

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ANGELO PADERNAL Y MASUJER AND NORMAN JAMES BAUTISTA Y
MANZANO, ACCUSED-APPELLANTS.**

Ponente: SALAZAR-FERNANDO, J.

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SALAZAR-FERNANDO, J.:

Before this Court is an appeal from the Decision[1] dated July 30, 2012 of the Regional Trial Court, National Capital Judicial Region, Branch 5, Manila, in Criminal Case No. 10-273883, entitled “People of the Philippines, Plaintiff versus Angelo Padernal y Masujer, Norman James Bautista y Manzano, [**] EEE, **FFF and **GGG, Accused”, the dispositive portion of which reads:

“WHEREFORE, premises considered, the Court finds accused Angelo Padernal y Masujer and Norman James Bautista y Manzano, GUILTY beyond reasonable doubt of the crime of Rape under par. 2 Art. 266-A of the Revised Penal Code as amended by R.A. 8353 and are hereby sentenced to suffer the Indeterminate penalty of Six (6) Years and One (1) Day to Eight (8) Years.

With respect to accused EEE, FFF and GGG, the Court also finds them GUILTY beyond reasonable doubt of the crime charged. However, considering that they were minors at the time of the commission of the offense, they are entitled to a privileged mitigating circumstance of minority, thus, the Court hereby sentenced them to suffer the Indeterminate penalty of Two (2) years Four (4) Months and One (1) Day to Four (4) Years and Two (2) Months of Prison Correccional. Furthermore, the sentence imposed upon them is hereby Suspended for a period of Two (2) Years pursuant to Sec. 64 of Republic Act No. 9344, and placed them under the custody of National Training School for Boys, Sampaloc, Tanay, Rizal.

All accused Angelo Padernal y Masujer, Norman James Bautista y Manzano, EEE, FFF and GGG are ordered to jointly and severally indemnify private complainant AAA the amount of P50,000.00, actual and compensatory damages, P50,000.00 as moral damages and P50,000.00 as exemplary damages without subsidiary imprisonment in case of insolvency and to pay the costs of suit.

The Director of the National Training School for Boys (NTSB), Sampaloc, Tanay, Rizal is hereby directed to submit a periodical report on the rehabilitative program of the three (3) aforesaid minors.

Furnish copy of this Decision, the National Training School for Boys, Sampaloc, Tanay, Rizal for their information and guidance.

The bond posted by the five (5) accused for their provisional liberty are hereby cancelled.

SO ORDERED.”

The facts are:

Accused-appellants Angelo Padernal (Padernal for brevity) and Norman James Bautista (Bautista for brevity) together with EEE, FFF and GGG were charged with the crime of Rape under Art. 266-A, par. 2 of the Revised Penal Code, as amended by R.A. No. 8353 in an Information[2] the accusatory portion of which reads:

“That on or about October 22, 2006, in the City of Manila, Philippines, the said accused conspiring and confederating together, and helping one another, with lewd design did then and there willfully, unlawfully and feloniously commit sexual abuse upon the person of AAA, in the following manner, to wit: by taking advantage of her drunkenness which deprived her of reason, by then and there kissing her on the lips and mashing her breast thereafter taking off her 'tokong' pants and panty and touching her vagina, and then inserting an “object” into her vagina, without her consent and against her will to the damage and prejudice of said AAA.

Contrary to law.”

Upon arraignment, accused-appellants pleaded not guilty to the crime charged.[3] Thereafter, trial on the merits ensued. The prosecution presented private complainant AAA[4], BBB, Carlos Federico de Ramos (de Ramos for brevity) and Dr. Jaime Rodrigo Letrero Real as witnesses. Aside from the testimonies of its witnesses, the prosecution offered the following documentary exhibits as evidence: 1) Exhibit “A” - Resolution dated November 17, 2009 issued by the City Prosecutor of Manila; 2) Exhibit “B” to “B-4” - Original copy of private complainant AAA's Salaysay; 3) Exhibits “C” to “C-1” - a faithful reproduction of the Certificate of Baptism of private complainant AAA; 4) Exhibit “D” - Clinical Biochemistry Findings issued by St. Luke's Medical Center; 5) Exhibits “E” to “E-4” - Original copy of the Provisional Medico Legal Report No. 161-10-23-06 and Memorandum dated October 23, 2006; 6) Exhibit “F” - a faithful reproduction of the certificate of live birth of private complainant AAA; 7) Exhibits “G” to “G-2” - Original copy of the Sinumpaang Salaysay of private complainant AAA; 8) Exhibits “H” to “H-1” - Original copy of the Clinical Biochemistry showing the result of the test conducted by St. Luke's Medical Center; 9) Exhibits “1” to “1-3” - Sinumpaang Salaysay of Carlos Federico de Ramos dated May 10, 2007; 10) Exhibits “J” to “J-2” - Faithful reproduction of the handwritten statement of accused-appellant Bautista admitting that he conspired in raping private complainant AAA; 11) Exhibits “K” to “K-1” - Faithful reproduction of the handwritten statement of accused-appellant Padernal admitting that he conspired in raping private complainant AAA; 12) Exhibits “L” to “L-2” - Faithful reproduction of the handwritten statement of accused EEE admitting that he conspired in raping private complainant AAA; Exhibit “M” - Certificate dated December 7, 2010 issued by the School Director of Republic Institute; and 13) Exhibit “N” with submarkings – Sinumpaang Salaysay of DDD dated August 8, 2007.

Private complainant AAA narrated that: in the late afternoon of October 20, 2006, GGG texted her using a different cellphone number not registered in her phonebook; she asked why he was using a different number but she did not receive a reply; in the evening of October 21, 2006, GGG and EEE told her to make a call but she declined telling them that she had no load; she was told to meet them at Rochelle Computer Shop the following day, and she agreed as they were schoolmates; on October 22, 2006, she left their house at around 6:00 o'clock in the evening and passed by the church to attend the mass before proceeding to Rochelle Computer Shop; she was surprised to see all the accused, including accused-appellants, at the computer shop when she was supposed to meet only GGG and EEE; around 8:00 o'clock in the evening when all the accused finished playing inside the computer shop, she requested EEE to accompany her to the house of her classmate to inquire about their project in Filipino; EEE replied that FFF would like to leave his bag first in their house; she agreed thinking that the house of FFF was just near the computer shop, but she found it to be quite far;[5] she was 16 years old at the time of her testimony on June 29, 2010; she was born on September 22, 1993 and now lives in Alaminos, Pangasinan; she is now in college and is studying at Colegio San Jose de Alaminos taking up Bachelor of Science in Elementary Education; when she was in first year high school she studied at Republic Institute in San Andres Bukid, Manila; at around 6:00 o'clock in the evening of October 22, 2006, she went to Rochelle Computer Shop as per instruction of GGG and FFF; at the computer shop, she talked to GGG, EEE, FFF, de Ramos, accused-appellants Padernal and Bautista; they were all her schoolmates in Republic Institute; she was invited to go to the house of FFF in San

Andres Bukid, Manila near Rochelle Computer Shop; they stayed there from 6:30 up to 11:00 o'clock in the evening; they went inside the house and there were no other people there at that time; upon entering the house, she sat on a chair and waited for them to go out; EEE went out to buy liquor (Emperador Lapad); when EEE came back, he invited his friends to drink; EEE forced her to drink and she was able to drink about $\frac{3}{4}$ of 500 ml.; she was not taking any drugs nor drinking beer or alcoholic beverages; it was her first time to drinking liquor and she felt dizzy; when she was already dizzy, one of the accused approached and forced to kiss her, but she could not remember who he was[6], while some of them touched the sensitive parts of her body and forced her to undress; she did not remember who were touching her and forcing her to undress, but she recalled that FFF, EEE, Bautista, de Ramos and accused-appellant Padernal were present during their drinking session; she affirmed and confirmed the statement she gave to the police; she mentioned the name of GGG when she was giving her statement, but it was not included in her statement; they succeeded in removing her "tokong" and panty but not her t-shirt and bra; after removing her clothes, she was forced to open her legs and she felt something being inserted in her vagina; she recalled that it was EEE who was inserting something in her vagina; the others left while FFF, accused-appellants Padernal and Bautista remained and watched what EEE was doing to her in the sala of the house; she felt pain when EEE inserted something in her vagina; she never had sexual intercourse prior to the incident; she had no boyfriend at that time; thereafter, she was forcibly dressed and was forced to stand up but she could not stand because she was dizzy; after dressing her up, EEE and de Ramos assisted her in going to the jeepney stop, but she vomited before boarding a passenger jeep; de Ramos is not one of the accused as he was going in and out of the house when they were drinking; it was de Ramos who brought her home to Muñoz while EEE left after bringing her to the jeepney stop; she did not know where accused-appellant Padernal was after dressing her up while accused-appellant Bautista, GGG and FFF went home already; before reaching their house, she saw her aunt, DDD, and her sister, CCC, at the corner of Muñoz St. waiting for her; they asked her where she had been; she was still dizzy at that time but she recalled that she was given a candy and iced water was poured on her face; they also asked de Ramos where he saw her, but she did not hear de Ramos' answer; her aunt DDD and sister CCC brought her home and at about dawn, she was brought to Manila Doctor's Hospital for examination; from there, she was brought to the house of her aunt DDD to sleep; DDD, who is the principal of the elementary school, went to their school to inform them of what happened to her; she brought her to Camp Crame where she executed her sworn statement and had her medical check-up; the doctor issued a Final Medico Legal Report; on October 23, 2010, she was also brought to St. Luke's Hospital for a blood test; she later finished her first year high school through home study; her second year high school was spent at Lord Christian Foundation, but she finished her high school at Colegio de San Jose de Alaminos; she transferred to Alaminos, Pangasinan to forget the incident that happened to her; she also went to see a psychologist, Dr. Manas, at the Philippine General Hospital for about ten (10) times; she told Dr. Manas that she could no longer respect herself and was scared to face others after the incident; Dr. Manas told her to cheer herself up by engaging in other things and activities; and, she no longer entertains suitors after the incident.[7]

On cross-examination, she confirmed that GGG was no longer with them when they went to the house of FFF.[8]

Carlos Federico de Ramos testified that: he knows all the accused, being his friends, and they all studied at Republic Institute; he identified all the accused in court; on October 22, 2006, at around 6:00 o'clock in the evening, he was at Rochelle Computer Shop with his friends EEE, FFF, and accused-appellants Bautista and Padernal upon the invitation of EEE; he does not know private complainant AAA personally aside from being the niece of the principal in grade school and the sister of his friend CCC; he was playing with the computer and private complainant AAA and EEE were talking behind him; at around 7:00 o'clock in the evening, EEE asked them to go to the house of FFF; upon reaching the house of FFF, EEE bought liquor, Emperador (lapad); when he entered the house, they were already drinking the liquor; he saw private complainant AAA as if she was about to

vomit and her face looked as if she was being forced to drink; he asked private complainant AAA if she really drinks but she just laughed; she got the glass and put it aside as if she does not want to drink anymore; then he saw EEE kissing the neck of private complainant AAA, who was already intoxicated; FFF and accused-appellant Bautista joined in kissing her; he then left and went to his classmate's house located in the same street about five (5) houses away from the house of FFF; after an hour, he went back to the house of FFF and he saw the latter kissing private complainant AAA who was already in shorts; he tried to prevent EEE from kissing private complainant AAA and the former listened to him, but after awhile he kissed her again; when he could not stop him, he went out of the house, then he came back and assisted private complainant AAA and told them to go home; he again went out and waited for EEE, accused-appellants Bautista and Padernal, and private complainant AAA at the gate; he noticed that they were all intoxicated; they then went to Jade at Onyx Street and thereafter, he went home with accused-appellant Padernal; the following day, he went to school at Republic Institute; he was called at the principal's office; DDD, the aunt of private complainant AAA, was there together with their high school principal; all the accused including accused-appellants Padernal and Bautista were also there; they talked about the incident that happened the other night at the house of FFF; he heard that EEE told accused-appellant Bautista to open the zipper of private complainant AAA's pants and accused-appellant Bautista masturbated; he also heard the latter saying that EEE lied on top of private complainant AAA and tried to penetrate her; after their talk, they were told to go home; and, he identified his sworn statement when it was showed to him.[9]

On cross-examination, de Ramos averred that: when they were invited to go to the house of FFF, private complainant AAA was supposed to be with them and he did not prevent her from joining them; he also drank two (2) shots of emperador using only one (1) glass; it was EEE who gave the shots to each and everyone of them; he noticed that private complainant AAA was already tipsy and he told her not to drink if she can no longer handle it; however, EEE was forcing her to drink and she eventually accepted it; he did not know that private complainant AAA was the girlfriend of EEE; although he prevented EEE from kissing private complainant AAA, he saw him kissing her again and he was joined by FFF and accused-appellant Bautista; he was not tipsy after taking two (2) shots of emperador; the lights in the house were off and there was music; he saw EEE, FFF and accused-appellant Bautista kissing private complainant AAA because there were lights coming from outside of the house; he saw their faces not just their silhouettes because he was only an arms length away from them; and accused-appellant Padernal was facing him while the others were seated at the floor.[10]

The testimony of BBB, the father of private complainant AAA, was offered to prove the damages incurred by their family in connection with this case.[11]

On the other hand, DDD testified that: private complainant AAA is her niece; on October 22, 2006, between 6:00 to 7:00 o'clock in the evening, she was in Mataas na Lupa, San Andres Bukid, Manila; she met her niece and she asked her where she was going; she answered that she was going to church; at around 7:00 o'clock in the evening, she went to the house of her niece to check if she was already home, but the latter was not around; she went back to their house and waited until she fell asleep; later, the siblings of private complainant AAA arrived and told her that private complainant AAA was not yet home; she was surprised upon learning about it, so she talked to private complainant AAA's father and they went to look for her in her classmates' houses, but they did not find her; when she together with private complainant AAA's sister returned, they saw her getting off a passenger jeep with accused-appellant Bautista; she embraced her niece because she was tipsy and she told accused-appellant Bautista that he should have been resting since he came from a camping (“dapat nagpapahinga ka na kasi galing ka rin sa camping”); accused-appellant Bautista backed off and said not to worry (“wag kang mag-alala”); prior to the incident on October 22, 2006, they were in Taysan, Batangas for the boy scout's camping and all the accused were also there; they brought private complainant AAA home and talked to her but the latter was not replying because she was drunk and reeked with liquor; private complainant AAA is an honor student and does not drink alcoholic

beverages; after that incident, she saw private complainant AAA's father in their school waiting for their school director, Mr. Dieta, to report the incident; she went to her class and she met a student who told her that EEE and accused-appellants were involved in the incident; she looked for Mr. Dieta and saw him talking to her brother-in-law; she overheard Mr. Dieta asking accused-appellant Padernal what he did and the latter replied that he kissed private complainant AAA; she did not hear anything more because she was sent out; she confirmed that there was another confrontation between the accused and her sister, HHH; her sister told EEE and accused-appellants Padernal and Bautista to just put in writing what they were about to say because she does not want to hear about it, to which they did; she identified and confirmed the documents written by them; she recalled that accused-appellant Bautista wrote that it was GGG and EEE who texted private complainant AAA, that it was EEE who bought the liquor and kissed private complainant AAA, EEE attempted to have sexual intercourse with private complainant AAA ("sinubukang biyakin") and that accused-appellant Bautista masturbated and ejaculated in private complainant AAA's thighs; she also recalled that EEE wrote that it was GGG who texted private complainant AAA to go to Rochelle Computer Shop and they were the ones who bought the liquor; EEE also added that they planned everything ("pinagplanuhan namin ito"); and accused-appellant Padernal wrote that it was GGG and EEE who texted private complainant AAA and instructed her to go to Rochelle Computer Shop.[12]

On cross-examination she stated that: the accused were minors and those letters were written by them without the assistance of their parents or counsel.[13]

Jaime Rodrigo Letrero Real testified that: in October 2006, he was employed as medico legal officer of the Philippine National Police (PNP) and was assigned at the Women's Crisis Center in Camp Crame; as such, he conducted autopsies and exhumations, and also examined cases involving women and children, such as rape, domestic violence and physical abuse; for fifteen (15) years as medico legal, he had examined more than 3,000 rape cases; he knows private complainant AAA because their office received a request to conduct an examination on her person; he reduced his findings and conclusion in writing; the examination was conducted on October 23, 2006 at 2:40 o'clock in the afternoon, twenty-four (24) hours after the sexual abuse; he explained his findings in his medical report to the court; he conducted gross and colposcopic examinations; gross examination means visual examination of the genitalia, while colposcopic examination means examination of the genitalia using a colposcope which magnify the genitalia up to thirty (30) times, that is why he was able to see minor injuries during examination; he stated that based on his examination, the external genitalia (labia majora and labia minora), had no injuries; in the periurethral and perihymenal area, the internal portion of the genitalia, he noticed bruising in the posterior fourchette which showed signs of inflammation, swelling and purple discoloration; the bruising is caused by a blunt trauma or in layman's term, it was caused by a hard blunt object which came in contact with the posterior fourchette, it may be a finger or penis; based on the nature of the injuries, he concluded that it was sustained within three (3) days or seventy two (72) hours; private complainant AAA disclosed to him that prior to the sexual abuse there was intake of alcohol so he requested for blood alcohol analysis to determine whether there is presence of alcohol in private complainant AAA's circulatory system; the blood test was done at St. Luke's Medical Center and he had seen the result thereof which he identified in court; he also found a redundant hymen which means that the hymen is thickened indicating high level of estrogen in the body; this is a normal finding because private complainant AAA was in adolescent stage; the petechiae at 3 o'clock revealed that there was contusion at 3 o'clock of the hymen which may be caused by a blunt trauma; there was also no evident injury at the perineum, the portion between the vagina and the anus; the vaginal smear is negative of spermatozoa; the genital examination revealed the presence of injuries indicative of recent penetration in the genitalia which may be caused by a finger or a penis.[14]

On cross-examination, he stated that: there was contusion on private complainant AAA's hymen but there was no

laceration; the absence of injury in the external genitalia does not rule out sexual abuse; and there were no injuries on the other parts of private complainant AAA's body aside from the genitalia.[15]

On re-direct examination, he stated that the elasticity of the hymen is lower in degree compared to the external portion of the genitalia that is why even when there is penetration, it is possible that the labia majora and labia minora will not sustain injuries, while the hymen and the perihymenal, which are less elastic would likely sustain possible injuries.[16]

On the other hand, the defense presented as witnesses the accused, accused-appellants Padernal and Bautista, Levi Miguel and Jennifer delos Santos.

Accused-appellant Bautista testified that: he knows all his co-accused because they were schoolmates at Republic Institute, San Andres Bukid, Manila; it is not true that he raped private complainant AAA; on October 22, 2006, he was in Jade St., San Andres Bukid, Manila hanging out with his group composed of accused-appellant Angelo Padernal, EEE, FFF, GGG and Carlos de Ramos; at around 6:00 o'clock in the evening, they proceeded to Rochelle Computer Shop located at Onyx St., Paco, Manila to play computer; they played for around thirty (30) minutes, then they went outside to smoke; while they were smoking, private complainant AAA arrived and she and EEE talked; he does not personally know private complainant AAA but he used to see her in school and she was introduced to him by EEE; the group invited him to hang out in the house of FFF ("Nagyaya po silang tumambay sa bahay nila FFF"); their purpose of going at the house of FFF was to have a "soundtrip"; upon reaching the house of FFF, he did not immediately enter the house but stayed outside with accused-appellant Padernal while private complainant AAA was conversing with EEE; when they entered the house, they had a "soundtrip", then private complainant AAA handed money to accused-appellant Padernal and the latter asked him to accompany him to buy liquor; they bought Emperador "lapad" and they all, including private complainant AAA, partook of it; it was private complainant AAA who opened the bottle of emperador and FFF prepared the drinks; while they were drinking, he saw private complainant AAA kissing EEE; he knew that the two (2) were sweethearts because EEE told him that when he introduced her to him at the computer shop; he could not recall the time when they finished drinking; thereafter, he together with EEE, accused-appellant Padernal and de Ramos accompanied private complainant AAA to the jeepney terminal; at the terminal, private complainant AAA bought candies and softdrinks and then boarded a jeep bound for Singalong, Manila; he did not notice any unusual behavior of private complainant AAA, she was not drunk; they also went home after private complainant AAA boarded the jeepney; he just walked towards their house and he arrived after twenty (20) minutes, after which he slept; the next day, October 23, 2006, he learned from accused-appellant Padernal and de Ramos that he was implicated in the rape case; he was summoned to their school by their principal, Mr. Dieta; at the principal's office, DDD, the aunt of private complainant AAA, talked to him and asked him what happened on October 22, 2006; he told her that they had a drinking session; the sister of DDD was also there; DDD told him to write his name on a bond paper and he complied; when confronted with a written document, he admitted that it was his handwriting but the contents thereof were dictated to him by DDD; at first he did not write what was dictated to him because they were not true, but DDD said that he will be kicked out from school if he will not do so (Patataksikin daw niya ako sa school."); and, thereafter, he was told to go out of the office.[17]

On cross-examination, he stated that: he admitted having executed a Kontra Salaysay and identified his signature in the document; what was written in the Kontra Salaysay were all true and he did not state there that he was forced to sign the first statement; he was assisted by his lawyer when he made the Kontra Salaysay; he told his lawyer that he was forced to write a statement, that he was forced to write something against his will but the lawyer did not do anything about it; the principal, Dieta was also inside the room but despite his presence, DDD threatened and forced him to write the statement and Mr. Dieta did not do anything about it; he confirmed the

statement in the Karagdagang Kontra Salaysay where it was stated that the money was given by private complainant AAA to EEE; he only had P20.00 at that time and he paid the computer shop P15.00; he just walked home to 2262 G. del Pilar St, Singalong, Manila which is just fifteen (15) blocks away; private complainant AAA took the San Andres Bukid route, the same route going to his house; he could not remember what time they arrived at FFF's house but he left at around 11:00 o'clock in the evening; he stayed in FFF's house for about four (4) hours; he did not see FFF go out of the house while they were having a drinking session; he saw private complainant kissing EEE once; there were no other persons in the vicinity during the alleged incident aside from them.[18]

FFF testified that: on October 22, 2006, he was only sixteen (16) years old and a student of Republic Institute High School; accused-appellant Bautista was his classmate while the other accused were his friends for about three (3) months; on October 22, 2006, between 5:00 and 5:30 o'clock in the afternoon, he was about to go home when he passed by Rochelle Computer Shop; EEE called him and the former introduced him to his girlfriend, private complainant AAA; after the introduction, he stayed for awhile, then he and EEE went home together; upon reaching their house, he ate and then took a rest; at around 7:30 o'clock in the evening, EEE, accused-appellants Padernal and Bautista, together with private complainant AAA arrived; they said they would have a drinking session ("Mag- iinuman daw po sila."); he did not know who bought the emperador; he did not drink despite being offered by GGG and EEE; he went out and told them that he would buy "pulutan" (barbeque and sitseria); it took him about an hour in buying barbeque and junk food, "sitseria", because he met his friend Kiko and they conversed; when he returned to the house, they were still drinking and he saw EEE and private complainant AAA kissing as he was about two (2) meters away from them; he just ignored them and went out and conversed with Jennifer de los Santos (Ate Puring) and de Ramos; after fifteen (15) to twenty (20) minutes, he entered the house again but they have not finished drinking yet, so he went out again and conversed with the same persons; he again stayed outside for fifteen (15) to twenty (20) minutes and returned again to the house but just the same, they have not finished drinking so, for the third time, he went out again; when he returned afterwards, he saw them fixing the sofa because accused-appellant Bautista wanted to rest because he felt dizzy; he went out again for thirty (30) minutes and when he came back, he was surprised to see private complainant AAA being dressed up by EEE and accused-appellant Bautista; he felt bad so he told accused-appellants Bautista and Padernal, EEE and private complainant AAA to go home; he then cleaned the house and threw the waste they left behind; the following day they were called by Mr. Dieta to the principal's office; when he arrived at the principal's office, accused-appellants Bautista and Padernal, and EEE were already there together with DDD and her sister; they were told to write down what happened the other night; he did not write or submit anything because he did not know anything because he was outside the house at that time; and, they were not told to call their parents before they were told to write anything.[19]

On cross-examination he averred that: he told the group to stay outside first as he had to clean the house; when he brought the garbage outside, he saw private complainant AAA and EEE kissing at Road 19 and 20 along Saturno St., which is about seven (7) meters away; two (2) barangay kagawads, Levi Miguel and Vicroria Alday, also saw them kissing but they just looked at them and proceeded to the barangay hall; prior to October 22, 2006, he did not know that private complainant AAA and EEE were sweethearts; private complainant AAA was wearing a bra when he was dressed up by EEE and accused-appellant Bautista; the latter was putting up her pants while EEE was putting on the blouse and private complainant AAA was lying in the sofa; he did not notice if private complainant AAA was dizzy; he executed and signed his counter-affidavit on July 27, 2007; said counter-affidavit was prepared by Atty. Ferrer; he read the contents thereof but it was not explained to him in the vernacular and he understood only certain portions of it; and, he did not notice anything unusual after consuming a bottle of emperador.[20]

On re-direct he stated that he was accompanied by his father when he signed his counter-affidavit.[21]

Accused-appellant Angelo Padernal testified that: in 2006 he was still a fourth year high school student but he was not able to finish high school because this incident was being investigated; on October 22, 2006 at about 6:30 o'clock in the evening, he was at Jade St., Onyx, Paco, Manila with accused-appellant Bautista, EEE, FFF and GGG; they came from a boy scout camping in Taysan, Batangas; after a few minutes, they transferred to a computer shop which is just 100 meters away; at the computer shop, private complainant AAA joined them; she was the girlfriend of EEE because EEE introduced her to him at the start of the school year in June 2006; they decided to go to the house of FFF; private complainant AAA was not invited but nonetheless, she went with them; upon reaching the house of FFF, private complainant AAA gave him P50.00 and told him to buy liquor; they drank the emperador using only one glass; after consuming the liquor, they went home; while they were enjoying, he saw private complainant AAA kiss EEE and told him, "Michael wag mo akong iwanan." [22]

On cross-examination he stated that: he just wrote the first two lines of the statement at the office of the principal, the rests were written by May Ann Lim, their computer teacher; it was EEE and GGG who planned to call private complainant AAA; he and EEE are bestfriends; they have junk food for "pulutan" and nestea as chaser; private complainant AAA was the one pouring liquor and the chaser; initially, they only wanted to listen to RNB music at the house of FFF, but private complainant AAA gave him the P50.00 to buy liquor.[23]

He further stated that he was already 18 years old and no longer a minor and he knew the consequences of what he wrote and when he affixed his signature.[24]

EEE testified: he knows his co-accused in this case because they were classmates in Republic Institute High School; private complainant AAA was already his girlfriend for three (3) months prior to the incident on October 22, 2006; on that said date at around 5:30 o'clock in the afternoon, he was hanging out at Jade St. together with de Ramos, accused-appellants Padernal and Bautista and FFF; they proceeded to Rochelle Computer Shop at Onyx St., San Andres Bukid, Manila; upon arriving at the computer shop, they conversed with private complainant AAA who was also there; he was seated near her, touching her arms while his right arm was on her shoulder; they talked about the camping activity of their school on October 20, 2006 while the others were playing at the computer shop; private complainant AAA told him that she missed him and kissed him; he did not kiss her back because there were other people present; they agreed (nagkayayaan) to go the house of FFF at Saturno St., Sta. Ana, Manila; upon reaching the house of FFF, he and private complainant AAA sat on a bench located in front of the house and they were kissing each other; they were reprimanded (sinita) by two (2) female kagawads upon seeing them kissing in public; his co-accused and de Ramos were inside the house; when they entered, private complainant AAA handed money to accused-appellant Padernal to buy emperador; they listened to music and he, accused-appellants Padernal and Bautista, de Ramos, GGG and private complainant AAA partook of the emperador using only one glass; he was 17 years old at that time; he was seated near private complainant AAA and they were kissing each other; he and accused-appellant Bautista did not dress up private complainant AAA, because he came from the comfort room and when he came back he saw her with only her bra, but he did not know who undress her; he immediately dressed her up being her girlfriend because he did not want people to lose their respect on her; private complainant AAA was normal and conscious at the time of the incident; he then asked her to go home and accompanied her to corner Augusto Francisco and Onyx Sts. where private complainant AAA boarded a jeepney in going home with accused-appellant Bautista; then he also went home; the following day, they were summoned to the principal's office of Republic Institute High School by DDD, the elementary school principal and Mr. Dieta, their high school principal; he was asked why private complainant AAA went home late and he replied that they drank a little; and, he confirmed that he executed a Kontra Salaysay dated October 23, 2006.[25]

On cross-examination, he stated that: he denied the written statement dated August 23, 2007; private complainant AAA was not intoxicated that evening of October 22, 2006; he courted her at the start of classes and by the end of June 2006, she was already his girlfriend; he did not know that private complainant AAA's birthday was on September 22; she surprised him when she treated him at the canteen; private complainant AAA was only 13 years old when they became sweethearts; when he went to the comfort room, private complainant AAA still had her dress on; he stayed at the comfort room for ten (10) minutes and when he went back to the room, private complainant AAA was only wearing her bra and no one was inside the room; he asked private complainant AAA what happened, why she was only in her bra and she replied that she just changed her clothes; she was in her "tokong" pants; when they were about to leave, he told accused-appellant Bautista not to let anybody in; he did not include these facts in his Kontra Salaysay because he was not asked about them; the kagawads told them to stop kissing because it was forbidden; the only document he executed was the Kontra Salaysay dated August 23, 2007; and, in his statement, he denied kissing private complainant AAA in the lips and breast, removed her panty and tokong, touched her private parts and sexually entered her.[26]

GGG testified that: he was only fifteen (15) years old on October 22, 2006; private complainant AAA was her former schoolmate at Republic Institute and was the former girlfriend of EEE; he knew about it when she texted him on October 21, 2006 and asked his help to reconcile with EEE; he was in Taysan, Batangas at that time for a school camping together with EEE, accused-appellants Bautista and Padernal, and FFF; when they came back, they went to Rochelle Computer Shop; he went inside and played computer games; then EEE entered and invited him to go to the house of FFF to listen to music; when they went outside, private complainant AAA was already there and she insisted to go with them to the house of FFF; de Ramos persuaded her not to go with them because she was the only girl in the group but she replied that there were no other people in their house at that time; they walked going to FFF's house but he did not enter because it was already late and he might be scolded by his parents; he went home to their house in xxxx Road 9, Sta. Ana, Manila; he went to school the following day and was surprised when he was summoned to the principal's office; he learned that private complainant AAA was raped the other day; he did not go inside but just waited outside the principal's office; accused-appellants Bautista and Padernal, EEE, de Ramos, and FFF were already inside; he did not execute a statement but he learned that his other co-accused executed a statement when it was presented to him in court; he asked EEE and accused-appellant Padernal about it but they denied that it was their handwriting; he denied that they conspired to sexually molest or abuse private complainant AAA because he was not present when that incident took place; he denied texting private complainant AAA and the latter just used his name; he is not close to private complainant AAA; and, the two (2) kagawads did not see him at the house of FFF.[27]

On cross-examination he stated that; it was private complainant AAA who texted him to help her reconcile with EEE but he could not recall the exact contents of the text message; and, he did not know of any reason why it was him whom private complainant AAA texted and asked for help.[28]

Levi Miguel testified that: she is the barangay chairwoman of Barangay 812, Zone 88, Onyx St., Paco, Manila but on October 22, 2006, she was a barangay kagawad; she knows EEE and GGG being the classmates of her son during their elementary days; she only met accused-appellants Padernal and Baustista in court while FFF is the son of their neighbor and co-kagawad at that time; she recalled having given a statement regarding this case; she saw private complainant AAA and EEE kissing on October 22, 2006 between 6:00 and 7:00 o'clock in the evening at the corner of Road 19 and 20; she was about ten (10) to twelve (12) meters away from them; she approached them because she thought that the girl was the sister of FFF and was surprised to see that she was not; she reprimanded them and they stood up and entered the house; she also saw FFF coming out of the house and bought barbeque after which he went to the other house and she did not see him anymore.[29]

On cross-examination, she stated that: on October 22, 2006, she did not see GGG in Road 19 and 20 along Saturno St. between 6:00 and 7:30 o'clock in the evening; she learned of the case when she received a subpoena from the court and during the investigation at the Prosecutor's Office; however, prior to that, she came to know about it because the father of FFF told her "May problema si Christian."; she cannot recall what happened on October 23 and 24, 2006 when she talked to the father of accused FFF but when she executed her affidavit in July 2007 she vividly recalled all the incident that happened in October 2006; on October 22, 2006 at around 7:30 o'clock in the evening, she already went home so she had no knowledge of what happened in the house of FFF after that time; she does not know private complainant AAA; she saw two (2) persons kissing but she recognized them only when she approached them; and the place was well lighted coming from the lamp post.[30]

Jennifer Delos Santos testified that: she is an account executive and residing at 1674 Saturno St., Paco, Manila; she knows FFF; on the night of October 22, 2006, between 6:00 and 7:30 o'clock in the evening, she talked with FFF in front of the store near the latter's house for about fifteen (15) to twenty (20) minutes; she talked to him only once but she saw him coming in and going out of the house but she could not recall how long he stayed outside and how many times he went in and out of the house.[31]

After the parties rested their respective case, the lower court rendered the assailed decision. Hence this appeal by accused-appellants. Accused-appellant Bautista raised the following assignment of errors:

I

THE COURT A QUO GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT BAUTISTA OF THE CRIME CHARGED DESPITE ITS FAILURE TO CLEARLY AND DISTINCTLY STATE THE FACTS AND THE LAW UPON WHICH ITS DECISION WAS BASED.

II

THE COURT A QUO GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT BAUTISTA OF THE CRIME GRAVER THAN THAT ALLEGED IN THE INFORMATION.

III

THE COURT A QUO GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT BAUTISTA OF THE CRIME CHARGED DESPITE THE PROSECUTIONS FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

IV

THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE INCONSISTENT, INCREDIBLE AND IMPROBABLE TESTIMONIES OF THE PROSECUTION WITNESSES. V THE COURT A QUO GRAVELY ERRED IN DISREGARDING ACCUSED-APPELLANT BAUTISTA'S DEFENSE.[32]

On the other hand, accused-appellant Padernal raised the following assignment of errors:

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT WITHOUT ANY FACTUAL FINDING AS TO HIS ALLEGED PARTICIPATION IN THE COMMISSION OF THE FELONY PURPORTEDLY CARRIED OUT BY THE OTHER ACCUSED.

THE TRIAL COURT HAS COMMITTED SERIOUS AND REVERSIBLE ERROR IN CONVICTING THE ACCUSED-APPELLANT PADERNAL DESPITE PRIVATE COMPLAINANT'S OWN NARRATION NEGATING ANY OVERT PARTICIPATION ON THE PART OF THE ACCUSED-APPELLANT PADERNAL FOR THE CRIME IMPUTED.[33]

The appeal is partly meritorious.

Accused appellants together with their co-accused were charged with the crime of rape under Article 266-A, paragraph 2 of the Revised Penal Code as amended by R.A. No. 8353. Article 266-A, paragraph 2 reads:

“Art. 266-A. Rape, When and How Committed. - Rape is committed-

x x x

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

From the above provision of the law, rape is committed by a person by inserting his penis into another person's mouth or anal orifice or any instrument or object into the genital or anal orifice of another person.

However, in this case, this Court agrees with the Office of the Solicitor General that while the offense was designated as rape, what was established by and proven by the prosecution was accused-appellants' guilt for acts of lasciviousness. Sexual abuse cannot be equated with rape.[34] On this score, this Court cannot help but notice the testimonies of private complainant AAA and de Ramos.

De Ramos testimony states, thus:

"Q

Can you please describe AAA's condition at the time that she was being kissed by EEE if you saw her?

A

She was drunk. 'Talagang ano na po siya, hindi po makakilos ng maayos, yung pag iniupo siya, babagsak at babagsak din siya'.

Q

And what else did you observe that happened that night?

A

FFF and Bautista 'nakisalo sa paghalik kay AAA'. Joined in kissing AAA at that time I left the house.”[35]

On the other hand, private complainant AAA testified that:

"Q

Did any other accused forced (sic) you to drink?

A

Yes, Sir.

Q

Who among the accused if you can still remember also forced you to drink?

A

Bautista, Padernal, GGG, FFF.

Q

So when you got dizzy Miss witness, do you still recall what happened to you after that?

A

Yes, Sir.

Q

What happened to you Miss Witness?

A

When I was already dizzy and I could no longer control myself, one of them approached me and was forcing to kiss me.

Q

What happened after that if you can still recall Miss Witness?

A

When they were forcing to kiss me, some of them were holding different parts of my body.

COURT (to witness)

Q

Who was forcing to kiss you?

A

I could no longer remember.

Q

And then the others, what are they doing?

A

They were holding the sensitive parts of my body.[36]

Q

When EEE was trying to open your legs and insert something into your vagina do you recall what the other accused doing?

A

Lumabas na yong iba, Dalawa o tatlo na lang ang natira at pinapanood ang ginagawa sa akin.

Q

When you say lumabas, lumabas saan? Sa bahay?

A

Sa bahay po.

Q

Sa bahay mismo. Where were you on that particular time? On what part of the house?

A

Sa sala po.

Q

Sa sala. Do you still recall who were left behind there and watched EEE trying to insert something into your vagina?

A

FFF po.

COURT:

(to witness)

Q

Who else?

A

Angelo Padernal, Norman James Bautista.

Q

So, are these the same people who were laughing when they removed your clothes and EEE opened your legs and tried to insert something on your vagina?

A

Opo.”

From the foregoing, accused-appellants committed acts of lasciviousness defined and penalized under Article 336 of the Revised Penal Code. The elements of the crime of acts of lasciviousness are as follows: 1) that the offender commits any act of lasciviousness or lewdness; 2) that it is done under any of the following circumstances: a) by using force or intimidation; or b) when the offended party is deprived of reason or otherwise unconscious; or c) when the offended party is under 12 years of age; and 3) that the offended party is another person of either sex.[37] Lascivious conduct means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks, or the introduction of any object into the genitalia, anus or mouth, of any person, whether of the same or opposite sex, with an intent to abuse, humiliate, or harass, degrade, or arouse or gratify the sexual desire of any person, bestiality, masturbation, lascivious exhibition of the genitals of a person on public area.[38]

The foregoing elements were sufficiently established in this case. First, accused-appellant Bautista committed acts of lasciviousness when he joined in kissing private complainant AAA with accused EEE and FFF. Accused-appellants also helped in removing private complainant AAA's “tokong” and in holding her legs to enable accused EEE to touch her vagina while laughing in the process. Second, these acts were done when private complainant AAA was drunk and deprived of reason. Third, private complainant AAA belongs to the opposite sex.

The character of the crime is not determined by the caption or preamble of the information, or by the specification of law alleged to have been violated; the crime committed is determined by the recital of the ultimate facts and circumstances in the complaint or information.[39]

Following the “variance doctrine” embodied in Section 4[40], in relation to Section 5[41], Rule 120 of the Rules of Criminal Procedure, accused-appellants can be found guilty of a lesser crime of acts of lasciviousness. Where there is variance between the offense charged in the complaint or information, and that proved, and the offense charged necessarily includes the lesser offense established in evidence, the accused can be convicted of the offense proved.[42]

Accused-appellant Padernal claims that there was no evidence that he helped or cooperated with the other accused in committing sexual assault. Said claim deserves scant consideration.

Granting that he did not perform all the acts necessary for the commission of the crime, it was established that he did not detach himself from the conspiracy to commit the felony and prevent the commission thereof. Conspiracy exist when the accused by their acts aimed at the same object, one performing one part and the other performing another part as to complete the crime, with the view to the attainment of the same object.[43]

In this case, as testified by private complainant AAA, accused-appellants Padernal and Bautista joined their other co-accused in forcing her to drink the emperor.[44] Accused-appellant Bautista joined accused FFF in kissing private complainant AAA, while accused-appellants along with their co-accused helped in taking off private complainant AAA's clothes and laughed at her when EEE opened her legs and tried to insert something in her vagina.[45] These concerted acts and unity of purpose are sufficient to establish conspiracy.

To be a conspirator, one need not participate in every detail of the execution. Once conspiracy is shown, the act of one is the act of all. The precise extent or modality of participation of each of them becomes secondary, since all the conspirators are principals.[46]

Accused-appellant Padernal further contends that the lower court's decision violates Section 2[47], Rule 120 of the Rules of Court and Section 14[48], Article III of the Constitution as it has no findings of facts and law. The contention is misplaced.

Well-entrenched is the rule that findings of facts of the trial court as well as its conclusions anchored on the said findings, are accorded high respect if not conclusive effect. [49] In disposing the said case, the lower court declared, thus:

“The acts performed by the accused clearly indicates that AAA was sexually molested by them. The act of giving emperor (lapad) to AAA.

AAA testified in a positive, natural and straightforward manner on how she was sexually ravished by accused on October 22, 2006. There being no earmarks of a contrived story in her testimony, the same is accorded full faith and credit. The rule is that, affirmative testimony is given more weight than a mere denial especially if it came from a credible witness.”

The lower court's decision may not be as exhaustive and extensive as expected and anticipated by the accused-appellants, yet it contains the facts and the law upon which it was based, thus, it substantially complied with the requirements of the Rules of Court and of the Constitution. The efficacy of a decision is not necessarily impaired by the fact that it is not far-reaching or exhaustively discussed as long as it is not completely devoid of support in the records, or it is so glaringly erroneous as to amount to grave abuse of discretion.

Under the Revised Penal Code, the penalty for the crime of acts of lasciviousness is prison correccional. Under Section 1 of the Indeterminate Sentence Law, the maximum term of the penalty shall be “that which, in view of the attending circumstances, could be properly imposed” under the Revised Penal Code, and the minimum shall be “within the range of the penalty next lower to that prescribed” for the offense.

In *People vs. Librero*[50] the Supreme Court further elucidated that:

“The penalty next lower should be based on the penalty prescribed by the Code for the offense, without first considering any modifying circumstance attendant to the commission of the crime. The determination of the minimum penalty is left to the sound discretion of the court and it can be anywhere within the range of the penalty next lower without any reference to the periods into which it might be subdivided. The modifying circumstances are considered only in the imposition of the maximum term of the indeterminate sentence.”

Accused-appellants are found guilty for the crime of acts of lasciviousness penalized by prision correccional. Applying the Indeterminate Sentence Law, said penalty shall constitute the maximum term, while the minimum shall be within the range of the penalty next lower to that prescribed by the Revised Penal Code for the offense, i.e. *arresto mayor* or 1 month and 1 day to 6 months. Accused-appellants are hereby sentenced to suffer the penalty of 6 months *arresto mayor*, as minimum, to 4 years and 2 months of prision correccional, as maximum.

Meanwhile, as regards the other accused who did not appeal from the decision of the lower court, they will benefit from this judgment pursuant to the provision of Section 11, Rule 122 of the Rules of Criminal Procedure which provides that:

“SEC. 11. Effect of appeal by any of several accused.

(a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.

x x x”

Accused in this case were minors at the time of the commission of the offense hence, they are entitled to a privileged mitigating circumstance of minority. To reiterate, acts of lasciviousness under Article 336 of the Revised Penal Code is punishable by prision correccional or from six (6) months and one (1) day to six (6) years. The privilege mitigating circumstance of minority would lower the penalty to *arresto mayor* which ranges from one (1) month and one (1) day to six (6) months. When it is the imposable penalty, its maximum not being at least one year, the Indeterminate Sentence Law is inapplicable.[51] Perforce, accused are hereby sentenced to suffer the penalty of three (3) months of *arresto mayor*.

WHEREFORE, the assailed decision dated July 30, 2012 of the Regional Trial Court, Branch 5, Manila in Criminal Case No. 10-273883 is hereby AFFIRMED with MODIFICATION, thus:

1. Accused-appellants Angelo Padernal y Masujer and Norman James Bautista y Manzano are found guilty beyond reasonable doubt of acts of lasciviousness, as defined and penalized under Article 336 of the Revised Penal Code, and sentenced to suffer the indeterminate penalty of 6 months of *arresto mayor*, as minimum, to 4 years and 2 months of prision correccional, as maximum.
2. Accused EEE, FFF and GGG are also found guilty beyond reasonable doubt of the offense of acts of lasciviousness and, with the privileged mitigating circumstance of minority, are hereby sentenced to suffer the penalty of 3 months of *arresto mayor*.

The rests of the decision stand.

SO ORDERED.

Bruselas, Jr., and Barrios,[*] JJ., concur.

[*] Vice J. Samuel H. Gaerlan, per Office Order No. 270-14-RSF dated June 6, 2014.

[1] Records, pp. 640-654

[**] Sections 54 and 11, A.M. No. 02-1-18-SC, Revised Rule on Children in Conflict with the Law

[2] *id.*, p. 1

[3] *id.*, p. 118

[4] The name of the victim is withheld to protect her privacy, conformably to *People v. Melchor Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419

[5] Sinumpaang Salaysay, August 8, 2007, Record, pp. 52-53

[6] TSN, June 29, 2010, pp. 7-24

[7] TSN, July 30, 2010, pp. 7-25

[8] *id.*, p. 27

[9] TSN, August 9, 2010, pp. 6-31

[10] *id.*, pp. 34-44

[11] TSN, September 16, 2010, pp. 3-15

[12] TSN, October 1, 2010, pp. 5-25

[13] *id.*, p. 57

[14] TSN, June 28, 2011, pp. 5-35

[15] *id.*, p. 42

[16] *id.*, pp. 55-56

[17] TSN, October 24, 2011, pp. 4-20

[18] *id.*, pp. 22-49

[19] TSN, November 18, 2011, pp. 4-16 [20] *id.*, pp. 17-36

[21] *id.*, p. 37

[22] TSN, October 20, 2011, pp. 4-18

[23] *id.*, pp. 18-48

[24] *id.*, p. 52

[25] TSN, November 29, 2011, pp. 6-22

[26] *id.*, pp. 23-43

[27] TSN, January 17, 2012, pp. 6-17

[28] *id.*, pp. 18-22

[29] TSN, January 20, 2012, pp. 4-10

[30] *id.*, pp. 11-19

[31] *id.*, pp. 25-28

[32] pp. 3-4, Brief for Accused-appellant Bautista

[33] p. 4, Accused-Appellant Angelo Padernal's Brief

[34] *People vs. Egan*, 382 SCRA 326

[35] TSN, August 9, 2010, pp. 18-19

[36] TSN, June 29, 2010, pp. 23-24

[37] *Sombilon, Jr. vs. People*, 601 SCRA 405

[38] *People vs. Sumingwas*, 603 SCRA 638

[39] *People vs. Quemaggen*, 594 SCRA 94

[40] Sec. 4. Judgment in case of variance between allegation and proof. - When there is variance between the offense charged in the complaint or information and that proved, and the offense as charged is included in or necessarily includes the offense proved, the accused shall be convicted of the offense proved which is included in the offense charged, or the offense charged which is included in the offense proved.

[41] Sec. 5. When the offense includes or is included in another. - An offense charged necessarily includes the offense proved when some of the essential elements or ingredients of the former, as alleged in the complaint or information, constitute the latter. And an offense charged is necessarily included in the offense proved, when the essential ingredients of the former constitute or form part of those constituting the latter.

[42] *People vs. Pajarilo*, G.R. No. 143755-58, February 20, 2002

[43] *People vs. Reyes*, 581 SCRA 691

[44] TSN, June 29, 2010, p. 23

[45] TSN, July 30, 2010, p. 12

[46] *People vs. De Leon*, 591 SCRA 178

[47] Section 2. Contents of the judgment.- If the judgment is of conviction, it shall state (1) the legal qualification of the offense constituted by the acts committed by the accused and the aggravating or mitigating circumstances which attended its commission; (2) the participation of the accused in the offense, whether as principal, accomplice, or accessory after the fact; (3) the penalty imposed upon the accused; and (4) the civil liability or damages caused by his wrongful act or omission to be recovered from the accused by the offended party, if there is any, unless the enforcement of the civil liability by a separate civil action has been reserved or waived. In case the judgment is of acquittal, it shall state whether the evidence of the prosecution absolutely failed to prove the guilt of the accused or merely failed to prove his guilt beyond reasonable doubt. In either case, the judgment shall determine if the act or omission from which the civil liability might arise did not exist.

[48] Section 14. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based. No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor.

[49] *People vs. Sapigao, Jr.*, 598 SCRA 416

[50] 341 SCRA 229

[51] People vs. Perez, 378 SCRA 476

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