



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated August 17, 2022 which reads as follows:

“**G.R. No. 250041** (*People of the Philippines v. XXX*¹). — This appeal² seeks to reverse and set aside the January 16, 2019 Decision³ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02486, which affirmed with modification the March 7, 2017 Decision⁴ of the Regional Trial Court (RTC) of [REDACTED],⁵ Branch 58, in Criminal Case No. CBU-106434, finding accused-appellant XXX guilty beyond reasonable doubt of the crime of Rape under paragraph 1, Article 266-A of the Revised Penal Code (RPC).

The Factual Antecedents

An Information⁶ dated November 3, 2014 was filed against XXX for the rape of AAA.⁷ The accusatory portion of the said Information reads:

- over – fourteen (14) pages ...

91

¹ Initials were used to identify the accused-appellant pursuant to the Supreme Court Amended Administrative Circular No. 83-2015 dated September 5, 2017 entitled “Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders using Fictitious Names/Personal Circumstances.”

² *Rollo*, pp. 18-19.

³ *Id.* at 5-17. Penned by Associate Justice Emily R. Aliño-Geluz and concurred in by Associate Justices Edgardo L. Delos Santos (a former Member of the Court) and Marilyn B. Lagura-Yap.

⁴ *CA rollo*, pp. 38-47; penned by Presiding Judge Ma. Lynna P. Adviento.

⁵ Geographical location is blotted out pursuant to Supreme Court Amended Administrative Circular No. 83-2015.

⁶ Records, p. 1.

⁷ “The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, and for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and their Children, effective November 15, 2004.” (*People v. Dumadag*, 667 Phil. 664, 669 [2011]).

That on or about the 2nd day of November, 2014 at around 2:30 o'clock early in the morning, more or less at [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have sexual intercourse with AAA, against her will and consent.

CONTRARY TO LAW.⁸

Upon his arraignment on February 3, 2015, XXX pleaded “not guilty” to the crime charged.⁹ After the termination of the pre-trial conference, trial on the merits subsequently ensued.¹⁰

Version of the Prosecution

On November 1, 2014, at around 9:00 p.m., the victim was at her cousin’s house in [REDACTED] having dinner with her relatives and herein accused-appellant, who was a neighbor and a close family friend.¹¹ At around 11:30 p.m., AAA, together with her cousins and XXX, decided to go to a disco party which was being held in a basketball court that was about 50 meters away.¹² A few hours later, or at around 2:30 a.m. of November 2, 2014, AAA left the disco party ahead of her companions.¹³

While AAA was walking home, she noticed that someone was following her.¹⁴ Suddenly, XXX appeared behind her. He choked her and told her not to resist (“*ayaw paglangas*”).¹⁵ He then punched AAA in the abdomen, pushed her to the creek, and followed her there. When AAA tried to resist, XXX punched her left leg and proceeded to remove her short pants and underwear. He also threatened to kill her father if she did not stop resisting.¹⁶ However, AAA could not even manage to move or resist at all since her leg cramped up due to the blow. XXX then forcibly inserted his penis into AAA’s vagina while she was in a prone position. When AAA kept shouting, XXX threatened to kill her and her father if she did not keep quiet.¹⁷

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⁸ Records, p. 1.

⁹ Id. at 20 and 24.

¹⁰ Id. at 47-49.

¹¹ CA rollo, p. 69.

¹² Id.

¹³ Id. at 70.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

AAA was able to escape when XXX briefly stopped assaulting her to look for something that fell on the floor. Without bothering to retrieve her shorts and underwear, AAA ran to her aunt's house.¹⁸ There, AAA told her family about what had happened. Her aunt then called the *barangay* captain, who promptly arrived at the house together with the other *barangay* officers.¹⁹ AAA narrated to them how XXX raped her.²⁰ Afterwards, they brought AAA to the disco area and asked her to identify who her assailant was. AAA pointed to XXX as her rapist.²¹

The officers immediately arrested XXX and they went to the police station to report the incident and have it recorded in the police blotter.²² Thereafter, AAA went to the hospital for medical examination. However, the examining doctor advised her to come back on another date because AAA was then on her second day of menstruation.²³

Meanwhile, AAA's sister went to the scene of the crime and took photos of the creek, the pathway leading to the creek, AAA's shorts, slipper, and her discarded pink underwear with sanitary napkin, and XXX's slipper.²⁴ She also took photos of the dress that AAA wore when XXX raped her and the bruises on AAA's left upper leg.²⁵

On November 7, 2014, AAA returned to the doctor for her medical examination.²⁶ The results showed that the "genital findings are suggestive of a blunt force or penetrating trauma," which could have been caused by a blunt object like a penis or finger.²⁷

Version of the Defense

For his part, XXX denied the allegations against him. He testified that on the night of the incident, he was having a drinking session with AAA's relatives, who were his neighbors. At past midnight, AAA invited them to go to a disco in the *barangay's*

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¹⁸ Id. at 71; TSN, September 29, 2015, p. 8.

¹⁹ CA *rollo*, p. 71.

²⁰ Id.

²¹ Id.

²² Id.

²³ Id.

²⁴ Id at 72.

²⁵ Id.

²⁶ Id.

²⁷ Records, p. 97; TSN, February 2, 2016, p. 6.

basketball court. After a night of drinking and dancing, XXX got inebriated and fell asleep near the disco sound box. He woke up at around 4:00 a.m. and went to the house of his wife's aunt, which was situated nearby. XXX was sitting in the balcony when the *barangay* officers came and arrested him. He was taken to the police station where the police officers conducted an investigation. He told the police officers that he did not commit any crime but they forced him to admit to the crime, mauled him, and locked him in a detention cell. XXX also testified that the police electrocuted him and thereafter brought him to a hospital for check-up, but the results thereof were not shown to him. He also claimed that the police officers never informed him of his constitutional rights.²⁸

Ruling of the Regional Trial Court

In a Decision dated March 7, 2017, the RTC found XXX guilty beyond reasonable of the crime of Rape under Article 266-A of the RPC.²⁹ In arriving at this verdict, the RTC accorded credence to the testimony of the victim, as corroborated by the results of her medical examination. It held that XXX's defense of denial was not sufficient to overcome AAA's positive identification of accused-appellant as the perpetrator of the crime.³⁰ Moreover, the trial court found that XXX's alibi cannot prosper since it was not physically impossible for him to be at the scene of the crime at the time of the incident.³¹ The dispositive portion of the RTC Decision reads:

ACCORDINGLY, judgment is rendered finding the accused, [XXX] guilty beyond reasonable doubt of the crime of rape under Article 266-A (1) of the Revised Penal Code, as amended, for which he is sentenced to suffer the penalty of *reclusion perpetua*. He is entitled to full credit of his preventive imprisonment.

Moreover, he is ordered to pay the private offended party as follows: P75,000.00 as civil indemnity, P75,000.00 as moral damages, P75,000.00 as exemplary damages; with interest on all damages awarded at the legal rate of six percent (6%) per annum from the date of finality of this judgment until fully paid.

SO ORDERED.³²

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91

²⁸ CA *rollo*, p. 27.

²⁹ Id. at 46.

³⁰ Id. at 45.

³¹ Id. at 46.

³² Id. 46-47.

Dissatisfied with the ruling of the trial court, XXX elevated the case to the CA.

Ruling of the Court of Appeals

In a Decision dated January 16, 2019, the CA found XXX's appeal unmeritorious and upheld the Decision of the RTC. It gave full credence to the testimony of AAA who positively identified XXX as the perpetrator of the crime.³³ Additionally, the medical finding of a blunt force or penetrating trauma in the victim's hymen corroborated her statement that XXX raped her.³⁴ The appellate court was not persuaded by XXX's arguments and found his defenses of denial and alibi to be weak and insufficient to reverse his conviction.³⁵ Anent the award of damages, the CA modified the RTC's awards of civil indemnity, moral and exemplary damages from ₱75,000.00 to ₱100,000.00 each. The appellate court thus ruled:

WHEREFORE, premises considered, the instant *appeal* is **DENIED**. The assailed *Decision* dated March 7, 2017 of the Regional Trial Court, 7th Judicial Region, Branch 58, Cebu City in Criminal Case No. CBU-106434, convicting [XXX] for the crime of *Rape* is hereby **AFFIRMED with MODIFICATION**. The civil indemnity, moral and exemplary damages awarded are increased to **One Hundred Thousand Pesos (Php100,000.00)** each, and all damages awarded shall earn interest at six percent (6%) *per annum* from the date of finality of this judgment until fully paid.

SO ORDERED.³⁶

Hence, this appeal.

Issue

The sole issue for this Court's resolution is whether accused-appellant is guilty beyond reasonable doubt of the crime of Rape as defined and penalized under Article 266-A and Article 266-B of the RPC.

Our Ruling

The appeal has no merit. The CA correctly affirmed the conviction of XXX for the crime of Rape committed against the private complainant.

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91

³³ *Rollo*, p. 13.

³⁴ *Id.*

³⁵ *Id.* at 15-16.

³⁶ *Id.* at 16-17.

Article 266-A of the RPC provides:

ART. 266-A. *Rape, When and How Committed.* – Rape is committed -

1. By a man who shall have carnal knowledge of a woman under any of the following circumstances:

a. Through force, threat or intimidation; x x x

Based on the foregoing provision, the prosecution must prove beyond reasonable doubt the following elements: (a) that the accused had carnal knowledge of the victim, and (b) that the said act was accomplished through the use of force, threat, or intimidation.

In the case at bar, both elements were sufficiently established through the categorical and straightforward testimony of AAA, viz.:

Q: While you were on your way home, was there any unusual incident that happened?

A: Yes, on my way home, I noticed that someone was following me.

Q: And what happened next?

A: [XXX] choked me and told me “*ayaw paglangas*”. Then, he punched me on my abdomen and pushed me to the creek.

Q: Who was this person who choked you and punched you on your stomach and pushed you to the creek?

A: [XXX].

Q: And what happened next after he pushed you to the creek?

A: He followed me to the creek.

Q: What happened next after he followed you down the creek?

A: I resisted him and he punched my left leg. Then, he violated me.

x x x x

Q: Now, Madam Witness, before you were raped by the accused, can you please tell us what did the accused do to you step by step, if you can recall? What was the first thing that accused [XXX] did to you?

A: Since I resisted him, he punched my leg.

Q: And then, what happened next?

A: I tried to escape but he grabbed me again and then he managed to remove my short pants.

- over -

Q: After removing your short pants, what did the accused do again?

A: That was the time he raped me because I could not move anymore because my left leg cramped.

Q: What about your underwear, what did the accused do to your underwear?

A: He threw away my underwear.

Q: Before he threw away your underwear, what did he do to it first since you were wearing it at that time?

A: He kept telling me to be quiet and he threatened me that he would kill my father.

Q: You said that the accused, [XXX], removed your shorts, did he also remove your underwear at the same time that he removed your shorts?

A: Yes.

Q: What about your dress, did he remove your dress?

A: No, he did not remove my dress.

Q: After the accused removed your underwear and your dress, what did he do next to you?

A: He inserted his penis to my vagina.

Q: And what was your position at that time when the accused, [XXX], inserted his penis inside your vagina?

A: I was in prone position at that time because I tried to crawl but he was able to grab me.

x x x x

Q: And what happened next?

A: I kept on shouting. He told me to keep quiet and he choked me again. Then, he asked me why I [was] so noisy and that do I really want my father to be killed. So, I kept quiet and then he grabbed me again. Then, I shouted again and he told me that I am really noisy. He asked me if I really wanted to be killed. After that, he seemed busy looking for something, I do not know what was it, I doubted maybe he was looking for a knife or a stone.³⁷

From the foregoing, it is apparent that XXX forcibly had sexual intercourse with the private complainant by punching, choking, and threatening to kill her and her father if she did not stop resisting and keep quiet.

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³⁷ TSN, September 29, 2015, pp. 5-8.

In rape cases, the accused may be convicted based solely on the testimony of the victim, provided that such testimony is clear, convincing, and consistent with human nature. In fact, this Court has often held that a victim's credible testimony is sufficient to support the verdict of conviction.³⁸

Here, the RTC gave full credence to AAA's testimony. Well-settled is the rule that factual findings of the trial court are accorded great weight and respect, given its unique ability to observe the conduct and demeanor of the witnesses. This rule finds an even more stringent application when the said findings are affirmed by the CA, such as in this case. Consequently, in the absence of any clear showing that the trial court had overlooked, misunderstood, or misappreciated any fact or circumstance of weight and substance that would affect the outcome of the case, this Court has no cogent reason to overturn the lower courts' findings.³⁹

In his appeal, XXX insists that the victim's testimony as to how he raped her was implausible and not in accordance with the ordinary course of nature.⁴⁰ XXX points out that he was not armed with any weapon at the time of the alleged rape incident, thus, he could not have forced or intimidated the victim into having sexual intercourse with him.⁴¹ Given that he was unarmed, she could have easily run away from him or called for help.⁴²

He further avers that there were no significant injuries in the victim's body that would mirror the resistance she allegedly put up against him, as shown by her medical certificate which stated that there was "no evident injury" that was found after the incident or during the time of examination.⁴³ XXX also claims that the photograph of the victim's bruise on her left leg was not substantial evidence to prove that he punched her, since the same did not indicate the time and date it was taken; hence, there was no assurance that the photo was actually taken around the time of the alleged rape.⁴⁴

Moreover, XXX asserts that rape was not possible considering that private complaint was lying face down and it would have been difficult for him to insert his penis into her vagina in such a position.

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³⁸ *People v. XXX*, G.R. No. 228961, February 3, 2021.

³⁹ *People v. Tulagan*, G.R. No. 227363, March 12, 2019.

⁴⁰ *CA rollo*, p. 30.

⁴¹ *Id.* at 30-31.

⁴² *Id.* at 32.

⁴³ *Id.* at 31.

⁴⁴ *Id.*

Moreover, it would have been impossible for him to remove AAA's clothing if she actually resisted. He also posits that private complainant's testimony was inconsistent because it was not clear whether he removed her shorts and underwear separately, or at the same time, and whether he used two hands in doing so.⁴⁵

Additionally, XXX claims that the victim's identification of him as her rapist was quite weak and had no leg to stand on because her only basis thereof was his voice, and because the prosecution failed to establish that the crime scene was well-lit enough for the private complainant to positively identify him as the assailant.⁴⁶ Lastly, XXX maintains that the victim was very drunk at the time of the incident, thus, her recollection of the events that transpired could very well be uncertain, if not unreliable, on all points owing to her intoxication.⁴⁷

We reject all of accused-appellant's arguments.

First, it is immaterial that XXX was unarmed at the time of the incident. As correctly observed by the CA:

The force and violence required in rape cases are relative and need not be overpowering or irresistible when applied. For rape to exist, it is not necessary that the force or intimidation be so great or be of such character as could not be resisted – it is only necessary that the force or intimidation be sufficient to consummate the purpose which the accused had in mind. Further, it should be viewed from the perception and judgment of the victim at the time of the commission of the crime. What is vital is that the force or intimidation be of such degree as to cow the unprotected and vulnerable victim into submission. Force is sufficient if it produces fear in the victim, such as when the latter is threatened with death.

In the present case, AAA categorically stated that the accused-appellant punched her leg, pushed her, threatened to kill her and her father if she will not keep quiet. Undoubtedly, fear and helplessness griped AAA. To the mind of this Court, accused-appellant's overt acts were sufficient to subdue and overpower the victim's resistance.⁴⁸

XXX's reasoning that private complainant could have easily run away and called out for help since he was unarmed also deserves scant consideration. AAA sufficiently explained that she could not

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⁴⁵ Id. at 32.

⁴⁶ Id. at 33.

⁴⁷ Id.

⁴⁸ *Rollo*, pp. 13-14.

move or escape because her leg cramped up after XXX punched it and that she tried to resist XXX but he was too strong for her.⁴⁹ Moreover, she consistently testified that she actually kept on shouting but XXX threatened to kill her and her father if she did not keep quiet.⁵⁰ Notwithstanding AAA's testimony, this Court holds that her behavior during the rape incident does not affect her credibility. Jurisprudence is replete with the doctrine that there is no standard behavior that can be expected of a person who has been raped. People react differently. When placed under emotional stress or a distressing situation, the workings of the human mind can be unpredictable. Some may shout or offer strong resistance, some may be too intimidated to do anything at all, others may faint or be shocked into insensibility, or there may also be those who openly welcome the intrusion. Nevertheless, none of these reactions impair the credibility of a rape victim.⁵¹

This Court is likewise not persuaded by XXX's assertion that the victim's testimony is inconsistent and conflicting with the results of her medical examination because the latter provided that she did not have any bruising or evident injury that would reflect the resistance she supposedly put up against XXX. The absence of external signs of physical injuries does not negate the commission of the rape since the same is not an essential element of the crime. Neither does it make the victim a willing partner in the sexual intercourse.⁵² Further, this Court is not unmindful of the fact that XXX conveniently left out the part of the medical certificate which stated that the victim's genital findings were suggestive of a blunt force or penetrating trauma. At any rate, a medical report is not necessary to prove the commission of rape and is merely corroborative in character.⁵³

Next, the Court cannot give credence to XXX's stance that it would have been difficult, if not impossible, for him to have inserted his penis into the victim's vagina if she was lying face down or in a prone position. In *People v. Vedra*,⁵⁴ this Court held that:

The position of the parties during sexual intercourse is not material in the crime of rape. We have already observed that carnal knowledge can be consummated whether in a standing, sitting or

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⁴⁹ TSN, September 29, 2015, p. 22.

⁵⁰ Id. at 8.

⁵¹ *People v. XXX*, G.R. No. 235662, July 24, 2019.

⁵² *People v. Ramos*, 838 Phil. 797, 810 (2018).

⁵³ *People v. XXX*, G.R. No. 244288, March 4, 2020.

⁵⁴ 396 Phil. 487 (2000).

dog-style manner. Such sexual positions are not improbable nor impossible. Further, the victim's testimony was corroborated by the medical findings. When the victim's testimony is corroborated by the physician's findings of penetration, then there is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge.⁵⁵

We likewise do not agree with XXX's claim that it was impossible for him to have removed AAA's clothing if she truly resisted his advances. To reiterate, AAA persistently struggled to get away from XXX but eventually failed as her strength was no match to his. Besides, a rape victim has no burden to prove that she did all within her power to resist the force or intimidation employed upon her. Resistance is relative and not an element of rape.⁵⁶

Moreover, XXX's argument that AAA's testimony was inconsistent with regard to how he undressed her is also untenable. It is settled in this jurisdiction that as long as the testimony of the witness is coherent and intrinsically believable as a whole, discrepancies of minor details and collateral matters do not affect the veracity, or detract from the essential credibility of the witness' declarations.⁵⁷ Verily, what is of paramount consideration is the witness' consistency in relating the principal elements of the crime and the positive and categorical identification of the appellant as the perpetrator of the same.⁵⁸

In connection to this, XXX would like this Court to believe that AAA failed to positively identify him because her only basis was the sound of his voice and it was not proved that the crime scene was well-lit.

We are not persuaded.

As this Court has ruled in earlier cases, identification by the sound of the voice as well as familiarity with the physical features of a person are sufficient and acceptable means of identification where it is established that the witness and the accused had known each other personally and closely for a number of years.⁵⁹ Here, AAA knew XXX personally because he was a neighbor and a close family friend.

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⁵⁵ *Id.* at 496.

⁵⁶ *People v. Ramos*, *supra*.

⁵⁷ *People v. Amoc*, 810 Phil. 253, 261 (2017).

⁵⁸ *People v. Gerola*, 813 Phil. 1055, 1066 (2017).

⁵⁹ *People v. Aboc*, G.R. No. 247272, November 16, 2020 (Notice).

Moreover, AAA had dinner and was at the disco party with XXX moments before the rape took place. It also bears to note that AAA was able to ascertain that it was XXX who raped her as a gleaming light (“*anaag sa suga*”) shone on his face when he pushed her down the creek.⁶⁰

Lastly, this Court rejects accused-appellant’s contention that AAA’s testimony is unreliable because she was intoxicated at the time of the incident. AAA consistently testified that, except for the one shot of alcoholic beverage that she took before she and her companions had even left for the disco party, she refrained from drinking the entire night as she needed to go to work the following morning.⁶¹ In any case, XXX failed to substantiate his allegation that AAA’s memory of the incident is impaired.

Taking into account all the circumstances of this case, this Court finds credible and sufficient AAA’s identification of accused-appellant, to the exclusion of others, as the perpetrator of the crime. There is no reason to doubt her sincerity to tell the truth since there is no showing at all by the defense that AAA charged XXX with Rape because of some ill, evil, or corrupt motive. Indeed, no woman would concoct a story of defloration, allow an examination of her private parts and thereafter allow herself to be perverted in a public trial if she was not motivated solely by the desire to have the culprit apprehended and punished.⁶²

All told, accused-appellant’s defenses of denial and alibi must fail in light of the clear, consistent, and credible testimony of AAA. It is an established doctrine that denial is an inherently weak defense and constitutes self-serving negative evidence, which cannot be accorded greater evidentiary weight than the positive declaration by a credible witness. Stated otherwise, mere denial, without any strong evidence to support it, cannot overcome the positive declaration by the victim regarding the identity of the accused as well as his involvement in the crime attributed to him.⁶³ The same is true with XXX’s claim of alibi that he was sleeping at the disco area when the rape incident occurred. As aptly noted by the CA, XXX was within the immediate vicinity and it was not physically impossible for him to be at the crime scene during the time of its commission.⁶⁴

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91

⁶⁰ TSN, September 29, 2015, p. 20; CA *rollo*, p. 70.

⁶¹ Id. at 14-15.

⁶² *People v. XYZ*, G.R. No. 244255, August 26, 2020.

⁶³ *People v. Quiapo*, 838 Phil. 260, 271 (2018).

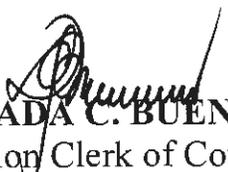
⁶⁴ *Rollo*, p. 16.

The crime committed is Simple Rape. Anent the penalty and award of damages, the courts below properly imposed the penalty of *reclusion perpetua* in conformity with Article 266-B of the RPC. However, the CA erred when it increased the awards of civil indemnity, moral and exemplary damages from ₱75,000.00 to ₱100,000.00 each. In *People v. Tulagan*,⁶⁵ this Court held that “when the circumstances surrounding the crime call for the imposition of *reclusion perpetua* only, there being no ordinary aggravating circumstance, the proper amounts should be ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages.”⁶⁶ Thus, this Court reinstates the amount of damages originally imposed by the RTC. Finally, the damages awarded shall earn interest at the rate of six percent (6%) per *annum* from the finality of this judgment until said amounts are fully paid.

WHEREFORE, the appeal is **DISMISSED**. The January 16, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 02486 is **AFFIRMED** with **MODIFICATION**. Accused-Appellant XXX is hereby found **GUILTY** beyond reasonable doubt of the crime of Simple Rape under Article 266-A and penalized in Article 266-B of the Revised Penal Code. He is thus sentenced to suffer the penalty of *reclusion perpetua* and **ORDERED** to **PAY** the victim, AAA, the following amounts: (1) ₱75,000.00 as civil indemnity; (2) ₱75,000.00 as moral damages; and (3) ₱75,000.00 as exemplary damages. All amounts are subject to legal interest at the rate of six percent (6%) per *annum* from finality of this Resolution until fully paid.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
9226

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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SEP 01 2022

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⁶⁵ Supra note 39.

⁶⁶ Id., citing *People v. Jugueta*, 783 Phil. 806, 849 (2016).



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