

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SALVADOR REYES BARCIA, ACCUSED-APPELLANT.

Ponente: DE GUIA-SALVADOR, R., J.

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DE GUIA-SALVADOR, R., J.:

This is an appeal from the Decision dated October 25, 2013 rendered by the Regional Trial Court (RTC) of Marikina City, Branch 273, in Criminal Case No. 07-9834-MK,[1] the dispositive portion of which states:

"WHEREFORE, accused SALVADOR REYES BARCIA is found guilty beyond reasonable doubt of Rape under Article 266-A in relation to Article 266-B of the Revised Penal Code as amended by RA 8353, and is hereby sentenced to suffer the penalty of Reclusion Perpetua.

Accused is further directed to pay AA P50,000.00 as civil indemnity, P50,000.00 as moral damages and P30,000.00 as exemplary damages, plus interest of 6% per annum on all damages from the date of the finality of this Decision.

SO ORDERED."[2]

The Facts

On November 19, 2007, at around 3 o'clock in the afternoon, AA,[3] then fourteen (14) years old, accompanied her mother BB[4] and a certain Aling Belen to gather firewood at a vacant lot near the "paaralan ng madre" at Meteor, Marikina City. As AA and BB were about to go home after filling up one (1) sack with firewood, Aling Belen requested BB to allow AA to stay behind to accompany her while she cooked cassava. BB agreed and went home by herself, while Aling Belen and AA proceeded to the nipa hut of accused-appellant Salvador Reyes Barcia/Alias Badong ("Barcia") so the former could start cooking.[5]

About an hour later, AA decided to go outside to gather more firewood. She walked further down the hill where the guava trees were ("bayabasan"), filled up one (1) plastic bag with firewood, and picked some guavas. To AA's surprise, Barcia suddenly appeared holding a bolo and poked it at her. He then grabbed AA by her clothes and dragged her to the grassy area at the bottom of the hill. AA shouted for help, but to no avail.[6]

Upon reaching the grassy area, Barcia kissed AA on the lips while he poked the bolo at her mouth. Afterward, he kissed her neck and her chest.[7] While poking the bolo at her, Barcia ordered AA to take off her clothes and lie down on the ground. AA put up no resistance for fear of her life, as he threatened to kill her if she made any noise. Barcia hurriedly undressed himself, laid on top of her and inserted his private part into hers. After some time, Barcia ejaculated and stood up. He again threatened AA that he would kill her if she told anyone about what happened. He ordered AA to leave so she put on her clothes and went back to the nipa hut to find Aling Belen so she could go home.[8]

When they reached BB's house, AA told Aling Belen what had happened to her. Aling Belen immediately informed BB that AA had been raped. Asked what happened, AA narrated what Barcia did to her. BB cried and got angry at Aling Belen because she entrusted AA to her. AA and BB then sought the assistance of the barangay

tanod in turning in Barcia to the authorities. Barcia was immediately arrested after AA recounted what he had done to her.[9] AA and BB then proceeded to the Women's Desk at the Marikina City police station to file charges against Barcia. They also went to the Crime Laboratory at Camp Crame so that AA could be examined by a Medico-Legal officer.[10]

Upon examination of AA, the Initial Medico Legal Report prepared by PCI Shanne Lore A. Dettabali, M.D. ("PCI Dettabali") indicated the following findings:

"Hymen: Presence of deep, fresh lacerations on the 3, 6 & 9 o'clock positions

The perihymenal area, labia majora & minor are congested

The posterior fourchette is abraded

Conclusion: Medical evaluation shows evidence of recent blunt force or penetrating trauma to the genital area"[11]

As a consequence, a criminal information was filed on November 22, 2007 by Assistant City Prosecutor Ernesto L. Abijay, Jr. before the RTC of Marikina City, charging Barcia with the crime of rape under Article 266-A (1)(a) in relation to Article 266-B par. (2) of the Revised Penal Code, as amended by RA 8353 in relation to Section 5(a) of RA 8369, thus:

"That on or about the 19[th] day of November 2007, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bolo, by means of force, threat and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one [AA], a fourteen (14) year old minor at the time of the commission of the offense, against her will and without her consent.

CONTRARY TO LAW."[12]

Upon arraignment on January 16, 2008, Barcia, assisted by counsel de oficio, entered a plea of not guilty. During the preliminary conference, the parties stipulated on the identity of the accused, and the jurisdiction of the trial court, and that for resolution is the sole issue of whether or not Barcia is guilty of the crime charged. When efforts to settle the case failed, the parties proceeded to mark their respective documentary evidence.[13] With the conclusion of the pre-trial, trial ensued.[14]

During trial, the prosecution presented the testimony of the victim AA. and submitted her Sinumpaang Salaysay[15] which was executed on the same day she claimed to have been raped. When asked in open court to identify who raped her, AA specifically pointed to Barcia.[16] In the course of her direct testimony, she likewise described in detail how Barcia raped her after poking a bolo at her face.[17]

The prosecution also presented the Medico-Legal Officer as an expert witness to explain the findings in the Initial[18] and Final[19] Medico Legal Report. In her direct examination, PCI Dettabali stated that there were deep and fresh lacerations on AA's private part at the 3, 6 and 9 o'clock positions which would support the theory that she had been raped.[20]

To corroborate AA's testimony, the prosecution submitted in evidence BB's Sinumpaang Salaysay[21] stating that Barcia raped her daughter and that the offense had caused their family great suffering and humiliation. BB also testified in open court and expressed her anger at what had happened to her daughter, especially when she saw how AA was deeply affected and traumatized. She likewise affirmed having accompanied her daughter to the barangay and the police station to report the incident and file a case against Barcia.[22]

To refute the testimonies of the prosecution witnesses, Barcia took the witness stand and asserted that he was planting cassava in his "taniman" at the vacant lot near his nipa hut when he was suddenly summoned by the

barangay tanod to the barangay hall on the pretext that somebody wanted to talk to him. There, Barcia saw both AA and BB who accused him of rape.[23] He denied their accusation.[24]

After trial, the RTC rendered the appealed October 25, 2013 Decision.[25] Giving full credence to the testimonies of the prosecution witnesses, the trial court found Barcia guilty beyond reasonable doubt of the offense charged. Hence, this appeal.

The Issues

Accused-appellant Barcia urges the reversal and setting aside of the RTC Decision on the following errors ascribed to the trial court, viz.:

"I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE PRIVATE COMPLAINANT'S TESTIMONY.

II

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE IN HIS FAVOR." [26]

The Court's Ruling

We find the appeal devoid of merit.

Article 266-A (1) of the Revised Penal Code, as amended by RA 8353, provides that rape is committed 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 otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority; and

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.

In rape cases, the gravamen of the offense is sexual intercourse with a woman against her will or without her consent.[27] In reviewing rape cases, three settled principles have traditionally guided the courts in determining the guilt or innocence of the accused, viz.: (1) an accusation of rape can be made with facility, it is difficult to prove but more difficult for the person accused, though innocent, to disprove it; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and, (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence of the defense.[28] As a result of these guiding principles, in a prosecution for rape, credibility becomes the single most important issue.[29]

In urging the reversal of the judgment of conviction, Barcia stressed that the presumption of innocence should prevail and that even if his defense was simply a denial, he should be acquitted for failure of the prosecution to prove his guilt beyond reasonable doubt.[30] Barcia argued that if indeed he tried to rape AA, she should have tried to call for help, or at least struggled from his hold in order to escape while he was supposedly undressing himself. Barcia also assailed AA's credibility on his claim that she displayed a confused behavior during her direct testimony.[31] As to the purported lack of bad faith or ill motive on the part of AA, Barcia argued that such does

not guarantee the reliability and veracity of her accusation.

In essence, Barcia's contentions boil down to AA's credibility which the trial court relied upon in convicting him of the crime of rape. Well-settled is the rule that findings of trial courts which are factual in nature and which revolve on matters of credibility of witnesses deserve to be respected when no glaring errors bordering on a gross misapprehension of facts, or where no speculative, arbitrary and unsupported conclusions, can be gleaned from such findings.[32] This is in view of its inimitable opportunity to directly observe the witnesses and their deportment, conduct and attitude, especially during cross-examination. Thus, unless it is shown that its evaluation was tainted with arbitrariness or certain facts of substance and value have been plainly overlooked, misunderstood, or misapplied, the same will not be disturbed on appeal."[33]

Far from yielding reasons of such strength or cogency as would warrant a departure from the foregoing principles, however, Our circumspect perusal of the record impels Us to concur with the trial court's observation that AA testified in a clear, candid and straightforward manner in recounting how Barcia had carnal knowledge of her in the afternoon of November 19, 2007, thus:

"xxx xxx xxx

PROS. JAUCIAN:

xxx the accused, whose name is Alias Badong, approached you and poked you with a bolo?

WITNESS:

Yes, Ma'am.

xxx xxx xxx

PROS. JAUCIAN:

And that when he approached you, you said that he started kissing you?

WITNESS:

Yes, Ma'am.

xxx xxx xxx

PROS. JAUCIAN:

And at the time that he poked the bolo at you, what part of your body was poked with that bolo?

WITNESS:

While he was kissing me the bolo was also pointed at my mouth.

xxx xxx xxx

PROS. JAUCIAN:

And what was your reaction then while he was kissing you?

WITNESS:

Nothing, Ma'am, because I was afraid of him.

xxx xxx xxx

PROS. JAUCIAN:

So, after he kissed you on the chest, madam witness, what happened next?

xxx xxx xxx

WITNESS:

I removed my dress totally because while he was asking me to undress he is threatening me and the bolo was poked at me.

xxx xxx xxx

PROS. JAUCIAN:

And after you removed all your clothes, miss witness, what happened next, if any?

WITNESS:

He got on top of me. ('Pinatungan po niya ako.')

xxx xxx xxx

PROS. JAUCIAN:

What did he do on top of you, miss witness, if any?

WITNESS:

I was crying, Ma'am.

PROS. JAUCIAN:

What did he do?

xxx xxx xxx

WITNESS:

He inserted his penis in me.

PROS. JAUCIAN:

So, you mean you felt his private part inside of you?

WITNESS:

Yes, Ma'am.

xxx xxx xxx"[34]

On several instances during the trial, AA stated that she felt scared to resist, fight back or run away because Barcia all the while threatened her with a bolo which he pointed sometimes at her mouth and other times at her chest, and intimidating to kill her if she would make a noise.[35] The use of a weapon, by itself, is strongly suggestive of force or at least intimidation, and threatening the victim with a knife, much more poking it at her is sufficient to bring her into submission.[36] It is thus clear that Barcia had carnal knowledge of her by employing force and intimidation, manifested by his deliberate acts of threatening her life and using a bolo to force and ensure her complete submission.

In an attempt to cast doubt on the credibility of AA, the defense noted the latter's unusual silence and failure to put up any resistance during the rape incident. It contended that if indeed she was raped, AA should have tried to call for help, or at least struggled free from Barcia's hold to escape, especially at the point when he was undressing himself.[37]

The contentions of the defense fail to persuade. Suffice it to state that different people act differently to a given stimulus or type of situation, and there is no standard form of behavioral response when one is confronted with a strange or startling or frightful experience.[38] In fact, the Supreme Court never laid down a rule and/or parameters on how a rape victim should behave immediately after she has been violated because there is no uniform behavior expected of victims after being raped.[39] The experience of being sexually violated is relative and may be dealt with in any way by the victim depending on the circumstances, but her credibility should not be tainted with any modicum of doubt.[40] In this case, the unusual silence or lack of protest on AA's part during the rape incident, and her failure to resist or escape should neither detract from her credibility nor constitute as grounds to disbelieve her tale of rape against Barcia.

Equally unmeritorious is the defense argument that AA could have easily shouted for help if indeed Barcia had dragged her to a grassy area where he raped her. Records show that even if AA had shouted for help, nobody could have heard her because the crime scene is quite remote from the nipa hut where Aling Belen was busy cooking cassava at the time. AA testified:

"xxx xxx xxx

ATTY. LARRACAS:

When you saw Badong approaching, you entertained him?

WITNESS:

'Hinablot niya ang damit ko at hinila ako papunta sa damuhan, mam.'

ATTY. LARRACAS:

Did you not call for Aling Belen at the time he was grabbing you?

WITNESS:

I was shouting but Aling Belen cannot hear me because it was far.

COURT:

How far again is the house of Badong where Aling Belen was to the place of bayabasan where you were drag by Badong?

WITNESS:

It is far at the downhill, mam.

COURT:

You point to the court if this is the bayabasan where you were drag by Badong, you point to the court any area from here where the house of Badong is located?

WITNESS:

Twenty meters more or less, Your Honor.

ATTY. LARRACAS:

So from bayabasan from the place which you said you were drag [dragged] to the grassy area, where is the grassy area?

WITNESS:

At the lowest part of the hill, mam."[41]

When a woman—more so if she is a uneducated minor like AA—says she has been raped, it has been repeatedly ruled that she says, in effect, all that is necessary to prove that rape was committed.[42] In cases of offended parties who are young and immature girls, there is considerable receptivity on the part of the courts to lend credence to their testimonies, considering not only their relative vulnerability[43] but also the shame and embarrassment to which such a grueling experience as a court trial, where they are called upon to lay bare what perhaps should be shrouded in secrecy, did expose them to.[44] Indeed, no decent woman in her right mind would tell a tale that would sully her reputation and bring undue embarrassment and shame to herself and expose her family to all sorts of public aspersions if it is not the truth.[45] Where the accused could not present any sensible justification as to why private complainant had accused him of so serious an offense as rape, as in the case at bar, such fact logically proves that no improper motive propelled the latter to so charge the former.[46]

Granted, as the defense pointed out, that AA showed signs of confusion at the start of her direct examination, such should not be considered as an indication of dishonesty or deceit on her part. The defense would do well to remember that "since human memory is fickle and prone to the stresses of emotions, accuracy in a testimonial account has never been used as a standard in testing the credibility of a witness." [47] And while victims of rape react differently to their traumatic experiences, there is no standard that they should conform to in order to be regarded as believable or convincing whenever they give their testimonies.[48]

Nonetheless, that a medical examination was performed by PCI Dettabali on the same day that AA was raped and the former's finding of fresh lacerations on the latter's private part, reinforce the credible account of the victim that she was indeed raped. In her direct examination, PCI Dettabali explained the significance of her findings regarding the deep, fresh lacerations, thus:

"xxx xxx xxx

PROS. JAUCIAN:

In connection with this examination with AA, Madam Witness, what then did you find out?

WITNESS:

Physical examination reveal essential normal findings but since our examination reveals signs of injuries, Ma'am.

PROS. JAUCIAN:

You mentioned in your findings the portion I will quote 'Presence of deep, fresh laceration', what does this mean?

WITNESS:

When you say fresh laceration it is fresh because it was bleeding at the time of examination.

PROS. JAUCIAN:

Based on your expert opinion, Madam Witness, what could have caused this deep, fresh laceration?

WITNESS:

The most possible cause of this laceration is penetration of an erected male organ in the vaginal [sic].

PROS. JAUCIAN:

Why do you say this was caused by an erected male organ?

WITNESS:

That is the possible cause, Ma'am. It is possibly caused by a male erected organ because it has deep laceration on different parts.

xxx xxx xxx

COURT:

But your conclusion, Madam Doctor is that, just because there were no spermatozoa inside the vaginal canal, does it mean that there was no contact between an erect penis and the vagina of the victim?

WITNESS:

I have concluded, your Honor, there was evidence of blunt force or penetrating trauma.

COURT:

That is why, the absence of spermatozoa does not negate entry of penis to the vagina of the victim of this case?

WITNESS:

Yes, your Honor.

xxx xxx xxx."[49]

As an expert witness, PCI Dettabali's testimony should be accorded great weight as she is entitled to the presumption of regularity in the performance of her official duties when she conducted a medical examination on AA. In contrast, the defense neither disputed her findings nor proved that she was biased or incredible when she testified on her medical examination of AA. It is settled that when a rape victim's account is straightforward and candid, and is corroborated by the medical findings of the examining physician, as in the case at bar, such testimony is sufficient to support a conviction."[50] Therefore, the clear and convincing testimonies of AA and PCI Dettabali are sufficient to overturn the presumption of innocence in favor of Barcia.

As to the defense of denial, such cannot prevail over AA's positive identification of Barcia as the one who raped her.[51] Mere denial of involvement in a crime, if unsubstantiated by clear and convincing evidence, is deemed negative and self-serving evidence unworthy of credence. Unsubstantiated by clear and convincing evidence, Barcia's denial cannot be given greater evidentiary value than the credible and straightforward testimony of AA who testified on affirmative matters and positively identified him.[52]

Under Article 266-A of the Revised Penal Code, as amended by RA 8353, rape is committed by a man who shall have carnal knowledge of a woman through force, threat or intimidation. Sexual intercourse with a woman against her will or without her consent is the gravamen of the offense of rape.[53] In this case, the following essential elements of rape were duly established by the prosecution through the credible testimony of private complainant AA, viz: 1) that the perpetrator [Barcia] had carnal knowledge of a woman; and 2) that it was committed by using force, threat or intimidation. Hence, We sustain the trial court's finding that the prosecution has proved by evidence beyond reasonable doubt that Barcia is guilty of rape.

Further, under Article 266-B of the Revised Penal Code, as amended by RA 8353, when the crime of rape is committed with the use of a deadly weapon the imposable penalty shall be reclusion perpetua to death. Applying Article 63[54] of the Revised Penal Code, there being no mitigating nor other aggravating circumstances in the commission of the crime, the lesser of the two indivisible penalties or reclusion perpetua shall be imposed. Thus, the trial court correctly imposed the penalty of reclusion perpetua. However, We hold that Barcia should be declared ineligible for parole pursuant to Republic Act No. 9346[55]

We also affirm the trial court's award of civil indemnity and moral damages in the amount of Php50,000.00 each. Civil indemnity and moral damages are mandatorily awarded to the victim upon a finding that rape took place.[56]

We likewise uphold the trial court's award of exemplary damages of Php30,000.00 in favor of AA since Barcia used a deadly weapon to perpetrate the crime of rape against her. While the use of a deadly weapon is not one of the generic aggravating circumstances in Article 14 of the Revised Penal Code, under Article 266-B thereof, the presence of such circumstance in the commission of rape increases the penalty, provided that it has been alleged in the Information and proved during trial[57], as in the case at bar. This manifests the legislative intent to treat the accused who resorts to this particular circumstance as one with greater perversity and, concomitantly, to address it by imposing a greater degree of liability.[58]

Finally, We sustain the trial court in holding that all the monetary awards for damages shall earn 6% interest per annum reckoned from the date of finality of the decision until fully paid, pursuant to the current policy of the Supreme Court.[59]

WHEREFORE, premises considered, the appealed Decision dated October 25, 2013 of the Regional Trial Court of Marikina City, Branch 273, in Criminal Case No. 07-9834-MK, is hereby **AFFIRMED** with **MODIFICATION** declaring accused-appellant Salvador Reyes Barcia ineligible for parole.

SO ORDERED.

Rosario, and Dimagiba, JJ., concur.

[1] RTC Records, pp. 426-435.

[2] *Id.*, at 435.

[3] Under Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act) , Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004) and its implementing rules, the real name of the victim and those of her immediate family members are withheld and fictitious initials are instead used to protect the victim's privacy.

[4] Real name of the minor private complainant's mother is similarly withheld pursuant to RA 7610 and RA 9262.

[5] TSN dated September 29, 2011, pp. 5-8; TSN dated October 24, 2012, pp. 7-14.

[6] TSN dated September 29, 2011, pp. 8-10; TSN dated October 24, 2012, pp. 14-24.

[7] TSN dated September 29, 2011, pp. 11-12; TSN dated March 9, 2012, pp. 5-11; TSN dated October 24, 2012, pp. 24-27.

[8] TSN dated March 9, 2012, pp. 12-20; TSN dated October 24, 2012, pp. 30-32.

[9] TSN dated March 9, 2012, pp. 20-25; RTC Records, pp. 23, 24, 25.

[10] *Supra* note 1, at 8-9, 10-11, 12-13, 367-368; and at 23, 24, 25.

[11] *Supra* note 1, at 17, 19, 21, 370.

[12] *Supra* note 1, at 3-5.

[13] *Id.*, at 41-42.

[14] *Id.*, at 44

[15] *Id.*, at 8-9, 10-11, 12-13, 367-368.

- [16] TSN dated June 16, 2010, p. 5.
- [17] TSN dated March 9, 2012, pp. 4-18.
- [18] Supra note 1 at 17, 19, 21, 370.
- [19] Id., at 372.
- [20] TSN dated February 18, 2013, pp. 9-12.
- [21] Supra note 1, at 14, 15, 16, 366.
- [22] TSN dated February 18 2013, pp. 21-25, 42-43.
- [23] Rollo, p. 23.
- [24] TSN dated September 11, 2013, pp. 8-13.
- [25] Supra note 1, pp. 426-435.
- [26] Rollo, p. 18.
- [27] People v. Bautista, 430 SCRA 469; People v. Barcelona, 325 SCRA 168
- [28] People v. Santos, 426 SCRA 133; People vs. Gaufo, 425 SCRA 119; People v. Valdez, 421 SCRA 376; People v. Subido, 253 SCRA 196.
- [29] People v. Andales, 422 SCRA 253
- [30] Rollo., pp. 28-29.
- [31] Id., p. 27.
- [32] People v. Raga, G.R. No. 200597, February 19, 2014; People v. Mirafuentes, 349 SCRA 204.
- [33] People v. Jumawan, G.R. No. 187495, April 21, 2014 citing People v. Agustin, G.R. No. 194581, July 2, 2012.
- [34] TSN dated March 9, 2012, pp. 4-18.
- [35] TSN dated September 29, 2011, pp. 10-12; TSN dated March 9, 2012, pp. 4-6; TSN dated October 24, 2012, pp. 25, 27-28, 30.
- [36] People v. Tubat, G.R. No. 183093, 1 February 2012
- [37] Rollo, p. 27
- [38] Kummer v. People, G.R. No. 174461, September 11, 2013
- [39] People v. Lazaro, G.R. No. 186379, August 19, 2009
- [40] People v. Macapanas, G.R. No. 187049, May 4, 2010, citing People vs. Luzorata, 350 Phil. 129 (1998)
- [41] TSN dated October 24, 2012, pp. 20-21.
- [42] People v. Hallarte, G.R. No. 205382, April 2, 2014 citing People v. Garcia, G.R. No. 200529, September 19, 2012; People v. Ancheta, 419 SCRA 307; People v. Bagaua, 394 SCRA 54
- [43] Id.; People v. Pacheco, 424 SCRA 164

[44] People v. Sumarago, 422 SCRA 324

[45] People v. Bontuan, G.R. Nos. 142993-94, September 5, 2002

[46] People v. Sabardan, 429 SCRA 9

[47] People v. Pareja, G.R. No. 202122, January 15, 2014 citing People v. Zafra, G.R. No. 197363, June 26, 2013.

[48] People v. Crisostomo, G.R. No. 196435, January 29, 2014.

[49] TSN dated February 18, 2013, pp. 9-12.

[50] People v. Traigo, G.R. No. 199096, June 2, 2014, citing People v. Sumingwa, G.R. No. 183619, October 13, 2009.

[51] People v. Crisostomo, G.R. No. 196435, January 29, 2014

[52] People v. An, G.R. No. 169870, August 4, 2009.

[53] People v. Gabawa, 398 SCRA 467, February 28, 2003; People v. Lolos, G.R. No. 189092, August 19, 2010.

[54] Article 63. Rules for the application of indivisible penalties....

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

x x x x x x x x

2. When there are neither mitigating nor aggravating circumstances, the lesser penalty shall be applied.

x x x x x x x x

[55] AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES. "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." See People v. Frias, G.R. No. 203068, September 18, 2013

[56] People v. Ofemiano, February 1, 2010, G.R. No. 187155; People v. Calongui, G.R. 170566, March 3, 2006

[57] People v. Guillermo, G.R. No. 177138, January 26, 2010, citing People v. Hapin, G.R. No. 175782, 531 SCRA 224 (2007), (239); People v. Legaspi, G.R. No. 136164-65, 357 SCRA 234 (2001); People v. Catubig, 461 Phil. 102 (2001); and People v. Custodio, G.R. No. 176062, 557 SCRA 293 (2008).

[58] Ibid.

[59] People v. Lagman, G.R. No. 197807, April 16, 2012.

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