



**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 202868

Present:

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

— *versus* —

MICHAEL ESPERA y CUYACOT,
Accused-Appellant.

Promulgated:

OCT 02 2013

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DECISION

LEONARDO-DE CASTRO, J.:

This an appeal from the Decision¹ dated July 28, 2011 of the Court of Appeals in CA-G.R. CEB-CR-H.C. No. 000923 denying the appeal of the appellant Michael Espera and affirming (with modification of the damages awarded) the Omnibus Decision² dated September 21, 2007 of the Regional Trial Court (RTC) of Talibon, Bohol, Branch 52 in Criminal Case Nos. 99-511 and 99-512, which found the appellant guilty of the crimes of rape by sexual assault and rape by sexual intercourse.

The following Informations were filed against the appellant:

* Per Special Order No. 1537 (Revised) dated September 6, 2013.

** Per Special Order No. 1545 (Revised) dated September 16, 2013.

¹ *Rollo*, pp. 3-20; penned by Associate Justice Nina G. Antonio-Valenzuela with Associate Justices Pampio A. Abarintos and Myra V. Garcia-Fernandez, concurring.

² *CA rollo*, pp. 44-60.

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A. In Criminal Case No. 99-511

That on or about the 26th day of January, 1999 in the municipality of Ubay, province of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with criminal intent and with the use of force, threat and intimidation by using a deadly weapon – a short firearm, did then and there willfully, unlawfully and feloniously insert his penis into the mouth of the victim [Ana³] against her will and without her consent; to the damage and prejudice of the victim.

Acts committed contrary to the provisions of Art. 266-A[,] par. 2, in relation to Article 266-B of R.A. No. 8353.⁴

B. In Criminal Case No. 99-512

That on or about the 26th day of January, 1999 in the municipality of Ubay, province of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with criminal intent and with the use of force, threat and intimidation by using a deadly weapon – a short firearm, did then and there willfully, unlawfully and feloniously drag and push the victim [Ana] to the ground and with lewd designs, have sexual intercourse with the victim against her will and without her consent; to the damage and prejudice of the victim.

Acts committed contrary to the provisions of Art. 266-A[,] No. 1, in relation to Article 266-B of R.A. No. 8353 and of R.A. No. 7659.⁵

The appellant pleaded not guilty to both charges when arraigned.⁶ Pre-trial was conducted and, thereafter, trial ensued.

The prosecution established that at around 11:30 in the evening of January 26, 1999, Ana and “Susie,”⁷ Ana’s co-worker at the “Get Well Clinic”⁸ at Fatima, Ubay, Bohol decided to share a ride as they were both residents of “Barangay Ekis”⁹ in Ubay, Bohol. They hailed a tricycle at the junction of the provincial road and the *barangay* road, some 50 meters away from the clinic. Streetlights illuminated the area. There was also light coming from the nearby chapel and the houses in the vicinity. As was her wont, Susie beamed a flashlight on the front part of the tricycle. She recognized the driver, the appellant in this case, as one of her husband’s friends. Ana recognized the driver by face, although she did not know his name. She noticed that he was wearing a red polo shirt and *maong* pants.¹⁰

³ In consonance with *People v. Cabalquinto* (533 Phil. 703 [2006]), the real name of the victim has been withheld and a fictitious name has been used instead to protect her privacy.

⁴ Records (Crim. Case No. 99-511), p. 57.

⁵ Id. (Crim. Case No. 99-512), p. 1.

⁶ Id. at 15; Order dated August 29, 2003.

⁷ This is in accordance with *Cabalquinto*, *supra* note 3, which directs that “the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well those of their immediate family or household members, shall not be disclosed.”

⁸ Again, this is pursuant to *Cabalquinto*. (Please see immediately preceding note.)

⁹ This is also pursuant to *Cabalquinto*. (Please see note 7.)

¹⁰ *Rollo*, p. 6.

Upon reaching Barangay Ekis, Susie was the first to disembark as Ana's house was some 150 to 250 meters farther down the unpaved sloping road. Ana asked the driver to stop the tricycle when they were near her house but he kept on driving, telling her that the tricycle's brakes were not working. The tricycle finally stopped at the quarry site. The appellant asked Ana to get off as the tricycle purportedly ran out of gas. She offered to pay her fare but he did not accept it on account of his failure to bring Ana home.¹¹

As Ana was tracing her way home under a bright moonlight,¹² she heard the rustling of another person's pants behind her. She realized she was being followed. She turned around. She saw the appellant, naked from the waist up, with his red polo shirt now covering his face. She saw a gun in his hand. She ran away from him and shouted for help. He ran after her and immediately caught her. He covered her mouth and pointed the gun on her head. He threatened to kill her if she shouted.¹³ She recognized his voice -- it was the voice of the tricycle driver.¹⁴ She tried to ward off his hands but she lost her balance in the process and fell to the ground. She tried to kick him but he overpowered her. He punched her in the upper part of her stomach. She felt pain. She pretended to lose consciousness, hoping that he would leave her.¹⁵ She was wrong.

The appellant dragged Ana by the hair to a more secluded place. After he pushed her to the ground, she tried to stand up but he boxed her several times. She cried and begged him to stop. Her pleas fell on deaf ears. He forcefully undressed her, removing her pants, shirt and bra. He pinned her to the ground with his hands. He then stood and removed his pants and underwear. He rubbed his body against her. He then knelt and placed his groin on her face. He ordered her to suck his manhood. She refused but he punched her again in the upper part of her stomach and forced his organ inside her mouth.¹⁶

After inserting his organ in Ana's mouth, the appellant forcibly opened her legs and inserted his fingers in her vagina. She cried but he continued to ignore her pleas and again threatened to kill her.¹⁷ He commanded her to guide his sex organ to hers, she initially refused but was left no choice when he pointed the gun at her head.¹⁸ He then forcefully penetrated her, causing her to shout because of extreme pain. This enraged the appellant, prompting him to bite her lips and lower jaw.¹⁹

¹¹ Id.

¹² TSN, May 5, 2004, p. 8.

¹³ *Rollo*, pp. 6-7.

¹⁴ TSN, March 15, 2005, p. 31.

¹⁵ *Rollo*, p. 7.

¹⁶ Id.

¹⁷ Id.

¹⁸ Sworn statement of Ana dated January 28, 1999, Exhibit "A" of the prosecution and Exhibit "2" of the appellant, p. 2. (Records [Criminal Case No. 99-511], p. 10.)

¹⁹ *Rollo*, pp. 7-8.

After ravishing Ana, the appellant asked her if she knew him and if she remembered the markings of his tricycle. She denied both, fearing that he might kill her if she would tell him the truth. Finished with his dastardly deed, he repeated his threat to kill her. He ordered her to remove her shirt and to blindfold herself with it. He commanded her to remain seated on the ground until after 15 minutes from the time he had started the tricycle. She did as told. When she sensed that he was already gone, she immediately stood up, wrapped her body with a *malong* and went home.²⁰

On the next day, Ana told her mother about what happened to her.²¹ And on the day after that, when Susie visited her to ask why she did not report at the clinic, Ana told Susie that she was raped by the driver of the tricycle who brought them to Barangay Ekis two nights ago.²²

Thereafter, Ana had herself examined by a doctor. The medical examination revealed that she suffered multiple contusions, lacerations and abrasions on different parts of her body. In particular, she had contusions in the right side of her face, from the jaw to the temple and at the base of the right ear. She had bruise on the right forehead. She also had contusions below her lower left breast and lower chest. She had a laceration running from the jaw to the lower lip and a wound indicating a bite mark in her upper lip. There was marked tenderness in the upper part of her stomach and there were fingernail marks in her right shoulder, left wrist and in her back. Her labia were lacerated, her hymen was ruptured and dead spermatozoa were found in her vagina.²³

Thereafter, Ana was assisted by her parents in reporting the matter to the authorities.²⁴ When she saw the appellant at the police station, she recognized him although he cut his hair and shaved his beard. And when she heard his voice, she became more certain that he was her assailant and,²⁵ with that realization, she could only cry and was unable to say anything.²⁶ Subsequently, the appellant suddenly left Ubay, Bohol without informing anyone where he went. He was finally apprehended in Pampanga in August 2003.²⁷

The appellant admitted that he was a tricycle driver. In his defense, he claimed that he lives in Fatima, Ubay, 1 ½ kilometers away from the crime scene.²⁸ At the time of the alleged incident, he was in his house sleeping. In fact, he was already sleeping by 6:00 in the evening as he drank alcohol in the market earlier that day. He woke up at around 8:00 in the

²⁰ Id.

²¹ Id.

²² TSN, April 5, 2005, p. 12.

²³ Records (Crim. Case No. 99-511), p. 19; Medical Certificate dated January 28, 1999, Exhibit "E."

²⁴ *Rollo*, p. 8.

²⁵ TSN, March 15, 2005, pp. 11-12.

²⁶ *Rollo*, p. 9.

²⁷ Id. at 8.

²⁸ TSN, June 13, 2006, p. 15.

morning of the following day; he noticed nothing unusual.²⁹

Sometime after January 26, 1999, the appellant was invited by authorities to the police station. There, he met Ana for the first time. He was informed that he is among the suspects in connection with the rape of Ana. He was also informed that when Ana was asked if he was the culprit, she did not say anything but simply cried.³⁰

The appellant further stated that he did not drive the tricycle on January 29, 1999 because the owner would use it for the Ubay town fiesta. After the town fiesta, the appellant left for Manila to look for a better paying job. He was subsequently hired as a security guard and he was arrested while he was at his post as security guard at Jollibee in Dau, Pampanga.³¹

After hearing the parties, the trial court gave credence to Ana's account of her harrowing experience in a "richly detailed testimony, delivered in a clear, forthright and straightforward manner."³² The results of the medical examination describing the injuries Ana suffered underscored the truthfulness of her story. Her positive identification of the appellant as her assailant negated his alibi. His sudden flight from Ubay, Bohol also indicated guilt on his part.³³ Thus, in an Omnibus Decision dated September 21, 2007, the RTC found the appellant guilty beyond reasonable doubt of the crimes of rape by sexual assault and rape by sexual intercourse, both of which were committed with the use of deadly weapon. The dispositive portion of the decision reads:

WHEREFORE, in Criminal Case No. 99-511 the Court finds the accused guilty beyond reasonable doubt of rape under Art. 266-A, paragraph 2 in relation to Art. 266-B of the Revised Penal Code, as amended by R.A. No. 8353 and hereby sentences him to suffer the penalty of 4 years and 2 months of prision correccional to 14 years, 8 months and 1 day of reclusion temporal with all the accessory penalties of the law, with costs.

In Criminal Case No. 99-512 the Court likewise finds the accused guilty beyond reasonable doubt of rape under Art. 266-A, paragraph 1 in relation to Art. 266-B of the Revised Penal Code, as amended by RA No. 8353 and sentences him to suffer the penalty of reclusion perpetua, with costs.

The accused is further ordered to pay the offended party the amount of ₱50,000 as civil indemnity and ₱50,000 as moral damages in each of the two cases.³⁴

²⁹ *Rollo*, p. 9.

³⁰ *Id.*

³¹ *Id.*

³² *CA rollo*, p. 55.

³³ *Id.*

³⁴ *Rollo*, p. 60.

The appellant appealed his case to the Court of Appeals. He asserted that the trial court erred in convicting him despite the fact that his guilt was not proven beyond reasonable doubt.³⁵ He mentioned various matters to make his point: the identity of the alleged perpetrator of the crime was doubtful; the prosecution failed to prove that it was the appellant who was driving the tricycle on the night of the alleged rape and that it was the appellant who raped Ana; the darkness of the night prevented Ana from seeing clearly and recognizing her attacker; Ana's behavior and reaction before, during and after the alleged rape was questionable, in particular, she did not shout when she was being chased by her rapist, she did not do anything to prevent the assault against her, she did not call for help or attempt to free herself when she had the opportunity; and, the medical certificate neither stated nor proved the appellant's involvement in the rape of Ana.³⁶

The Court of Appeals, however, agreed with the RTC that it was proven beyond reasonable doubt that the appellant violated Article 266-A(2) and committed rape by sexual assault against Ana when he placed his penis into her mouth after poking a gun at her head and punching her. The Court of Appeals also agreed with the RTC that it was proven beyond reasonable doubt that the appellant violated Article 266-A(1)(a) and committed rape by sexual intercourse against Ana when he had carnal knowledge of her against her will through force and intimidation. The medical findings detailing the injuries inflicted upon Ana further confirm the commission of the crimes against her.³⁷

The Court of Appeals rejected the contentions of the appellant and upheld the finding of the RTC that his victim had positively identified him as her assailant. The prosecution established that Susie and Ana recognized the appellant's face when they boarded his tricycle because the place was illuminated by streetlights and light from the nearby chapel and the houses in the area. Moreover, when Susie beamed her flashlight at the tricycle, Ana had the opportunity to recognize the appellant as the driver and to notice that he was wearing denim pants and a red polo shirt.³⁸

The Court of Appeals also pointed out that Ana identified the appellant not only by his appearance but also by the sound of his voice. She remembered his voice when he was negotiating with her and Susie for a ride to Barangay Ekis, when Susie disembarked from the tricycle, and when he told her that the tricycle's fuel had gone empty. Ana's positive identification of the accused-appellant as her assaulter negated the appellant's denial and alibi.³⁹

³⁵ Id. at 10.

³⁶ Id. at 10-11.

³⁷ Id. at 12-14.

³⁸ Id. at 15.

³⁹ Id. at 15-16, 18.

The appellate court found no merit in the appellant's claim that Ana's failure to shout for help and to repel the assault of her rapist eroded her credibility and made her allegation of sexual intercourse against her will unbelievable. The appellate court noted Ana's consistent testimony that she ran away and shouted for help but the appellant caught her, covered her mouth, pointed his gun at her and threatened to kill her; that she fought against him, even when she was already on the ground, but he mercilessly punched her; that she cried and begged him to stop but he ignored her and threatened her again; and, that she shouted because of pain when he forcefully inserted his penis into her vagina.⁴⁰

Finally, the Court of Appeals modified the appellant's civil liability. It awarded Ana ₱30,000.00 civil indemnity, ₱30,000.00 moral damages and ₱30,000.00 exemplary damages for the rape by sexual assault in Criminal Case No. 99-511, and ₱50,000.00 civil indemnity, ₱50,000.00 moral damages and ₱30,000.00 exemplary damages for the rape by sexual intercourse in Criminal Case No. 99-512.⁴¹

Thus, in a Decision dated July 28, 2011, the Court of Appeals denied the appeal of the appellant and affirmed the Omnibus Decision dated September 21, 2007 of the RTC which found the appellant guilty of the crimes of rape by sexual assault and rape by sexual intercourse committed against Ana. The decretal portion of the Decision dated July 28, 2011 reads:

WHEREFORE, the appeal is **DENIED**. The assailed Decision is **AFFIRMED** with **MODIFICATIONS**. As thus modified, accused-appellant in Criminal Case No. 99-512 is ordered to pay the private complainant [Ana] ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱30,000.00 as exemplary damages. In Criminal Case No. 99-511, accused-appellant is ordered to pay private complainant [Ana] ₱30,000.00 as civil indemnity, ₱30,000.00 as moral damages, and ₱30,000.00 as exemplary damages.⁴²

Hence, this appeal where the appellant adopts in full and reiterates the contents and substance of the brief which he filed in the Court of Appeals.⁴³ Thus, the appellant continues to insist that his guilt was not proven beyond reasonable doubt and his case basically rests on what he believes to be his victim's highly doubtful identification of him as the perpetrator of the crime.

The appeal fails.

Under Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353,⁴⁴ rape may be committed in two ways:

⁴⁰ Id. at 17.

⁴¹ Id. at 19.

⁴² Id. at 19-20.

⁴³ Id. at 30-32; Manifestation in Lieu of Supplemental Brief.

⁴⁴ ANTI-RAPE LAW OF 1997.

Article 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;
- b) When the offended party is deprived of reason or is otherwise unconscious;
- c) By means of fraudulent machination or grave abuse of authority;
- d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

As the felony is defined under Article 266-A, rape may be committed either by sexual intercourse under paragraph 1 or by sexual assault under paragraph 2.⁴⁵

Rape by sexual intercourse is a crime committed by a man against a woman. The central element is carnal knowledge and it is perpetrated under any of the circumstances enumerated in subparagraphs (a) to (d) of paragraph 1.⁴⁶

On the other hand, rape by sexual assault contemplates two situations. *First*, it may be committed by a man who inserts his penis into the mouth or anal orifice of another person, whether a man or a woman, under any of the attendant circumstances mentioned in paragraph 1. *Second*, it may be committed by a person, whether a man or a woman, who inserts any instrument or object into the genital or anal orifice of another person, whether a man or a woman, under any of the four circumstances stated in paragraph 1.

⁴⁵ *People v. Abulon*, 557 Phil. 428, 453-454 (2007).

This case distinguishes the two modes of committing rape as follows:

“(1) In the first mode [rape by sexual intercourse], the offender is always a man, while in the second [rape by sexual assault], the offender may be a man or a woman;

(2) In the first mode, the offended party is always a woman, while in the second, the offended party may be a man or a woman;

(3) In the first mode, rape is committed through penile penetration of the vagina, while the second is committed by inserting the penis into another person's mouth or anal orifice, or any instrument or object into the genital or anal orifice of another person; and

(4) The penalty for rape under the first mode is higher than that under the second.” (Id. at 454.)

⁴⁶ *People v. Soria*, G.R. No. 179031, November 14, 2012, 685 SCRA 483, 497.

This Court agrees with the trial and the appellate courts that the crime of rape by sexual assault was committed against Ana when a man's sex organ was forcibly inserted into her mouth after poking a gun at her head and punching her. This Court also agrees with the trial and the appellate courts that the crime of rape by sexual intercourse was committed against Ana when a man had carnal knowledge of her after delivering fist blows on her stomach, pointing a gun at her, and threatening to kill her. The physical evidence, particularly the medical report detailing the various injuries inflicted upon Ana, confirms the truth of Ana's story.

There is no question that the man who violated the person and dignity of Ana had his face covered by a red polo shirt. The appellant asserts that the prosecution failed to establish his identity as the author of the crimes, that he is the man with the covered face.

He is wrong.

An accused enjoys the presumption of innocence until and unless his/her guilt is proven beyond reasonable doubt. The fundamental law guarantees him/her that right.⁴⁷ The presumption of innocence in favor of the accused behooves the People of the Philippines, as the plaintiff in criminal cases, to prove beyond reasonable doubt not only each element of the crime but also the identity of the accused as the criminal. It requires this Court, in reviewing criminal cases, to carefully determine and establish the following:

[F]irst, the identification of the accused as perpetrator of the crime, taking into account the credibility of the prosecution witness who made the identification as well as the prosecution's compliance with legal and constitutional standards; and *second*, all the elements constituting the crime were duly proven by the prosecution to be present. x x x.⁴⁸

Proving the identity of the accused as the malefactor is the prosecution's primary responsibility. Thus, in every criminal prosecution, the identity of the offender, like the crime itself, must be established by proof beyond reasonable doubt. Indeed, the first duty of the prosecution is not to prove the crime but to prove the identity of the criminal, for even if the commission of the crime can be established, there can be no conviction without proof of identity of the criminal beyond reasonable doubt.⁴⁹

Here, the prosecution's evidence on the identity of the appellant as the offender is clear and unmistakable.

Ana and Susie positively identified the appellant as the driver of the tricycle in red polo shirt, which ferried them to Barangay Ekis on that fateful

⁴⁷ Section 14(2), Article III of the 1987 Constitution provides that "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved x x x."

⁴⁸ *People v. Rodrigo*, G.R. No. 176159, September 11, 2008, 564 SCRA 584, 597.

⁴⁹ *People v. Caliso*, G.R. No. 183830, October 19, 2011, 659 SCRA 666, 675.

night of January 26, 1999. Instead of bringing Ana home, appellant brought her to the quarry in the pretext that the tricycle's brakes malfunctioned and the vehicle subsequently ran out of gas. Consequently, Ana was placed in a vulnerable situation that enabled the appellant to commit the crime charged. As Ana started to walk home from the quarry, appellant took off his red shirt and covered his face with it and then followed her with a gun in his hand. She ran when she noticed him and he ran after her until he caught her. He poked his gun at her, repeatedly threatened her, mercilessly hit her and raped her twice, first by sexual assault and then by sexual intercourse. His lust satiated, he went back to his tricycle and drove away. She recognized him as the one who raped her when he was presented to her at the police station two days after the incident, although he already cut his hair and shaved his beard. And she positively identified him in open court when she gave her testimony.

While the appellant attempts to hide his identity in the blackness of the night, his identity has been revealed and the darkness that is his cover has been dispelled by the categorical testimonies of Susie and Ana that, while it was late into the night when they boarded the appellant's tricycle at the junction, they saw his face because the place was illuminated by light from lamp posts and the nearby chapel as well as from the houses in the vicinity. Moreover, Susie beamed her flashlight at the tricycle, giving Ana an opportunity to recognize the appellant as the driver and to notice that he was wearing denim pants and a red polo shirt, which was the same red polo shirt he used to cover his face. In other words, the tricycle driver in the red polo shirt was the same man whose face was covered with a red polo shirt -- Ana's rapist -- the appellant.

The Court of Appeals correctly ruled that Ana identified the appellant not only by his appearance but also by the sound of his voice. She remembered his voice when he was negotiating with her and Susie for a ride to Barangay Ekis, when Susie disembarked from the tricycle and when he told her that the tricycle's brakes malfunctioned and, later on, that the tricycle's fuel had gone empty. It was the same voice that repeatedly threatened to kill her, ordered her to take him in her mouth, asked her whether she recognized him and his tricycle, and directed her not to leave the scene of the crime until after he was gone for some time. And when she met him at the police station, despite his attempt to prevent her from recognizing him by cutting his hair and shaving his beard, it was the same voice that made her recognize him and made her cry out of fear.

Ana's testimony is clear, categorical, consistent and credible. Under its evidentiary weight, the appellant's denial and alibi collapse and crumble.

Thus, beyond reasonable doubt, the crimes of rape by sexual assault and rape by sexual intercourse committed against Ana have been established. Beyond reasonable doubt, too, it is the appellant who committed the said crimes.

Under Article 266-B of the Revised Penal Code, as amended, whenever rape by sexual assault is committed with the use of a deadly weapon, the penalty shall be *prision mayor* to *reclusion temporal*, or a duration of 6 years and 1 day to 20 years. As there was no attendant aggravating or mitigating circumstance, the imposable penalty is the medium period of the said duration, that is, from 10 years, 8 months and 1 day to 15 years and 4 months, pursuant to Articles 64 and 65 of the Revised Penal Code, as amended. Applying the Indeterminate Sentence Law, the minimum term shall be within *prision correccional* (which ranges from 6 months and 1 day to six years), the penalty next lower to *prision mayor*, and the maximum term shall be within the imposable penalty stated above. Hence, the RTC and the Court of Appeals correctly imposed on the appellant the indeterminate sentence of 4 years and 2 months of *prision correccional* as minimum and 14 years, 8 months and 1 day of *reclusion temporal* as maximum for the crime of rape by sexual assault committed against Ana with the use of a hand gun, a deadly weapon.

Under Article 266-B of the Revised Penal Code, as amended, whenever rape by sexual intercourse is committed with the use of a deadly weapon, the penalty shall be *reclusion perpetua* to death. As there was no attendant aggravating or mitigating circumstance, the RTC and the Court of Appeals were correct in sentencing the appellant to the lesser penalty of *reclusion perpetua* pursuant to Article 63(2) of the Revised Penal Code, as amended.⁵⁰

As to the award of damages, the grant to Ana of ₱30,000.00 civil indemnity, ₱30,000.00 moral damages and ₱30,000.00 exemplary damages for the rape by sexual assault committed against her is proper.⁵¹ Likewise, the amounts of ₱50,000.00 civil indemnity, ₱50,000.00 moral damages and ₱30,000.00 exemplary damages for the rape by sexual intercourse committed against her are proper and conform with current case law.⁵² These amounts shall be subject to legal interest at the rate of six percent (6%) *per annum* from the date of finality of this judgment until fully paid, pursuant to prevailing jurisprudence.⁵³

While no amount of money may really be sufficient to fully compensate the loss of innocence and deprivation of dignity that Ana suffered in the ruthless hands of the appellant, the above amounts may somehow ease her suffering and help her move on to rebuild her life and reclaim her dignity. Finally, this Court commends her courage and strength of spirit in her quest for justice under the law.

⁵⁰ See *Sison v. People*, G.R. No. 187229, February 22, 2012, 666 SCRA 645, 667. Besides, the imposition of the death penalty is now prohibited under Republic Act No. 9346.


⁵¹ See *People v. Soria*, *supra* note 46 at 508.

⁵² *People v. Penilla*, G.R. No. 189324, March 20, 2013; *People v. Saludo*, G.R. No. 178406, April 6, 2011, 647 SCRA 374, 397.


⁵³ *Sison v. People*, *supra* note 50 at 667.


WHEREFORE, the Decision dated July 28, 2011 of the Court of Appeals in CA-G.R. CEB-CR-H.C. No. 000923 affirming with modifications the Omnibus Decision dated September 21, 2007 of the Regional Trial Court of Talibon, Bohol, Branch 52 in Criminal Case Nos. 99-511 and 99-512 is hereby **AFFIRMED with MODIFICATION** insofar as legal interest at the rate of six percent (6%) *per annum* is imposed on all amounts of damages awarded to the private offended party from the date of finality of this judgment until fully paid.


SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

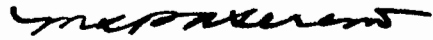

BIENVENIDO L. REYES
Associate Justice


ESTELA M. PERLAS-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 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