



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **October 5, 2022** which reads as follows:*

“**G.R. No. 257496 (People of The Philippines v. XXX<sup>1</sup>)**. — This appeal<sup>2</sup> seeks to reverse and set aside the Decision<sup>3</sup> dated 09 December 2020 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03265, which affirmed the Joint Decision<sup>4</sup> dated 11 November 2013 of Branch 52, Regional Trial Court of ██████████<sup>5</sup> in Criminal Case Nos. 08-2120 and 2121, finding accused-appellant XXX (accused-appellant) guilty beyond reasonable doubt of the crime of Rape.

**Antecedents**

Accused-appellant was charged with Rape, defined and penalized under paragraph 1 of Article 266-A of the Revised Penal Code<sup>6</sup> (RPC), in relation to Sec. 5, Art. III of Republic Act No. (RA) 7610,<sup>7</sup> in two separate Informations, viz.:

**Criminal Case No. 08-2120**

That on or about the 11th day of November 2007 in the ██████████  
██████████ Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and with force and intimidation, did then and there willfully, unlawfully and

<sup>1</sup> The information is blotted pursuant to Amended Administrative Circular No. 83-15 dated 05 September 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.”

<sup>2</sup> *Rollo*, pp. 5-7.

<sup>3</sup> *Id.* at 10-24; penned by Associate Justice Dorothy P. Montejo-Gonzaga and concurred in by Associate Justices Pamela Ann Abella Maxino and Lorenza R. Bordios.

<sup>4</sup> *Id.* at 28-42; penned by Acting Presiding Judge Marivic A. Trabajo-Daray.

<sup>5</sup> The information is blotted pursuant to Amended Administrative Circular No. 83-15 dated 05 September 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.”

<sup>6</sup> Entitled “AN ACT REVISING THE PENAL CODE AND OTHER PENAL LAWS.” Approved: 08 December 1930.

<sup>7</sup> Entitled “AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES.” Approved: 17 June 1992.

feloniously poke a gun on the head and lie on top of the victim [AAA],<sup>8</sup> a seventeen (17) years [sic] old minor, having been born on January 10, 1990, kiss her lips and vagina and despite her resistance insert his erect penis into her vagina, thus, the accused succeeded in having carnal knowledge with the victim against her will and without her consent; to the damage and prejudice of the offended victim in the amount to be proved during the trial

Acts committed contrary to the provisions of Article 266-A No. 1(a) in relation to Art. 266-B of Republic Act No. 8353.<sup>9</sup>

### Criminal Case No. 08-2121

That on or about the 11th day of November 2007 in the [REDACTED] Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and with force and intimidation, did then and there willfully, unlawfully and feloniously poke a gun on the head and lie on top of the victim [AAA], a seventeen (17) years old minor, having been born on January 10, 1990, kiss her lips and vagina and despite her resistance insert his erect penis into her vagina, thus, the accused succeeded in having carnal knowledge with the victim against her will and without her consent; to the damage and prejudice of the offended victim in the amount to be proved during the trial.

Acts committed contrary to the provisions of Article 266-A No. 1(a) in relation to Art. 266-B of Republic Act No. 8353.<sup>10</sup>

Upon arraignment, accused-appellant pleaded not guilty to the charge against him. After pre-trial was terminated, trial on the merits ensued.<sup>11</sup>

### Version of the Prosecution

AAA, then 17 years old, narrated that in the evening of 10 November 2007, she and her cousins BBB, CCC, and DDD, were attending a disco at [REDACTED]. At around 12:00 p.m., they left the place. While on their way home, three individuals suddenly approached them, all of whom were armed. Two had firearms, including accused-appellant, while the other one was wielding a knife. Accused-appellant then held AAA and poked a gun at her. Meanwhile, CCC was allowed to leave, while DDD was able to run away. Thereafter, AAA and her cousin, BBB, were brought to an abandoned hut which was just five meters away from the road.<sup>12</sup>

While in the hut, accused-appellant threatened to kill AAA and BBB if they will not have sex with him and his companions.

<sup>8</sup> The identity of the victim or any information which could establish or compromise her identity, including the names of her immediate family or household members, and the *barangay* and town of the incident, are withheld pursuant to SC Amended Administrative Circular No. 83-2015.

<sup>9</sup> *Rollo*, pp. 28-29.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 30.

<sup>12</sup> *Id.* at 12.

According to AAA, accused-appellant forced her to lean against the wall, and took off her clothes. He also pulled up her bra and removed her underwear. He then kissed AAA and, even in a standing position, he was able to insert his penis as he forcefully made her spread her legs apart. Throughout her ordeal, accused-appellant was holding a gun pointed at her, hurling threats that she would die if she does not obey.<sup>13</sup>

After raping her, accused-appellant remained unsatisfied. Thus, he forced himself anew to AAA. This time, accused-appellant pulled up AAA and forced her on top of him. While AAA was on top of accused-appellant, he inserted his penis into her vagina. After making a push and pull movement, accused-appellant immediately changed position and continued to rape her. AAA was coerced to follow accused-appellant's orders for fear of death.<sup>14</sup>

After satisfying his lust, accused-appellant freed her and BBB, who was also raped by accused-appellant's companions, and even accompanied them home. Accused-appellant warned her not to tell anyone about the incident or he would kill her. Accused-appellant left AAA stunned and in tears. She did not inform anyone about the incident. Not until her uncle became suspicious as he noticed the dirt on her clothes.<sup>15</sup>

AAA further asserted that she could well recognize accused-appellant since the latter was not wearing a mask or anything to cover his face during the incident. AAA's testimony was corroborated by Dr. Francisco Ngoboc, Jr. (Dr. Ngoboc), who testified that he conducted a medical examination on AAA on 12 November 2007. Dr. Ngoboc testified that in his internal examination on AAA, his findings showed: "[n]o signs at present, laceration noted which means that hymen was not intact, and hymen is ruptured." He explained that although there was no recent laceration, it does not follow that there was no recent penetration as there could be a penetration but no laceration especially if the woman had already a carnal knowledge long time ago. He also added that not all penetration can produce laceration.<sup>16</sup>

### **Version of the Defense**

Accused-appellant professed his innocence, and raised denial and alibi as his defenses. He attested that at the time of the alleged incident, he was in his house sleeping together with his parents. He never left their house because they were harvesting rice during daytime. He claimed not to have known AAA until the time he was charged in court.<sup>17</sup>

---

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> Id. at 13-14.

<sup>17</sup> Id. at 14.

### Ruling of the RTC

In its Joint Decision dated 11 November 2013, the RTC found accused-appellant guilty beyond reasonable doubt of the crime charged, *viz.*:

WHEREFORE, considering the foregoing, accused [XXX] is hereby found GUILTY beyond reasonable doubt of two counts of Rape.

In accordance with the penalty set forth under the Revised Penal Code, accused [XXX] is hereby sentenced to suffer the penalty RECLUSION PERPETUA for each count of rape.

Accused is likewise sentenced to pay civil indemnity to the victim [AAA] in the amount of FIFTY THOUSAND PESOS (P50,000.00), Philippine Currency for each count of rape or the total amount of ONE HUNDRED THOUSAND PESOS (P100,000.00).

x x x x

SO ORDERED.<sup>18</sup>

The RTC held that AAA had clearly described how the two counts of rape were committed against her. Her statements were spontaneous and a child of her tender age could not be expected to make up stories if what happened to her did not really happen. The RTC also ruled that AAA has positively identified accused-appellant as her assailant. Moreover, the prosecution has established all the elements of rape.<sup>19</sup>

### Ruling of the CA

On 09 December 2020, the CA affirmed with modifications the RTC Joint Decision, to wit:

**WHEREFORE**, the appeal is **DENIED**. The *Joint Decision* dated 11 November 2013 rendered by the Regional Trial Court of ██████████ 7th Judicial Region, Branch 52, in Criminal Case Nos. 08-2120 and 08-2121, is **AFFIRMED** with **MODIFICATIONS**.

In Criminal Case No. 08-2120, [XXX] is sentenced to suffer the penalty of reclusion perpetua; and to pay AAA the amounts of Php75,000.00 as civil indemnity, Php75,000.00 as moral damages, and Php75,000.00 as exemplary damages; and

In Criminal Case No. 08-2121, [XXX] is sentenced to suffer the penalty of reclusion perpetua; and to pay AAA the amounts of Php75,000.00 as civil indemnity, Php75,000.00 as moral damages, and Php75,000.00 as exemplary damages.

---

<sup>18</sup> Id. at 41-42.

<sup>19</sup> Id. at 39-41.

All the amounts of damages awarded shall earn interest at the rate of six percent (6%) per annum from the date of finality of judgment until fully paid.

**SO ORDERED.**<sup>20</sup>

In affirming the RTC, the CA held that the prosecution was able to prove beyond reasonable doubt the existence of all the elements of rape. The CA adjudged that AAA indeed gave a clear and categorical account of her ordeal, positively identifying accused-appellant as her rapist. AAA was unwavering in her answers concerning the circumstances of the rape even under grueling cross-examination.<sup>21</sup>

The CA likewise underlined that the presence of hymenal laceration is not an element of rape, and a medical certification is not necessary to prove rape since the same is merely corroborative in character. Medical evidence which does not disprove rape is unavailing for an accused where there is direct evidence of the crime consisting of the victim's personal account of sexual assault. Moreover, the CA ruled that intimidation was established by accused-appellant's act of carrying a gun and threatening AAA to cow her to submission. The CA also held that whenever there is an inconsistency between an affidavit and the testimony of a witness, the testimony commands greater weight. Finally, the CA emphasized that accused-appellant's defenses of denial and alibi were inherently weak.<sup>22</sup>

The CA, however, modified the damages awarded in consonance with the ruling in *People v. Jugueta*.<sup>23</sup>

Hence, this appeal.

**Issue**

The issue in this case is whether accused-appellant is guilty beyond reasonable doubt for Rape.<sup>24</sup>

**Ruling of the Court**

We deny the appeal.

Accused-appellant insists that AAA's testimony was riddled with inconsistencies. Specifically: (1) the prosecution witnesses cannot state with certainty the number of malefactors who appeared on the road; (2) in AAA's testimony in court, she said that it was a firearm that was poked at her, but in

---

<sup>20</sup> Id. at 23-24.

<sup>21</sup> Id. at 15.

<sup>22</sup> Id. at 15-23.

<sup>23</sup> Id. at 23.

<sup>24</sup> Id. at 101-105.

her affidavit, stated that a knife was used by the man who held her; (3) there are inconsistencies in where the gun was supposedly placed during the rape; (4) the position in which accused-appellant raped AAA was confusing; (5) in the second act of rape, AAA said she did not resist accused-appellant anymore; (6) it is incredulous that accused-appellant will take AAA home after raping her; and (7) per the medical certificate, there were no fresh lacerations in AAA's sexual organ.<sup>25</sup>

We are not persuaded.

To obtain a conviction for a charge of Rape under Article 266-A (1) of the RPC, as amended by RA 8353,<sup>26</sup> the prosecution must establish that: (a) the offender had carnal knowledge of a woman; and (b) he accomplished this act under the circumstances mentioned in the provision, *e.g.*, through force, threat or intimidation. The gravamen of rape is sexual intercourse with a woman against her will.<sup>27</sup>

The Court agrees that the prosecution had adequately proven accused-appellant's guilt beyond reasonable doubt for rape committed on 11 November 2007. AAA's testimony clearly established that accused-appellant had sexual intercourse with her, without the latter's consent. Indeed, the evidence on record shows that accused-appellant raped AAA against her will through force and intimidation by pointing a gun at her and threatening to kill her if she resisted.<sup>28</sup>

Accused-appellant faults the lower courts for giving credence to AAA's testimony, contending that there were discrepancies between AAA's sworn statement and her testimony in open court, and that her testimony itself also bore inconsistencies and absurdities.<sup>29</sup>

We are not convinced.

It is well settled that discrepancies or inconsistencies between a witness' affidavit and testimony do not necessarily impair the latter's credibility as affidavits are taken *ex parte* and are often incomplete or inaccurate for lack or absence of searching inquiries by the investigating officer.<sup>30</sup> In the event of any inconsistency between a witness' affidavit and testimony in court, as in this case, the latter shall prevail.<sup>31</sup>

---

<sup>25</sup> *CA rollo*, pp. 35-47.

<sup>26</sup> Entitled "AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE." Approved: 30 September 1997.

<sup>27</sup> *People v. Ejercito*, 834 Phil. 837, 844 (2018).

<sup>28</sup> *Rollo*, pp. 17-19, 53-56.

<sup>29</sup> *CA rollo*, pp. 35-47.

<sup>30</sup> *See People v. Gonzales*, 781 Phil. 149, 159 (2016).

<sup>31</sup> *Lejano v. People*, 652 Phil. 512, 704-705 (2010).

At any rate, the inconsistencies pointed out by accused-appellant refer to minor details only which do not touch upon the central fact of the crime and do not impair AAA's credibility. They do not make AAA's straightforward and coherent testimony less worthy of belief. If at all, they serve as proof that AAA is not coached or rehearsed.<sup>32</sup>

Further, this Court has consistently held that questions on the credibility of witnesses should best be addressed to the trial court because of its unique position to observe the elusive and incommunicable evidence of witnesses' deportment on the stand while testifying, which is denied to the appellate courts. Hence, the trial judge's assessment of the witnesses' testimonies and findings of fact are accorded great respect on appeal. In the absence of substantial reason to justify the reversal of the trial court's assessment and conclusion, as when no significant facts and circumstances are shown to have been overlooked or disregarded, the reviewing court is generally bound by the former's findings. The rule is even more strictly applied if the appellate court has concurred with the trial court, as in this case.<sup>33</sup>

Likewise, testimonies of child victims are given full weight and credit, for when a woman or a girl-child says that she has been raped, she says in effect all that is necessary to show that rape was indeed committed.<sup>34</sup> In this case, AAA was merely 17 years old when the crime occurred and when she first recounted her painful ordeal.

Here, as found by the RTC and affirmed by the CA, AAA was able to candidly and categorically narrate her experience of unwanted sexual intercourse with accused-appellant. The elements of rape were established by AAA's credible and resolute testimony as she recounted in great detail how she was raped by accused-appellant. She also positively identified accused-appellant as the perpetrator.<sup>35</sup>

AAA bluntly recalled in open court:<sup>36</sup>

Q: And while in the hut what happened?

A: We were threatened by them that if we will not allow them to have sexual intercourse with them we will be killed.

Q: And what did you do?

A: I was not able to do anything because we were threatened that we will be killed if we will not submit to their wishes.

---

<sup>32</sup> See *People v. Gersamio*, 763 Phil. 523, 735 (2015).

<sup>33</sup> *People v. Alberca*, 810 Phil. 896, 906 (2017).

<sup>34</sup> *Id.*

<sup>35</sup> *Rollo*, pp. 17-19, 53-56; TSN, 09 December 2009, pp. 5-6, 19-21; TSN, 23 June 2010, pp. 3- 6, 24-27.

<sup>36</sup> TSN, 09 December 2009, pp. 5-6, 19-21.

Q: Who in particular threatened you?

A: Seneric Tura.

Q: And as you were helpless because of the threat what did Senaric do to you?

A: He removed my pedal pants and thereafter he inserted his penis into my vagina.

Q: What was your position when according to you Senaric Tura kissed you from top to bottom?

A: I was made to lean on the wall of the hut.

x x x x

Q: How was he able to insert his penis Madam Witness when you were standing, will you please demonstrate to us the position of your feet?

A: I was made to spread my legs, "bilangkad"

x x x x

In addition, in her Sworn Statement before the Philippine National Police (PNP), AAA described the first rape incident as follows:<sup>37</sup>

Q: What else happened?

A: That at about 12:30 dawn of November 11, 2007, he told me to take-off (sic) my dress while poking a nickel-plated gun on me but I refused to do so which prompted him to push me on the wall and forcibly raised my shirt including my bra and begun kissing my lips while his hands fondle my breast, kissed my breast down to my tummy while his hands managed to unbutton the zipper of my pedal maong pants and afterwards, removed it from me including my panty then he kissed my vagina and then he take-off (sic) his dress also and subsequently, forcibly inserted his penis to my vagina that is against my will;

x x x x

As for the second incident of rape, AAA narrated:<sup>38</sup>

Q: Why do you say so, that you were afraid that he might kill you?

A: Because he was bringing (sic) with him a firearm, a .38 firearm.

Q: What did he do to you?

A: He pulled me and let me placed myself on top of him.

x x x x

<sup>37</sup> Records, Criminal Case No. 08-2121, p. 8 and Records, Criminal Case No. 08-2021, p. 8.

<sup>38</sup> TSN dated 23 June 2010, pp. 3-6; TSN, pp. 24-27.



Q: xxx, what happened next?  
A: He inserted his penis into my vagina and thereafter he changed position – he was on top of me.

Q: While he was on top of you, what did he do?  
A: He made a push and pull movement.

x x x x

Q: And why did you follow his orders?  
A: Because I was threatened by him; I was afraid that I might be killed.

To add, in her Sworn Statement before the PNP, AAA recounted as regards the second time accused-appellant raped her:

Q: What happened next?  
A: That at about 1:45 o'clock dawn of November 11, 2007, he tried to rape me again that is against my will. That I resisted but he threatened to kill me and dragged me to floor and forcibly placed myself on top of him and managed to insert his penis to my vagina;

Q: What else had happened?  
A: That he removed his penis in my vagina and placed himself on top of me and inserted again his penis to my vagina that is against my will;

x x x x<sup>39</sup>

Based on AAA's straightforward and unwavering declaration, this Court, therefore, concludes that accused-appellant indeed had carnal knowledge of her against her will. AAA was cowed into submission by accused-appellant's threats against her life.

So too, it was established that AAA was 17 years old at the time the crimes were committed as evidenced by the Certification from the Office of the Civil Registrar. Said Certification states that AAA was born on 14 March 1990.<sup>40</sup>

Anent the absence of fresh lacerations, the Court has held that the absence of the same does not disprove rape. In *People v. ZZZ*,<sup>41</sup> We have explained that:

[M]ere touching, no matter how slight of the labia or lips of the female organ by the male genital, even without rupture or laceration of the hymen, is sufficient to consummate rape. The absence of fresh

<sup>39</sup> Records, Criminal Case No. 08-2121, p. 8 and Records, Criminal Case No. 08-2021, p. 8.

<sup>40</sup> Records, Criminal Case No. 08-2121, p. 14 and Records, Criminal Case No. 08-2021, p. 14; TSN, 21 October 2009, p. 10.

<sup>41</sup> G.R. No. 229862, 19 June 2019.

hymenal laceration does not disprove sexual abuse, especially when the victim is a young girl[.]<sup>42</sup>

We note that the Medical Certification states that:

findings:

- > no signs of recent laceration noted.
- > Hymen (ruptured) not intact.

Impression (s) / Conclusion (s) / Recommendation (s):

- > Signs of defloration noted.<sup>43</sup>

Verily, while no fresh laceration was noted, AAA's hymen has been ruptured. In this regard, Dr. Ngoboc testified in court that sexual abuse could not be cancelled out even if no fresh injuries or lacerations were found.<sup>44</sup> In any event, it bears stressing that a medical report is dispensable in proving the commission of rape. *People v. Manaligod*<sup>45</sup> is instructive on this:

Moreover, even if the Court disregards the medico-legal certificate, the same would still not be sufficient to acquit accused-appellant. **It has been repeatedly held that the medical report is by no means controlling.** A medical examination of the victim is not indispensable in the prosecution for rape, and no law requires a medical examination for the successful prosecution thereof. The medical examination of the victim or the presentation of the medical certificate is not essential to prove the commission of rape, as the testimony of the victim alone, if credible, is sufficient to convict the accused of the crime. **The medical examination of the victim as well as the medical certificate is merely corroborative in character.** (Emphasis supplied)<sup>46</sup>

As to AAA's failure to exert effort to prevent the second count of rape, We are of the view that the same does not disprove the commission of the crime. We stress that AAA is under no obligation to show that she had taken steps to stop accused-appellant's advances. Our ruling in *People v. Tejero*<sup>47</sup> is on point:

Equally unsuccessful is Tejero's attempt to destroy AAA's credibility by questioning the latter's failure to take precautionary measures to prevent the successive rapes. Again, AAA is a young girl who had been raped and threatened by someone she considers her stepfather and who lives with her and her family in the same house. **The Court need not require AAA to prove that she fought back or protected herself in some way to stop the rape or to keep the rape from happening again. It is not**

<sup>42</sup> *People v. Salazar*, G.R. No. 239138, 17 February 2021, citing *People v. ZZZ*, supra.

<sup>43</sup> Records, Criminal Case No. 08-2121, p. 13 and Records, Criminal Case No. 08-2021, p. 13.

<sup>44</sup> *Rollo*, pp. 13-14; TSN, 05 September 2012, pp. 4-6, 45-47.

<sup>45</sup> 831 Phil. 204 (2018).

<sup>46</sup> See *People v. XXX*, G.R. No. 255491, 18 April 2022, citing *People v. Manaligod*, 831 Phil. 204 (2018).

<sup>47</sup> 688 Phil. 543 (2012).

**accurate to say that there is a typical reaction or norm of behavior among rape victims, as not every victim can be expected to act conformably with the usual expectation of mankind and there is no standard behavioral response when one is confronted with a strange or startling experience, each situation being different and dependent on the various circumstances prevailing in each case. (Emphasis supplied.)<sup>48</sup>**

At this juncture, We reiterate, yet again, that the position of the parties during sexual intercourse is not material in the crime of rape.<sup>49</sup> Rape may be committed in any position, even with the woman on top. Moreover, the briefest of contacts under circumstances of force, intimidation, or unconsciousness, even without laceration of the hymen, is deemed to be rape in our jurisprudence.<sup>50</sup> Indeed, jurisprudence reveals that this Court has consistently upheld findings of rape despite: (1) the absence of lacerations or hematoma on the victim's body, and (2) the sexual position (*i.e.* woman was placed on top) assumed by the accused.<sup>51</sup> So too, the Court has repeatedly underlined that an accused may be convicted solely on the testimony of the complainant provided her testimony is credible, natural, convincing, and otherwise consistent with human nature, as in the instant case.<sup>52</sup>

None of accused-appellant's numerous arguments and defenses is persuasive enough for the Court to disturb the factual findings and conclusions of the RTC, as affirmed by the CA. To be sure, no cogent reason exists to doubt the veracity of AAA's accusations against accused-appellant. Like the RTC and the CA, this Court sees her testimony, albeit with some inconsistencies, credible and sufficient enough to establish the guilt of accused-appellant beyond reasonable doubt. The records easily reveal how candid and steadfast she was during her testimony as she unequivocally and positively identified accused-appellant as her transgressor.

Anent accused-appellant's defenses of denial and alibi, the Court has consistently pronounced that the same are inherently weak defenses which cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime. Thus, as between a categorical testimony which has the ring of truth on the one hand, and a mere denial and alibi on the other, the former is generally held to prevail.<sup>53</sup>

Ultimately, none of accused-appellant's arguments was able to convince the Court to discredit AAA's credibility. The Court thus affirms the findings of both the RTC and the CA that AAA's testimony deserves full faith and credit.

---

<sup>48</sup> *Id.* at 556.

<sup>49</sup> *See People v. Comanda*, 553 Phil. 655 (2007). *See also People v. Napud, Jr.*, 418 Phil. 268 (2001).

<sup>50</sup> *Id.*

<sup>51</sup> *See People v. Subesa*, 676 Phil. 403 (2011); *People v. Celocelo*, 653 Phil. 251 (2010); *People v. Comanda*, 553 Phil. 655 (2007); *People v. Napud, Jr.*, 418 Phil. 268 (2001); *People v. Macaya*, 404 Phil. 556 (2001); and *People v. Castillo*, 274 Phil. 940 (1991).

<sup>52</sup> *Id.*

<sup>53</sup> *People v. Nievera*, G.R. No. 242830, 28 August 2019.


As to the penalty, the Court finds no error in the imposition made by the RTC, as affirmed by the CA. We underline that whenever the crime of rape is committed with the use of a deadly weapon, the penalty shall be *reclusion perpetua* to death as provided under Article 266-B of the RPC. The prosecution was able to sufficiently allege in the Information and establish during trial that a handgun was used in the commission of rape. Considering that no aggravating or mitigating circumstance attended the commission of the crime, the lesser penalty of *reclusion perpetua* was properly imposed by the lower courts.<sup>54</sup>

In light of the ruling in *People v. Jugueta*<sup>55</sup> and *People v. Tulagan*,<sup>56</sup> We also find that the CA correctly increased the damages to (a) ₱75,000.00 as civil indemnity; (b) ₱75,000.00 as moral damages; and (c) ₱75,000.00 as exemplary damages for both cases.

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated 09 December 2020 of the Court of Appeals in CA-G.R. CR-HC No. 03265 is **AFFIRMED**.

**SO ORDERED.**” *Marquez, J., on official leave.*

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

**144**

**FEB 13 2023**

<sup>54</sup> *People v. Villalobos*, 833 Phil. 123, 144 (2018). See also *People v. XXX*, G.R. No. 225781, 16 November 2020.

<sup>55</sup> 783 Phil. 806, 848 (2016).

II. For Simple Rape/Qualified Rape:

2.1 Where the penalty imposed is *reclusion perpetua*, other than the above-mentioned:

a. Civil indemnity - ₱75,000.00

b. Moral damages - ₱75,000.00

c. Exemplary damages - ₱75,000.00

<sup>56</sup> G.R. No. 227363, 12 March 2019.

The Solicitor General  
134 Amorsolo Street, Legaspi Village  
1229 Makati City

Court of Appeals  
6000 Cebu City  
(CA-G.R. CR-HC No. 03265)

The Hon. Presiding Judge  
Regional Trial Court, Branch 52  
Talibon, 6325 Bohol  
(Crim. Case Nos. 08-2120 & 08-2121)

PUBLIC ATTORNEY'S OFFICE  
Regional Special and Appealed Cases Unit  
Counsel for Accused-Appellant  
3<sup>rd</sup> Floor, Taft Commercial Center  
Metro Colon Carpark, Osmeña Boulevard  
6000 Cebu City

XXX  
Accused-Appellant  
c/o The Director General  
Bureau of Corrections  
1770 Muntinlupa City

The Director General  
Bureau of Corrections  
1770 Muntinlupa City

Public Information Office (x)  
Library Services (x)  
Supreme Court  
(For uploading pursuant to A.M.  
No. 12-7-1-SC)

Philippine Judicial Academy (x)  
Supreme Court

Judgment Division (x)  
Supreme Court



144

UR

