



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 190620

Present:

BRION,* J.,
Acting Chairperson,
PEREZ,
MENDOZA,**
PERLAS-BERNABE, and
LEONEN,*** JJ.

- versus -

HERMINIGILDO B. TABAYAN,
Accused-Appellant.

Promulgated:

JUN 18 2014

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DECISION

PEREZ, J.:

On appeal is the Decision¹ dated 17 September 2009 of the Court of Appeals in CA-G.R. CR-H.C. No. 03363 affirming with modifications the Decision² dated 25 January 2008 of the Regional Trial Court (RTC) of Rosales, Pangasinan, Branch 53, in Criminal Case No. 5172-R finding herein appellant Herminigildo B. Tabayan guilty beyond reasonable doubt of the crime of rape committed against his granddaughter AAA,³ thereby

* Per Special Order No. 1699 dated 13 June 2014.

** Per Special Order No. 1696 dated 13 June 2014.

*** Per Raffle dated 19 June 2013.

¹ Penned by Associate Justice Ramon R. Garcia with Associate Justices Jose C. Reyes, Jr. and Fernanda Lampas Peralta, concurring. *Rollo*, pp. 2-21.

² Penned by Judge Teodorico Alfonso P. Bauzon. *CA rollo*, pp. 9-17.

³ This is pursuant to the ruling of this Court in *People v. Cabalquinto*, 533 Phil. 703 (2006), wherein this Court resolved to withhold the real name of the victim-survivor and to use fictitious initials instead to represent her in its decisions. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed. The names of such victims, and of their immediate family members other than the accused, shall

sentencing him to suffer the penalty of *reclusion perpetua* and ordering him to pay AAA the amounts of ₱75,000.00 as civil indemnity and ₱50,000.00 as moral damages. The Court of Appeals, however, increased the award of moral damages from ₱50,000.00 to ₱75,000.00 and, in addition awarded exemplary damages in the amount of ₱25,000.00.

In a Criminal Complaint⁴ dated 28 July 2006, the appellant was charged with the crime of rape, in relation to Republic Act No. 7610,⁵ committed as follows:

That sometimes in the evening of [24 July 2006] at Brgy. XXX, Municipality of XXX, Province of XXX, Philippines and within the jurisdiction of this Honorable Trial Court, the said [appellant] **by means of force and intimidation did, then and there, willfully[,] [u]nlawfully and feloniously raped his granddaughter AAA, 8 years old** which is in violation with the provision of RA 7610. (Emphasis supplied).

On arraignment, the appellant, with the assistance of counsel *de oficio*, pleaded NOT GUILTY to the crime charged.⁶ After the pre-trial conference, trial on the merits ensued.

The prosecution presented AAA, the victim herself; Dr. Josephine Guiang (Dr. Guiang), Medical Officer of the OB-Gyne Department of the Eastern Pangasinan District Hospital (EPDH), who physically examined AAA; and Virgie Castillo (Castillo), Medical Technologist II and Chief of the Laboratory Section of the Eastern Pangasinan General Hospital. The midwife, Narcisa Aquinde, was one of the prosecution witnesses but her testimony was dispensed with after the defense stipulated on the nature of her testimony to the effect that she was the one who extracted the specimen (vaginal smear) from AAA and forwarded the same to Castillo for examination.⁷

appear as “AAA,” “BBB,” “CCC,” and so on. Addresses shall appear as “XXX” as in “No. XXX Street, XXX District, City of XXX.”

The Supreme Court took note of the legal mandate on the utmost confidentiality of proceedings involving violence against women and children set forth in Sec. 29 of Republic Act No. 7610, otherwise known as the *Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act*; Sec. 44 of Republic Act No. 9262, otherwise known as the *Anti-Violence Against Women and Their Children Act of 2004*; and Sec. 40 of A.M. No. 04-10-11-SC, known as the *Rule on Violence Against Women and Their Children*, effective 15 November 2004.

⁴ Records, p. 1.

⁵ Otherwise known as “The Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act.”

⁶ Per RTC’s Order and Certificate of Arraignment, both dated 30 August 2006. Records, pp. 12-13.

⁷ Per RTC’s Order dated 18 April 2007. Id. at 69.

AAA is the granddaughter of the appellant as her father is the son of the appellant. She was only eight (8) years old when her ordeal at the hands of her own grandfather happened having been born on 1 July 1998.⁸

In the evening of 24 July 2006, AAA and her six (6) year old brother stayed at the appellant's house as their parents were out of town. Their grandmother, appellant's wife, was also not around so it was only AAA, her brother and the appellant who were at the latter's house on the said date. On that fateful night, they slept together in one room. While sleeping, AAA was awakened when she felt appellant removing her short pants and panty. The appellant then took off his short pants and inserted his penis into AAA's vagina but he was unable to make full penetration. AAA cried and exclaimed, "*it's painful Lolo,*" to which the appellant replied, "*do not cry.*" After satiating his lust, the appellant donned his short pants and warned AAA not to tell anyone about the incident, otherwise, she would be harmed. Freely translated, he specifically told her "*If you will tell this, you have fault on me and I will spank you and if I will be placed in jail, nobody will till the land.*" Thereafter, the appellant left. AAA then put back her panty and short pants.⁹

The next day, AAA disclosed to her aunt her harrowing experience at the hands of her grandfather. AAA and her aunt, thereafter, went to AAA's grandmother (not the appellant's wife) to inform her about the incident. They subsequently proceeded to the police station, where AAA executed her sworn statement.¹⁰

AAA was also brought by her grandmother to the EPDH in Tayug, Pangasinan¹¹ on 28 July 2006, where she was subjected to physical examination by Dr. Guiang, whose findings revealed that: (1) AAA's hymen was intact, or without any laceration, but there was greenish vaginal discharge at the vaginal opening caused by a sexually transmitted disease (STD) called *gonorrhea*; and (2) there was also *erythematous*, meaning the *labia* is reddish in color, which could have been caused either by the contact of a penis with the private organ of AAA, or by the discharge, which is already pathologic. Dr. Guiang explained that the reddening of the *labia* would result even if there was no actual deep penetration of the vagina but only a contact on the surface of the *labia*.¹²

⁸ Per her Certificate of Live Birth presented before the court *a quo*; Testimony of AAA, TSN, 8 May 2007, pp. 3-4.

⁹ Id. at 5-12.

¹⁰ Id. at 12-15.

¹¹ Id. at 15-16; Testimony of Dr. Guiang, TSN, 16 October 2006, p. 4.

¹² Medico-Legal Certificate No. 975-06 dated 28 July 2006, Records, p. 5; Testimony of Dr. Guiang, id. at 3-9.

Castillo confirmed the findings that AAA was positive for *gonococcal* infection or *gonorrhea* as she was the one who examined the vaginal smear of AAA as requested to by Dr. Guiang.¹³

The defense, for its part, presented the appellant as its sole witness, who relied principally on denial for his defense.

The appellant alleged that on 24 July 2006, he was inside their house with his wife, AAA, and the latter's brother. Between 8:00 p.m. and 9:00 p.m. of the said date, they all slept in the same room. His wife slept on the bed while he and his grandchildren slept on the floor. He insisted that he never raped AAA but merely touched the latter's vagina for a short period of time. Although AAA was awakened when he touched her vagina, she merely turned around without saying a word. He also stated that he was a little bit drunk that night, thus, he was not aware of what he was doing. He likewise denied that he was afflicted with STD.¹⁴

On the other hand, the appellant admitted that AAA is his granddaughter, being the daughter of his son. He likewise affirmed that there was no existing grudge between him and AAA's parents. He was also unaware of any reason why AAA would implicate him in such a serious offense.¹⁵

After the parties adduced their testimonial and documentary evidence, the trial court rendered its Decision on 25 January 2008, finding the appellant guilty beyond reasonable doubt of the crime charged and sentencing him to suffer the penalty of *reclusion perpetua*. The decretal portion of the decision reads:

WHEREFORE, this Court finds the [herein appellant] Herminigildo B. Tabayan guilty beyond reasonable doubt of the crime of Rape, defined and penalized under Article 335 of the Revised Penal Code, as amended by Republic Act No. 7659,¹⁶ and hereby sentences him to suffer the penalty of RECLUSION PERPETUA. The [appellant] is also ordered to pay the victim [AAA] the following:

1. Seventy Five Thousand Pesos (₱75,000.00) as civil indemnity; and

¹³ Testimony of Dr. Guiang, id. at 9-11; Testimony of Castillo, TSN, 8 January 2007, pp. 4-5.

¹⁴ Testimony of the appellant, TSN, 3 October 2007, pp. 4-10.

¹⁵ Id. at 3-4 and 10-11.

¹⁶ Known as "An Act To Impose The Death Penalty On Certain Heinous Crimes, Amending For That Purpose The Revised Penal Laws, As Amended, Other Special Penal Laws, And For Other Purposes."

2. Fifty Thousand Pesos (₱50,000.00) as moral damages.¹⁷
(Emphasis supplied).

The appellant appealed¹⁸ the judgment of conviction to the Court of Appeals.

In its Decision dated 17 September 2009, the Court of Appeals affirmed the guilty verdict and the sentence imposed by the trial court. It, however, increased the award of moral damages from ₱50,000.00 to ₱75,000.00 and, in addition, awarded exemplary damages in the amount of ₱25,000.00. The dispositive portion of the decision reads:

WHEREFORE, premises considered, the instant appeal is hereby **DENIED**. The Decision dated [25 January 2008] of the [RTC], Branch 53, Rosales, Pangasinan[,] finding [herein] appellant Herminigildo B. Tabayan guilty beyond reasonable doubt of the crime of Rape and imposing on him the penalty of *reclusion perpetua* is **AFFIRMED with MODIFICATION** in that in addition to the court *a quo*'s award of SEVENTY-FIVE THOUSAND (₱75,000.00) PESOS as civil indemnity *ex-delicto*, appellant is further **ORDERED** to pay private complainant the amount of SEVENTY-FIVE THOUSAND (₱75,000.00) PESOS as moral damages¹⁹ and TWENTY FIVE THOUSAND [(₱25,000.00)] [PESOS] as exemplary damages.²⁰

Hence, the instant recourse.²¹

In his brief, the appellant raises the lone assigned error that:

THE COURT A QUO GRAVELY ERRED IN FINDING THE [HEREIN APPELLANT] GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.²²

The appellant vehemently believes that the prosecution miserably failed to prove his guilt beyond reasonable doubt as there was no physical evidence on record that will conclusively support AAA's testimony that she was raped by him or that there was sexual intercourse between them. *Firstly*, the result of AAA's medical examination disclosed that her hymen

¹⁷ CA rollo, p. 17.

¹⁸ Per Notice of Appeal dated 19 February 2008. Id. at 18.

¹⁹ The Court of Appeals merely increased the award of moral damages to ₱75,000.00 as the trial court has already awarded moral damages but only in the amount of ₱50,000.00

²⁰ Rollo, p. 20.

²¹ This is *via* a Notice of Appeal dated 19 October 2009. Id. at 22-23.

²² Appellant's Brief dated 11 December 2008. CA rollo, p. 53.

was intact or without any laceration, thus, negating the allegation that the appellant inserted his penis into her vagina. *Secondly*, neither the greenish vaginal discharge found at AAA's vaginal opening nor the reddening of her *labia* established sexual intercourse between her and the appellant. As testified to by Dr. Guiang herself, aside from *gonorrhea*, such greenish vaginal discharge may also be caused by *pseudomonas* infection, which can be acquired through droplet transmission. In the same way, the reddening of AAA's *labia* could have been caused either by the contact of the penis or by the discharge itself.

The appellant maintains that he could only be held liable for acts of lasciviousness and not for rape because what has been clearly established is the fact that he merely touched AAA's vagina as he himself admitted it.

The appellant also puts emphasis on the inconsistencies between AAA's testimony in open court and in her sworn statement before the police authorities regarding the act of rape allegedly committed against her by the appellant. While the Information and her testimony in open court pertain only to a singular act of rape allegedly committed against her by the appellant on 24 July 2006, her sworn statement executed on 28 July 2006 refers to several commissions of rape which allegedly occurred from December 2005 until 24 July 2006.

With all the foregoing, the appellant insists that his guilt was not proven beyond reasonable doubt; hence, he must be acquitted of the crime charged.

This Court holds otherwise.

To determine the guilt or innocence of the accused in rape cases, the courts are guided by three settled principles: (a) an accusation for rape is easy to make, difficult to prove and even more difficult to disprove; (b) in view of the intrinsic nature of the crime, the testimony of the complainant must be scrutinized with utmost caution; and (c) the evidence of the prosecution must stand on its own merits and cannot draw strength from the weakness of the evidence for the defense.²³

Rape is essentially committed in relative isolation or even secrecy. As such, it is usually only the victim who can testify with regard to the fact of the forced *coitus*. In its prosecution, therefore, the credibility of the victim is

²³ *People v. Ramos*, 574 Phil. 109, 119-120 (2008).

almost always the single and most important issue to deal with. If her testimony meets the test of credibility, the accused can justifiably be convicted on the basis thereof; otherwise, he should be acquitted of the crime.²⁴

After poring through the records and the transcript of stenographic notes, this Court finds AAA's testimony, who was only eight (8) years old when the rape occurred on 24 July 2006, to be clear, credible, convincing and worthy of belief.

AAA's narration, spread in the transcript of stenographic notes, of how the appellant ravaged her was candid, categorical and straightforward such that despite the grueling cross examination, she never faltered in her testimony. She categorically described before the court *a quo* how her own grandfather took advantage of her. She recounted in details that while she was sleeping, she was suddenly awakened when she felt the appellant removing her short pants and panty. Subsequently, the appellant took off his short pants and inserted his penis into her vagina, but he was unable to make full penetration. She cried out in pain but the appellant merely told her not to cry. After fulfilling his bestial desires, the appellant put on his short pants and warned her not to tell anyone about the incident, otherwise, she would be harmed. Thereafter, the appellant left. She then put back her panty and short pants.²⁵

Equally, the trial court and the Court of Appeals gave full faith and credence to the testimony of AAA. They found it clear, categorical and credible, thus, sufficient to convict the appellant of the crime charged. Considering that all the elements of the crime of rape are present in this case, *i.e.*, carnal knowledge of a woman who is under 12 years of age, this Court finds no compelling reason to deviate from the findings of the trial court as affirmed by the Court of Appeals. Settled is the rule that when it comes to credibility, the trial court's assessment deserves great weight, and is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. The reason is obvious. Having the full opportunity to observe directly the witnesses' deportment and manner of testifying, the trial court is in a better position than the appellate court to evaluate testimonial evidence properly.²⁶

²⁴ Id. at 120.

²⁵ Testimony of AAA, TSN, 8 May 2007, pp. 5-12.

²⁶ *People v. Basmayor*, G.R. No. 182791, 10 February 2009, 578 SCRA 369, 382-383.

Moreover, the prevailing rule is that the testimony of rape victims who are young and immature deserves full credence.²⁷ No woman, especially one of tender age, practically only a girl, would concoct a story of defloration, allow an examination of her private parts and thereafter expose herself to a public trial, if she was not motivated solely by the desire to have the culprit apprehended and punished.²⁸ As in this case, considering the tender age of AAA, who was only eight (8) years old when she was raped, it was very unlikely for her to expose herself to the rigors of a public trial and impute such a grave offense to her very own grandfather if the same was not true or if she was not motivated by a strong desire to seek justice for the wrong done against her.

Further, there is no evidence on record, as none was adduced by the appellant, of any ill-motive on the part of AAA as to why she would testify adversely against him in the way that she did. In a litany of cases, this Court has ruled that when there is no showing of any improper motive on the part of the victim to testify falsely against the accused or to falsely implicate the latter in the commission of the crime, the logical conclusion is that no such improper motive exists, and that the testimony is worthy of full faith and credence.²⁹ Stated otherwise, where no compelling and cogent reason is established that would explain why the complainant was so driven as to blindly implicate an accused, the testimony of a young girl of having been the victim of a sexual assault cannot be discarded.³⁰

Given the foregoing, it cannot be denied that AAA is a credible witness and her sole testimony is sufficient to convict the appellant.

Now, going to the appellant's contention that the absence of hymenal lacerations on the private part of AAA negates the fact of rape, this Court finds it specious.

As a review for reminders, this Court recalls the rudiments of rape decisions.

The absence of laceration in the hymen does not negate rape. The bare fact that the hymen of AAA was still intact does not impair her testimony that she experienced excruciating pain when the appellant ravished her. **It has been the consistent ruling of this Court that absence**

²⁷ *People v. Hermanes*, 428 Phil. 962, 970 (2002).

²⁸ *People v. Echegaray*, 327 Phil. 349, 358 (1996).

²⁹ *People v. Fernandez*, 434 Phil. 435, 451 (2002).

³⁰ *People v. Hermanes*, supra note 27 at 970.

of hymenal lacerations does not disprove sexual abuse especially when the victim is of tender age. A freshly broken hymen is not an essential element of rape. Even the fact that the medical report states that the hymen of the victim is still intact does not negate rape. Full penetration is not even required, as proof of entrance showing the slightest penetration of the male organ within the *labia* or pudendum of the female organ is sufficient.³¹ In proving sexual intercourse, it is enough that there is the slightest penetration of the male organ into the female sex organ. The mere touching by the male organ or instrument of the *labia* of the pudendum of the woman's private parts is sufficient to consummate the crime.³²

With regard to the appellant's assertion that the presence of the greenish vaginal discharge at AAA's vaginal opening, as well as the reddening of her *labia*, cannot prove sexual intercourse between them, this Court finds it groundless and unfounded.

It is true that Dr. Guiang stated in her testimony that aside from *gonorrhea*, such greenish vaginal discharge may also be caused by *pseudomonas* infection, which can be acquired through droplet transmission. In the same way, the reddening of the *labia* could have been caused either by the contact of the penis or by the discharge itself. In the case of AAA, however, Dr. Guiang affirmed that the greenish vaginal discharge found at the former's vaginal opening is caused by STD, that is, *gonorrhea* and not merely by *pseudomonas* infection. In fact, Dr. Guiang subjected to test the vaginal smear of AAA and it yielded positive for *gonococcal* infection or *gonorrhea*. Dr. Guiang even clarified that the greenish vaginal discharge at AAA's vaginal opening cannot be caused by the use of any foreign object other than a male private organ. It also cannot be caused by mere touching of the vagina or even by inserting one's finger therein. Upon the other hand, the reddening of AAA's *labia* could happen even if there is no actual and deep penetration of her vagina because mere contact of a male private organ can produce such reddening. Hence, both the presence of the greenish vaginal discharge at AAA's vaginal opening and the reddening of her *labia* prove penile contact and negates appellant's claim that he merely touched AAA's vagina.³³

In his futile attempt to exonerate himself from the crime charged, the appellant puts emphasis on the inconsistencies between AAA's sworn statement before the police officers and her open court testimony. In her sworn statement, AAA stated that the appellant raped her several times from

³¹ *People v. Evina*, 453 Phil. 25, 41 (2003).

³² Id. at 42 citing *People v. Mahinay*, 362 Phil. 86, 108 (1999).

³³ Testimony of Dr. Guiang, TSN, 16 October 2006, pp. 7-13.

December 2005 until 24 July 2006, but in her open court testimony she merely stated that she was raped by the appellant only once, that is, on 24 July 2006.

As often repeated, discrepancies between sworn statements and testimonies made at the witness stand do not necessarily discredit the witness. Sworn statements/affidavits are generally subordinated in importance to open court declarations because the former are often executed when an affiant's mental faculties are not in such a state as to afford her a fair opportunity of narrating in full the incident which has transpired. Testimonies given during trials are much more exact and elaborate. **Thus testimonial evidence carries more weight than sworn statements/affidavits.**³⁴ More so, what is important is the fact that AAA was able to establish that she was, indeed, raped by the appellant on 24 July 2006.

The denial of the appellant, unsubstantiated and uncorroborated, must certainly fail. Mere denial, if unsubstantiated by clear and convincing evidence, has no weight in law and cannot be given greater evidentiary value than the positive testimony of a rape victim. Denial is intrinsically weak, being a negative and self-serving assertion.³⁵ The more significant fact is that appellant's denial that he raped his granddaughter was by way of admission of criminal lust. The girl's vagina was touched and the appellant failed to prove that the lust did not last.

In light of the foregoing, it is beyond any cavil of doubt that the prosecution successfully established the guilt of the appellant beyond reasonable doubt.

As to the crime committed. To note, the rape was committed on 24 July 2006, therefore, the provisions of Republic Act No. 8353,³⁶ which was the law in effect when the rape was committed, shall apply.³⁷

In this case, although both the trial court and the Court of Appeals appreciated the aggravating/qualifying circumstances of minority and relationship and even applied the penalty for qualified rape, yet, they designated the crime committed by the appellant as merely rape.

³⁴ *People v. Mangat*, 369 Phil. 347, 360 (1999) citing *People v. Sanchez*, 361 Phil. 692, 720 (1999).

³⁵ *People v. Basmayor*, supra note 26 at 384-385.

³⁶ Known as "The Anti-Rape law of 1997."

³⁷ *People v. Basmayor*, supra note 26 at 385.

The crime committed by the appellant was qualified rape.

For one to be convicted of qualified rape, at least one of the aggravating/qualifying circumstances mentioned in Article 266-B³⁸ of the Revised Penal Code, as amended, must be alleged in the information and duly proved during the trial.³⁹ In the instant case, the aggravating/qualifying circumstance of minority (under twelve years old) and relationship have been alleged in the Information. AAA's minority has been proved by her Certificate of Live Birth showing that she was born on 1 July 1998, thus, she was only eight (8) years old when she was raped by the appellant on 24 July 2006. As regards the qualifying circumstance of relationship, it is alleged in the Information that AAA is the granddaughter of the appellant. The appellant himself admitted during trial that AAA is his granddaughter, being the daughter of his son. Under prevailing jurisprudence, admission in open court of relationship has been held to be sufficient and, hence, conclusive to prove relationship with the victim.⁴⁰

Having properly alleged in the Information and sufficiently proven during trial the aggravating/qualifying circumstances of minority and relationship mentioned in Article 266-B of the Revised Penal Code, as amended, **this Court finds the appellant guilty of qualified rape.**

As to the penalty. Under Article 266-B of the Revised Penal Code, as amended, the imposable penalty for qualified rape is death. With the effectivity, however, of Republic Act No. 9346, entitled, "An Act Prohibiting the Imposition of Death Penalty in the Philippines," the imposition of the supreme penalty of death has been prohibited. Pursuant to Section 2⁴¹ thereof, **the penalty to be meted out to appellant shall be *reclusion perpetua*.** Notwithstanding the reduction of the penalty imposed

³⁸

ART. 266-B. Penalties. – x x x.

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:

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;

³⁹ *People v. Basmayor*, supra note 26 at 387.

⁴⁰ *People v. Padilla*, G.R. No. 167955, 30 September 2009, 601 SCRA 285, 397.

⁴¹ **Sec. 2.** In lieu of the death penalty, the following shall be imposed.

(a) the penalty of *reclusion perpetua*, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code; or
(b) the penalty of life imprisonment, when the law violated does not make use of the nomenclature of the penalties of the Revised Penal Code.

on appellant, he is still not eligible for parole, following Section 3⁴² of said law. Thus, the penalty imposed upon the appellant, *i.e.*, *reclusion perpetua*, by both lower courts is correct.

As to damages. Civil indemnity, which is mandatory in a finding of rape is distinct from and should not be denominated as moral damages which are based on different jural foundations and assessed by the court in the exercise of sound discretion.⁴³ The award of moral damages, on the other hand, is automatically granted in rape cases without need of further proof other than the commission of the crime because it is assumed that a rape victim has actually suffered moral injuries entitling her to such award.⁴⁴ The award of exemplary damages is justified under Article 2230 of the Civil Code if there is an aggravating circumstance, whether ordinary or qualifying.⁴⁵

In this case, the Court of Appeals awarded ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages and ₱30,000.00 as exemplary damages. This Court, however, deems it proper to increase the same in line with *People v. Gambao*,⁴⁶ which set the minimum indemnity and damages in cases where death is the penalty warranted by the facts but is not imposable under present law, as follows: ₱100,000.00 as civil indemnity, ₱100,00.00 as moral damages and ₱100,000.00 as exemplary damages. Thus, this Court increased the awards of civil indemnity and moral damages from ₱75,000.00 to ₱100,000.00. The award of exemplary damages is similarly increased from ₱25,000.00 to ₱100,000.00. Also, in conformity with this Court's recent pronouncements, the interest at the rate of 6% per annum shall be imposed on all damages awarded from the date of the finality of this judgment until fully paid.⁴⁷

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 03363 dated 17 September 2009 is hereby **AFFIRMED** with the following **MODIFICATIONS**: (1) the appellant is found guilty beyond reasonable doubt of qualified rape; (2) the awards of civil indemnity and moral damages are both increased from ₱75,000.00 to ₱100,000.00, while the award of exemplary damages is increased from ₱25,000.00 to ₱100,000.00; and (3) the appellant is ordered to pay AAA the

⁴² **Sec. 3.** Person 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. 4180, otherwise known as the Indeterminate Sentence Law, as amended.

⁴³ *People v. Montemayor*, 444 Phil. 169, 190 (2003).

⁴⁴ *People v. Dimaanao*, 506 Phil. 630, 652 (2005).

⁴⁵ *People v. Montemayor*, supra note 43 at 190.

⁴⁶ G.R. No. 172707, 1 October 2013.

⁴⁷ *People v. Linsie*, G.R. No. 199494, 27 November 2013.

interest on all damages at the legal rate of 6% per annum from the date of finality of this judgment.


SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


ARTURO D. BRION
Associate Justice
Acting Chairperson


JOSE CATRAL MENDOZA
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice



MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ATTESTATION


I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ARTURO D. BRION
Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting Chairperson's Attestation, 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