. She tried to resist his lewd desires, but her efforts were in vain. She did not shout for help because she feared accused who [had] a 20-inch knife beside him might kill her. After ravishing [AAA], accused dressed himself and went back to sleep. Because of the harrowing experience she suffered from the hands of her

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10 CA *rollo*, p. 27.

11 Id. at 39A.

12 G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

> own father, [AAA] was not able to sleep anymore. [AAA] did not report her ordeal to her grandparents for fear they would only scold her.
>
> Sometime in 1998, between the months of May and September, appellant brought [AAA] to the house of his sister Salvacion at Lian, Batangas.
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> Meantime, [HHH], [AAA's] maternal grandfather, visited his daughter [BBB], and showed to her an anonymous letter stating that [AAA] had been raped by [her] father. Thereafter, [BBB] went to see Salvacion, her sister-in-law in her house at Lian, Batangas to look for [AAA], but she did not find her. She, however, got word that [AAA] had already gone home. Frustrated and weary, [BBB] went back to Bicol and looked for [AAA] in her [grandparents'] house at Barangay [XXX], Ligao City, Albay, but the house was empty. [BBB] learned that [AAA] had been brought back to Lian, Batangas.
>
> She finally found [AAA] in the house of her employer in Lian, Batangas in November 2000. [BBB] asked [AAA] if she was indeed raped by her father. [AAA] disclosed that accused ravished her six (6) times while they were still living in her [grandparents'] house. He usually raped [AAA] at night when she and her siblings were already sleeping in their room. Upon learning of her suffering, she brought [AAA] with her to Guinobatan, Albay. They reported the incident to the Ligao Police Station and with the help of the [Department of Social Welfare and Development (DSWD)], they went to see a doctor for [AAA's] medical examination.
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> On November 17, 2000, Dr. Lea F. Remonte, the City Health Officer of Ligao City, examined [AAA]. Her Medico-Legal Certificate revealed the following findings:
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> > Genitalia: Normal external genitalia, nulliparous introitus, scanty pubic hair over mons pubis.
> >
> > - Labia minora protruding beyond labia majora.
> > - Hymen not intact, presence of healed laceration at 5:00 o'clock position.
> > - Vagina admits examining finger with ease.
> > - No discharge nor blood noted upon withdrawal of the examining finger.
> > - Patient was on her 5th day of menstruation when the examination was done (Exhibit "C," p. 7, Records)
>
> Dr. Remonte testified that sexual intercourse is the number one cause of hymenal laceration.[13]

The evidence for the defense, on the other hand, was recapitulated as follows:

> Accused Edmundo vigorously denied the allegations against him. He testified that from 1996 to 2000, he was employed as a construction worker in Manila. However, upon his return to Albay, he learned that he

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13 *Rollo*, pp. 5-9.

> was criminally charged with raping his own daughter [AAA]. He further stated that such charge was fabricated by his wife. According to him, [AAA] was not working as house help in Batangas. She just stayed where his sister resides.
>
> For his part, Ireneo Vitero corroborated the testimonies of the accused. He testified that in 1996, while working in Manila, accused stayed in his house for two (2) weeks. In fact, it was he who recommended the accused to his friend who was a construction foreman. It was only in 2000, when he returned to Albay.
>
> His sister Virginia attested that in 1996, accused left Albay as she was the one who financed his fare in going to Manila.[14]

In its Decision dated July 18, 2006, the Court of Appeals affirmed the judgment of conviction of the RTC. However, the penalty was modified because of Republic Act No. 9346. Accused-appellant was sentenced to suffer the penalty of *reclusion perpetua* in lieu of death. The dispositive portion of the appellate court's Decision is quoted hereunder:

> **WHEREFORE**, the appealed Decision dated October 9, 2003 of the [RTC], Branch 13, Ligao City, finding appellant Edmundo Vitero guilty of the crime of **qualified rape** is hereby **AFFIRMED** *in toto*. In lieu of the death penalty imposed by the trial court, appellant is hereby sentenced to suffer the penalty of ***RECLUSION PERPETUA***, pursuant to Republic Act No. 9346. As his civil liability, he shall pay the victim AAA the amount of 75,000 pesos as civil indemnity, the amount of 50,000 pesos as moral damages and the amount of 25,000 pesos as exemplary damages. He shall pay the cost of suit.
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> Costs *de officio*.[15]

Undeterred, accused-appellant filed his Notice of Appeal[16] and brought his case before us.

Both plaintiff-appellee[17] and accused-appellant[18] filed their respective Manifestations stating that they were no longer filing supplemental briefs and were adopting the briefs they submitted to the Court of Appeals.

Accused-appellant seeks his acquittal on the sole ground that:

> THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT

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14 Id. at 10.
15 Id. at 29-30.
16 CA *rollo*, pp. 175-177.
17 *Rollo*, pp. 36-38.
18 Id. at 32-34.

Accused-appellant essentially argues that AAA's testimony was "highly incredible and illogical"[19] as she had ample opportunity to ask for help. According to AAA herself, at the time of the alleged rape, her siblings were sleeping right beside her and accused-appellant in the room, while her grandparents were right in the next room.[20] Accused-appellant also highlights AAA's delay in reporting the purported rape and instituting a criminal case against him, and further implies that AAA might have some sinister or ulterior motive in falsely charging him with rape. Moreover, accused-appellant's alibi that he was living and working in Manila from 1996 to 2000 was corroborated by two witnesses.[21]

There is no merit in the instant appeal. We find no reason to disturb the findings of the trial and the appellate courts.

Accused-appellant was charged with qualified rape, defined and punishable under the following provisions of the Revised Penal Code, as amended by Republic Act No. 8353:

> Article 266-A. *Rape, When and How Committed.* – Rape is committed –
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> 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
>
> Article 266-B. *Penalties.* – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua.*
>
> x x x x
>
> The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:
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> 1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law-spouse of the parent of the victim.

The elements of the crime charged against accused-appellant are: (a) the victim is a female over 12 years but under 18 years of age; (b) the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law

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19 CA *rollo*, p. 47.
20 Id. at 50.
21 Id. at 53.

spouse of the parent of the victim; and (c) the offender has carnal knowledge of the victim either through force, threat, or intimidation.[22]

There is no dispute that the first two elements exist in this case. Documentary and testimonial evidence, including accused-appellant's own admission, establish that AAA is the daughter of accused-appellant and BBB and she was born on April 30, 1985. This means that AAA was almost or already 13 years old when she was raped in April 1998.

As to the third element of the crime, both the RTC and the Court of Appeals ruled that it was duly proven as well, giving weight and credence to AAA's testimony. AAA was able to describe in detail how accused-appellant mounted her, undressed her, and successfully penetrated her against her will, one night in April 1998. The RTC described AAA's testimony to be "frank, probable, logical and conclusive,"[23] while the Court of Appeals declared it to be "forthright and credible"[24] and "impressively clear, definite, and convincing."[25] Relevant herein is our pronouncements in *People v. Manjares*[26] that:

> In a prosecution for rape, the accused may be convicted solely on the basis of the testimony of the victim that is credible, convincing, and consistent with human nature and the normal course of things, as in this case. There is a plethora of cases which tend to disfavor the accused in a rape case by holding that when a woman declares that she has been raped, she says in effect all that is necessary to show that rape has been committed and, where her testimony passes the test of credibility, the accused can be convicted on the basis thereof. Furthermore, the Court has repeatedly declared that it takes a certain amount of psychological depravity for a young woman to concoct a story which would put her own father to jail for the rest of his remaining life and drag the rest of the family including herself to a lifetime of shame. For this reason, courts are inclined to give credit to the straightforward and consistent testimony of a minor victim in criminal prosecutions for rape.
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> x x x [W]hen the issue focuses on the credibility of the witnesses or the lack of it, the assessment of the trial court is controlling because of its unique opportunity to observe the witness and the latter's demeanor, conduct, and attitude especially during the cross-examination unless cogent reasons dictate otherwise. Moreover, it is an established rule that findings of fact of the trial court will not be disturbed on appeal unless some facts or circumstances of weight have been overlooked, misapprehended, or misinterpreted which would otherwise materially affect the disposition of the case. x x x. (Citations omitted.)

We reiterate that the rule is that the findings of the trial court, its calibration of the testimonies of the witnesses, and its assessment of the probative weight thereof, as well as its conclusions anchored on said

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22 *People v. Arcillas*, G.R. No. 181491, July 30, 2012, 677 SCRA 624, 634.
23 CA *rollo*, p. 22.
24 *Rollo*, p. 14.
25 Id. at 22.
26 G.R. No. 185844, November 23, 2011, 661 SCRA 227, 243-244.

findings are accorded respect if not conclusive effect. This is truer if such findings were affirmed by the appellate court. When the trial court's findings have been affirmed by the appellate court, as in the case at bar, said findings are generally binding upon us. We find no reason to depart from the general rule.

Accused-appellant's attempts at damaging AAA's credibility are unpersuasive. AAA's account that accused-appellant was able to have carnal knowledge of her in April 1998 was corroborated by the results of Dr. Remonte's physical examination of AAA, showing hymenal laceration at 5 o'clock position, indicating sexual intercourse.

That AAA did not shout for help should not be taken against her. In *People v. Sale*,[27] we rejected a similar argument raised by the accused-appellant therein, thus:

> *Third.* Accused-appellant likewise found it suspicious why the private complainant did not shout for help while she was being raped considering that the bunkhouse where the alleged rapes occurred is quite near several offices and buildings where people also stay during the night. According to accused-appellant, the act of complainant in not shouting for help while she was being molested is not consistent with common experience as she should have shouted for help as she knew fully well that there were people nearby.
>
> Again, the argument of accused-appellant deserves scant consideration. **Different people react differently to different situations and there is no standard form of human behavioral response when one is confronted with a frightful experience.** While the reaction of some women, when faced with the possibility of rape, is to struggle or shout for help, still others become virtually catatonic because of the mental shock they experience. In the instant case, it is not inconceivable or improbable that [private complainant], being of tender age, would be intimidated into silence by the threats and actions of her father. (Emphasis supplied; citations omitted.)

We have also previously pronounced that in incestuous rape cases, the father's abuse of the moral ascendancy and influence over his daughter can subjugate the latter's will thereby forcing her to do whatever he wants. Otherwise stated, the moral and physical dominion of the father is sufficient to cow the victim into submission to his beastly desires.[28] Even so, it is notable in this case that accused-appellant did not only use his moral ascendancy and influence over AAA as her father, he employed actual force and intimidation upon her. AAA recounted on the stand that accused-appellant "boxed" her on her right shoulder, near her armpit. When AAA tried to push accused-appellant away from her and to turn her body away from him, accused-appellant pulled her back. Additionally, accused-appellant had a 20-inch knife close by as he was sexually molesting AAA.

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[27] 399 Phil. 219, 240 (2000).

[28] *People v. Dominguez, Jr.*, G.R. No. 180914, November 24, 2010, 636 SCRA 134, 159.

AAA's delay in reporting the rape is understandable. As we declared in *People v. Sinoro*[29]:

> At the outset, we note that the initial reluctance of a rape victim to publicly reveal the assault on her virtue is neither unknown nor uncommon. It is quite understandable for a young girl to be hesitant or disinclined to come out in public and relate a painful and horrible experience of sexual violation. x x x.
>
> Indeed, the vacillation of a rape victim in making a criminal accusation does not necessarily impair her credibility as a witness. Delay in reporting the crime neither diminishes her credibility nor undermines her charges, particularly when the delay can be attributed to a pattern of fear instilled by the threats of one who exercises moral ascendancy over her. (Citations omitted.)

As for AAA, not only was her rapist her own father, but she was also living amongst her father's relatives. AAA was even brought far away from her hometown in Albay and made to stay with accused-appellant's sister in Batangas, isolating her from people and places she had known all her life. It was only when BBB finally found AAA in 2000 and took AAA with her did AAA felt safe enough to narrate to BBB what accused-appellant did to her two years ago.

In contrast, accused-appellant's defenses, consisting of mere denial and alibi, fail to persuade us. As we explained in *People v. Ogarte*[30]:

> This Court has uniformly held, time and again, that both "denial and alibi are among the weakest, if not the weakest, defenses in criminal prosecution." It is well-settled that denial, if unsubstantiated by clear and convincing evidence, is a self-serving assertion that deserves no weight in law.
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> In *People v. Palomar*, we explained why alibi is a weak and unreliable defense:
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> > Alibi is one of the weakest defenses not only because it is inherently frail and unreliable, but also because it is easy to fabricate and difficult to check or rebut. It cannot prevail over the positive identification of the accused by eyewitnesses who had no improper motive to testify falsely. x x x.
>
> We have also declared that in case of alibi, the accused must show that he had strictly complied with the requirements of time and place:
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> > In the case of alibi, it is elementary case law that the requirements of time and place be strictly complied with by the defense, meaning that the accused must not only show that he was somewhere else but that it was also physically

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29 449 Phil. 370, 381 (2003).

30 G.R. No. 182690, May 30, 2011, 649 SCRA 395, 413-414.

> impossible for him to have been at the scene of the crime at the time it was committed. x x x. (Citations omitted.)

Accused-appellant's alibi is that he was continuously living and working in Metro Manila from 1996 to 2000. Even when accused-appellant presented two corroborating witnesses, we are not convinced. Vilma could only testify on giving accused-appellant the money which he used to go to Metro Manila in 1996. Ireneo admitted that accused-appellant did not live permanently at his house in Metro Manila, and accused-appellant would usually visit only during weekends. Moreover, the RTC observed that:

> The defense witnesses could not identify the names of the construction companies that hired the accused Edmundo Vitero, their exact addresses, much less identified the names of his co-workers. As can be seen of record, nobody among his working companions testified in court to vouch for his physical presence at any time at any of the construction working sites in Metro Manila. The whereabouts of the accused Edmundo Vitero while working as a construction worker in Metro Manila was not catalogued with certainty. Whatever period of time he might have spent in Metro Manila as a construction worker is unclear.
>
> The accused Edmundo Vitero admitted that he worked in Metro Manila as a construction laborer – an employment that was irregular. As a laborer whose work was irregular, he had gaps in his employment. He could leave his irregular employment that was obviously temporary at any time he wanted to proceed elsewhere including to his grandfather's house in barangay [XXX], Ligao City.[31]

Hence, even if it were true that accused-appellant had been living and working in Metro Manila from 1996 to 2000, it does not exclude the possibility that he went home for visits to his grandparent's house in Ligao City, Albay, in the course of the four years. What is needed is clear and convincing proof that in April 1998, when AAA was raped, accused-appellant was actually in Metro Manila. However, accused-appellant presented no such evidence.

After affirming that accused-appellant is guilty beyond reasonable doubt of qualified rape, we move on to determining the proper penalties to be imposed.

While we agree with the Court of Appeals that pursuant to Republic Act No. 9346, accused-appellant is sentenced to suffer the penalty of *reclusion perpetua* in lieu of death, we specify that accused-appellant will not be eligible for parole. Section 3 of Republic Act No. 9346 explicitly provides:

> Section 3. Persons 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,

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[31] CA *rollo*, p. 21.

otherwise known as the Indeterminate Sentence Law, as amended. (Emphasis ours.)

We also modify the amount of damages awarded to conform with recent jurisprudence. Accused-appellant is ordered to pay AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages.[32] The amounts of damages thus awarded are subject further to interest of 6% per annum from the date of finality of this judgment until they are fully paid.[33]

WHEREFORE, the appeal is **DISMISSED**. The Decision dated July 18, 2006 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00070 is **AFFIRMED WITH MODIFICATIONS**. Accused-appellant Edmundo Vitero is **GUILTY** of qualified rape and is sentenced to suffer the penalty of *reclusion perpetua* without eligibility of parole and is ordered to pay AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages and ₱30,000.00 as exemplary damages. The amounts of damages awarded are subject further to interest of 6% per annum from the date of finality of this judgment until they are fully paid.

No pronouncements as to costs.

SO ORDERED.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Chairperson

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

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32 *People v. Ogarte*, supra note 30 at 415.
33 Id.

LUCAS P. BERSAMIN
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

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