

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GREGORIO LIMA Y SILPA, ACCUSED-APPELLANT.

G.R. No. 128289. April 23, 2002

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-128289/>

PER CURIAM:

Among the heinous crimes, none stirs up so much public outrage, repulsion and hatred than incestuous rape. It is so odious and disgusting that the perpetrator rightfully must feel the anger and spurn of society. Indeed, a father who stains the purity and dignity of his own flesh and blood has reduced himself to the lowliest of lowly beasts.

Gregorio S. Lima was charged by her own daughter, Sherilyn Lima, before the Regional Trial Court (RTC), Branch 17, Davao City, with two counts of rape under the following informations:

Criminal Case No. 36,517-96 [1]

“The undersigned accuses the above-named accused of the crime of rape under Art. 335 of the Revised Penal Code, upon the instance of the complainant, Sherilyn B. Lima, who is a minor, and her mother, Erlinda B. Lima, and witness SPO2 Ricardo M. Arcilla, whose affidavits are hereto attached to form part of this information. The crime is committed as follows:

“That sometime in 1992, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, by means of force and intimidation and abuse of superior strength, did then and there willfully, unlawfully and feloniously have carnal knowledge with her daughter, Sherilyn B. Lima, a minor who is below fourteen (14) years of age, against her will.

“Contrary to law.”

Criminal case No. 36,380-96 [2]

“The undersigned, SHERILYN LIMA Y BARLIZO, after having been duly sworn according to law, accuses her father, GREGORIO LIMA Y SILPA of the crime of rape, under Art. 335, par. 1 of the Revised Penal Code, as amended by Republic Act 7659, committed as follows:

“That on or about January 20, 1996, in the City of Davao, Philippines and within the jurisdiction of this Honorable Court, the above-mentioned accused by means of force and intimidation, did, then and there willfully, unlawfully and feloniously have carnal knowledge with the undersigned complainant, who is 14 years of age against her will.

“Contrary to law.”

The two cases were originally raffled to the two branches of the said RTC. When arraigned separately on the two Informations, accused pleaded “Not guilty.” Thereafter, the two cases were consolidated in Branch 17.

On November 20, 1996, counsel for the accused manifested that the latter would change his plea of not guilty to both charges. [3] Upon rearraignment, he entered a plea of “Guilty.” Thereafter, upon order of the trial court, the prosecution presented its evidence and rested its case.

The prosecution's evidence consisted of the testimonies of the victim, Sherilyn Lima, her mother, Erlinda Lima, SP02 Ricardo Arcilla, and Dr. Danilo P. Ledesma.

Sherilyn was 15 years old when she testified in court on November 20, 1996 about her harrowing experience in the hands of her very own father. She identified her Certificate of Live Birth [4] which indicates that she was born on August 14, 1981 in Davao City, and that her father is Gregorio Silpa Lima, the accused. She narrated that sometime in 1992, when she was only 10 years old, her father, whom she identified in court, raped her in their house located in Sitio Concepcion, Indangan, Buhangin, Davao City. He warned her not to inform anyone about that incident lest he would kill all of their family members. Because of fear that he would harm them, she did not tell her mother what he did to her. Since that incident in 1992, she had been repeatedly ravished by the accused on occasions when her mother was out of the house. In all those instances, she repeatedly pleaded to him to stop abusing her, but her pleas only fell on deaf ears. [5]

Sherilyn further testified that in the evening of January 20, 1996, when she was 14 years old, she was sleeping in the sala of their house together with her brothers. At that time, her mother was attending a birthday party in her sister's place about 16 kilometers away. Sherilyn was roused from her sleep by the accused, telling her to transfer to the master's bedroom. When she asked why, he replied that he would do something to her. Inside the room, he instructed her to undress and lie down. He then placed himself on top of her, kissed her private parts, and inserted his organ into her vagina. Sherilyn felt extreme pain in her vagina while he was raping her. But she could not resist for fear he would kill her. [6]

According to Erlinda Lima, Sherilyn's mother, at around 10:00 in the evening of the same date, she arrived home and noticed that the gate of the house was locked from inside. She then entered the gate of her brother-in-law, which was beside their house, and proceeded to her house. When she entered the master's bedroom, she was surprised to find Sherilyn sleeping on the bed. She approached her daughter, removed the blanket and saw her totally naked. Erlinda told her to dress up because they were attending her nephew's birthday party. At that moment, the accused went out to open the gate. When he returned, Erlinda did not let him notice her suspicion. On their way to the house of Erlinda's sister, Sherilyn cried as she confided to her mother that the accused raped her. She also told her mother that when she was ten, or four years earlier, she was already ravished by her father. Thereupon, Erlinda brought Sherilyn to the police station and reported the rape incidents.

In the course of her testimony, Erlinda also identified and confirmed the Certificate of Live Birth (Exhibit "B") of her daughter and further testified that she is legally married to accused Gregorio Lima. [7]

Meanwhile, at midnight of that same day, January 20, 1996, SPO2 Ricardo Arcilla and several policemen, together with Sherilyn and her mother, proceeded to the house of accused. SP02 Arcilla invited him to go with them to the police station, but the latter resisted. Forthwith, Arcilla asked a fellow policeman to handcuff the accused and brought him to the police station. [8]

Thereafter, Dr. Danilo P. Ledesma, Medico-legal Officer of the Davao City Health Office, physically examined Sherilyn and found "old healed deep lacerations at 3 and 8 o'clock positions" in her hymen. He also observed that her "hymenal orifice...admits a tube 3.0 in diameter." He estimated that the lacerations could be more than four (4) months old, or possibly more than three (3) years old. He also found spermatozoa in her vaginal canal. These findings are reflected in the Medical Certificate he issued on January 22, 1996. [9]

The accused pleaded guilty to the charges. He testified that on January 21, 1996, the police went to his house and invited him to the police station for investigation regarding the rape incident. He then extended his two arms to be handcuffed showing that he voluntarily surrendered.[10] He already knew that his wife Erlinda and daughter Sherilyn would go to the police station to have him arrested. He declared that her daughter "agreed" to what he

had done to her “because she used to get money from my wallet, (so) she cannot refuse anymore.” When asked why he raped his daughter, he answered, “Because at times that I am drunk, I lost my composure and Sherilyn used to lay down inside my room.” He also admitted having raped her when she was 10 years old. [11]

The defense rested its case with the prayer that the “voluntary plea of guilty and voluntary surrender” be appreciated as mitigating circumstances so as to reduce the penalty to be imposed upon the accused. [12]

On November 29, 1996, the trial court rendered a Joint Judgment,[13] the dispositive portion of which reads:

“Accordingly, finding the evidence of the prosecution more than sufficient to prove the guilt of the accused Gregorio Lima Y Silpa beyond reasonable doubt of the offense charged for rape under Criminal Case No. 36, 517-96, said accused is sentenced to suffer an indivisible penalty of reclusion perpetua pursuant to Art. 335, par. 3 of the Revised Penal Code, together with all the accessory penalty attached therewith in accordance with law.

“In Criminal Case No. 36,380-96, finding the evidence of the prosecution, notwithstanding the plea of guilty of the accused voluntarily entered, more than sufficient to prove beyond reasonable doubt the guilt of accused, pursuant to Republic Act 7659, Sec. 11 thereof, sub-paragraph 7, accused Gregorio Lima y Silpa is sentenced to suffer the supreme penalty of death by electrocution pursuant to sec. 24 of R.A. 7659 in the manner therein provided, subject to such other method of carrying out his sentence as may be provided for by law, under existing procedure or maybe regulated through other means such as lethal injection to be executed in the manner and procedure therein provided.

“Moreover, pursuant to Art. 100, in relation to Art. 104 of the Revised Penal Code, governing civil indemnity, accused is furthermore ordered to indemnify complainant Sherilyn Lima... the amount of P30,000.00 by way of moral damages of all the ignominy and sufferings she incurred out of accused demonic act of sexually abusing his own daughter.

“x x x.” (Emphasis supplied)

In this appeal, appellant asserts, as his lone assignment of error, that “the trial court gravely erred in convicting (him) on an improvident plea of guilty and sentencing him to suffer reclusion perpetua (in Criminal Case No. 36,517-96) and the supreme penalty of death (in Criminal Case No. 36,380-96).” [14]

Appellant argues, in essence, that his plea in both cases was “improvident, fatally defective and void” because the trial court failed to observe the mandatory provisions of Sec. 3, Rule 116 of the Revised Rules of Criminal Procedure, which provides –

“Sec. 3. Plea of guilty to capital offense; reception of evidence - When the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence in his behalf.”

Appellant claims that nothing on record shows that: a) he understood the two (2) separate charges against him; and b) he was made to understand and was specifically warned that in Crim. Case No. 36,380-96, he shall be sentenced to death and that his plea of guilty shall not in any way affect or reduce the penalty.

The records of the proceedings during the arraignment of appellant show how he entered his plea of guilty, thus:

“ATTY ARIQUEZ: For the accused. We would like to inform the Honorable Court that the accused intend to withdraw his plea of not guilty to both charges and instead enters a plea of guilty to both charges.

COURT: Does he understand the consequences of this?

ATTY. ARIQUEZ: Yes, your Honor.

COURT: Alright, re-arraign the accused.

COURT INTERPRETER:

Reading both informations to accused:

ACCUSED: GUILTY.

COURT: In these two informations against you, you understand the extent and implication of your plea of guilty?

ACCUSED: I know, your Honor because I committed a mistake.

COURT: Were these matters explained and fully understood by you upon assistance by your counsel?

ACCUSED: Yes, I was advised by my lawyer and I understand what he explained to me, very clearly.

COURT: I would like to explain to you and understand, that upon your plea of guilty on the two offenses, very serious offenses, in fact, capital offenses, you may be sentenced to life or death penalty, you understand that?

ACCUSED: Whatever will be the judgment I will gladly accept it Your Honor.

COURT: The court is explaining to you the consequences now, did you understand the explanation given to you by the court?

ACCUSED: I understand your Honor.

COURT: Do you still insist that you plead guilty in these two offenses just read to you?

ACCUSED: Yes, I will accept it.

COURT: Were you forced or intimidated or unduly influenced by anybody in your plea of guilty in these two offenses?

ACCUSED: No one has forced me to admit the two charges, it is voluntary on my part.

COURT: In other words, despite the explanation of the court and your lawyer, it is voluntary on your part that you will plead guilty to the two offenses?

ACCUSED: It is my voluntary plea of guilty in these two cases.

COURT: The court is convinced on the voluntariness of plea of guilty of accused in both cases, but considering the matter of these charges against the accused, capital offenses, and pursuant to the ruling of the Supreme Court, despite his plea of guilty, the prosecution will still present its evidence against the accused, and the accused, if the defense decides to present, the court will receive his evidence, despite his plea of guilty." [15]

Appellant's theory does not convince us.

There is no definite and concrete rule as to how a trial judge may go about the matter of a proper "searching inquiry" as required by the aforecited rule.[16] It is incumbent upon a trial judge to ascertain and be totally convinced that the plea of guilty was voluntarily made and its consequences fully comprehended by the accused.

In the present case, to fully determine whether such voluntariness and comprehension attended appellant's plea of guilty, his whole testimony must be taken into account and be read together with his statements made during the arraignment proceedings. As narrated earlier, after the prosecution rested its case, appellant admitted that he sexually abused her daughter Sherilyn because of the influence of wine which made him lost his composure; and that at the time he slept with Sherilyn in 1992, she was 10 years old.[17] This admission is significant since appellant furnished and explained to the trial court the missing details of why he committed the offenses charged. Certainly, his explanation is an earmark of voluntariness of his plea of guilty and a clear comprehension of the consequences thereof.

Moreover, as noted earlier, the defense, after presenting the testimony of the accused, earnestly prayed before the trial court that his “voluntary plea of guilty” be taken into account as a mitigating circumstance in reducing his penalty. By invoking such plea of guilty, the appellant has completely demolished his argument that his plea was improvidently made.

In any case, contrary to appellant’s assertion, he was convicted by the trial court, not on the basis of his plea of guilty, but on the strength of the evidence adduced by the prosecution. As held by this Court in *People vs. Lakindanum*,^[18] *People vs. Nismal*,^[19] *People vs. Petalcorin*,^[20] and *People vs. Tahop*,^[21] convictions based on pleas of guilty to capital offenses have been set aside because of improvidence of the plea, but only when such plea is the sole basis of the judgment. Where, as here, the trial court relied solely on the prosecution’s sufficient and convincing evidence to convict the appellant beyond reasonable doubt, not on his guilty plea, the same must be sustained. ^[22] As the trial court aptly stated in its appealed decision of November 29, 1996:

“Notwithstanding, the plea of guilty of accused and his open confession of his understanding as to its legal import and consequences, the court, aware of his rights and prevailing jurisprudence decided by the Supreme Court en banc in the case of *People of the Philippines vs. Alberto Diaz* (G.R. No. 119073, March 13, 1996) and the case of *People vs. Rolly Albert y Oliver* (G.R. No. 114001, promulgated on December 11, 1995), required the prosecution to present its evidence against the accused”

It bears stressing that four credible witnesses were presented by the prosecution who were extensively cross-examined by appellant’s counsel. The victim, Sherilyn, herself gave a clear, positive and straightforward account of how she was sexually assaulted by appellant. The three other witnesses strongly corroborated her testimony which established beyond reasonable doubt appellant’s guilt. But to be sure, the victim’s testimony is sufficient to establish the crimes charged,^[23] thus:

“Q:

How old are you now Sherilyn Lima?

A:

15 years old.

Q:

Do you have a birth certificate to prove your age?

A:

Yes, I have.

Q:

I am showing to you a birth certificate, marked Exh. “A”, is this the same birth certificate?

A:

Yes.

Q:

And you were born on October 4, 1981, you can confirm that?

A:

Yes.

Q:

Your father is Gregorio Lima?

A:

Yes.

Q:

Is this the Gregorio lima accused in this case?

A:

Yes.

Q:

Now, on January 20, 1996, where were you Sherilyn?

A:

In our house.

Q:

Who were your companion in your house?

A:

My brother.

Q:

And aside from your brother, who else?

A:

My father.

Q:

And where was your mother at that time?

A:

She was in the house of my auntie attending a party.

Q:

At that time on January 20, 1996, at that night while your mother was not in your house attending party, where did you sleep?

A:

In the sala.

Q:

Of your house?

A:

Yes.

Q:

Who were your supposed companion in sleeping in your sala?

A:

My brother.

Q:

How about your father, where was he slept that night?

A:

In his room.

Q:

Is that the room of your father and mother?

A:

Yes.

Q:

While you were sleeping in the sala on Jan. 20, 1996, tell the court Sherilyn what did your father do, if any?

A:

He woke me up.

Q:

Why did your father wake you up?

A:

He wanted me to go to his room.

Q:

What was your reaction to that, when your father asked you to go to his room?

A:

I was surprised why he wanted me to go inside his room.

Q:

What did you tell your father when he told you to go to his room?

A:

I asked him why he was going to bring me to his room.

Q:

What was the answer of your father?

A:

According to him, he wanted me to sleep in his room. He wanted to do something to me.

Q:

Did you go with your father to the room?

A:

Yes.

Q:

And while in the room, what did your father tell you, if any?

A:

He told me to undress.

Q:

What was your reaction when you were told by your father to undress?

A:

I was surprised.

Q:

Precisely. Aside from being surprised, what did your father tell you?

A:

Just to undress myself.

Q:

When you were told to undress, what happened next?

A:

He had me lie down.

Q:

Did you comply with his instruction?

A:

Yes.

Q:

When you lied down, what happened?

A:

He molested me.

Q:

Sherilyn, how did your father molest you?

A:

He raped me.

Q:

Please describe to the Hon. Court, how did your father rape you?

A:

He placed himself on top of me.

Q:

What happened when he was on top of you?

A:

He kissed my private parts.

Q:

Aside from kissing your private parts, what happened next?

A:

He did something to my private parts.

Q:

Please specify that something he did on your private part?

A:

He inserted his organ to my private part.

FISCAL EVANGELIO:

Please make it on record, that the witness is crying.

Q:

How did you know that the private part of your father was inserted in your vagina?

A:

Because I was awake when he did that to me.

Q:

Aside from awake, what did you feel when his organ was inserted in your vagina?

A:

I feel great pain.

Q:

More or less, how long this so-called sexual molestation made by your father on the evening of January 20, 1996?

A:

I cannot estimate, how long was that.

Q:

Sherilyn, while your father was doing the act on January 20, 1996, why did you not resist?

A:

Because he will kill me.

Q:

Why, did he hold you?

A:

He held my hands.

Q:

Prior to January 20, 1996, do you recall what your father has been doing to you long before January 20, 1996?

A:

He molested me.

Q:

That was sometime in 1992?

A:

Yes.

Q:

Why did you not report the matter to your mother?

A:

Because if I reveal the matter, he will kill all of us.

Q:

How often did your father do this to you in 1992?

A:

Many times.

Q:

Where?

A:

In the house.

Q:

At that time, how old are you in 1992, when he started molesting you?

A:

10 years old.

Q:

Why is it that it was only in 1996 that you have the courage to tell your mother about it?

A:

I was afraid because my mother might be harmed.

Q:

Why is it that it was only in 1996 that you have the courage to tell your mother about it?

A:

I was afraid because my mother might be harmed.

Q:

What was your physical appearance at that time when your mother woke you up?

A:

I was sleeping.

Q:

Aside from sleeping, were you dressed?

A:

I was naked.

Q:

Where did your mother bring you?

A:

To the birthday party of my cousin.

Q:

What transportation did you take in going there?

A:

The car of my auntie.

Q:

On the same evening, you reported the incident to the Buhangin Police Station?

A:

Yes.

Q:

On January 22, 1996, do you recall if you submitted yourself for examination?

A:

Yes.

Q:

I have here a medical certificate. Is this the same medical certificate issued to you by Dr. Ledesma?

A:

Yes.” [24]

It is worthy to note that Sherilyn cried while testifying. Such actuation, undoubtedly, demonstrates her sincerity, spontaneity and truthfulness of what she was narrating. [25]

In a plethora of cases, we have held that the crime of rape is difficult to prove because it is generally unwitnessed and very often, only the victim is left to testify for herself. Fortunately for the victim here, her testimony is reinforced by the testimonies of two other witnesses who were extensively cross-examined.

Sherilyn's mother, Erlinda Lima, testified as follows: [26]

“Q:

You said you went home at 10:00 p.m. Please tell us why you went home at 10:00 p.m.?

A:

Because it was the birthday of my nephew and this nephew of mine wanted that my children will also attend the birthday, so that I went home to get my children.

x x x x x x x x

Q:

Where did you proceed when you entered the house?

A:

When I reached the house, I knock and the one who opened the door was my son?

Q:

Where did you proceed?

A:

When I entered the house , I cannot find my daughter. So I proceeded to the room of my husband to look for my daughter.

Q:

What did you notice, if any?

A:

I was surprised because I saw my daughter already sleeping beside the bed where my husband sleep, because at that time, my husband went out to open the gate. I was surprised, I approached her and took off the blanket and she was already naked.

Q:

Totally naked?

A:

Yes, sir.

Q:

To that situation, what did you tell your daughter?

A:

She was sleeping, so I have to wake her up because we were invited by my sister for the birthday.

Q:

While at that moment, where was your husband?

A:

In the house.

Q:

When you instructed your daughter to dress up, where was your husband?

A:

He was still opening the gate.

Q:

Were you able to leave the house?

A:

Yes, sir.

Q:

What was the reaction of your husband, if any?

A:

Nothing. There was no reaction because I told him that we were attending the party of my nephew. We did not let him notice that we have suspicion.

Q:

In going to the place of your sister, what transportation did you take?

A:

The vehicle of my sister.

Q:

And while in the vehicle of your sister going to your sister's house in Lanang, do you have a conversation with your daughter?

A:

Yes, sir.

Q:

And what did your daughter tell the court, that your daughter confided also that prior to January 20, 1996, she was also abused?

A:

Yes, sir.

Q:

Upon learning of the incident on that evening, where did you bring your daughter?

A:

We proceeded to the Buhangin Police Station.

Q:

What did you do in the Buhangin Police Station?

A:

We reported what her father had done to her.

Q:

Was your report recorded in the log book?

A:

Yes, Sir.

Q:

And do you know what action was taken by the police based on your report?

A:

They immediately arrested my husband.

Q:

Do you know if your daughter was subjected to medical examination by the City Health Office?

A:

Yes, sir.

Q:

Why do you know that?

A:

Because I was the one who brought her to Dr. Ledesma.”

Also, Dr. Danilo P. Ledesma of the Davao City Health Office testified, thus: [27]

“Q:

As medico-legal officer of the Davao City Health Office, do you recall having attended to the patient named Sherilyn Lima?

A:

Yes, sir.

Q:

Sometime in 1996?

A:

Yes, sir.

x x x x x x x x

Q:

Now, it appears in your findings, that I call your attention to the genital examination you conducted wherein you said among others that there was healed, deep laceration on the private parts of patient, what was your basis in that finding of yours?

A:

When I examined the genital of the patient, particularly the hymen, I saw old healed deep laceration at 3:00 and 8:00 o'clock position, if it is compared to a clock, wherein the lacerations were found at 3:00 and 8:00 o'clock positions.

Q:

And what does that imply or indicate, Doctor?

A:

Meaning to say that these lacerations when I saw and examined the victim more than four months.

Q:

And in your examination of the patient, have you found out what would have caused such lacerations?

A:

Yes, sir.

Q:

And finally you said, the patient was positive for spermatozoa, what do you mean by that, Doctor?

A:

With vaginal discharges were taken smear, there was the presence of sperm cells.

Q:

And when you said sperm cells, from male organ?

A:

Yes, sir.

x x x x x x x x

Q:

Finally, in your opinion, this old healed laceration, you found on the private parts of patient, how long more or less were these lacerations exist, old healed lacerations?

A:

More than 4 months, when I saw patient, it could be more than one year, more than 3 years.”

The foregoing testimonies effectively corroborated Sherilyn’s account.

Furthermore, the trial court found that the prosecution’s witnesses were telling the truth. We have consistently held that the findings of fact of the trial judge who tried the case and heard the witnesses should not be disturbed on appeal and should be given considerable weight and respect, especially on the credibility of the witnesses, since he was in a better position to decide the question, having heard and observed the demeanor, attitude, conduct and deportment of witnesses.[28]

Based on the prosecution’s evidence, and as correctly found by the trial court, the crimes charged have been

sufficiently established beyond reasonable doubt. Article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act No. 7659, provides:

“Art. 335. When and how rape is committed. -Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

- By using force or intimidation;
- When the woman is deprived of reason or otherwise unconscious; and
- When the woman is under twelve years of age or is demented.

“The crime of rape shall be punished by reclusion perpetua.

x x x x x x x x

“The death penalty shall also be imposed if the crime of rape is committed with any of the following circumstances:

“1. when the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim. (Emphasis supplied)

x x x x x x x x”

The prosecution has sufficiently established that in Criminal Case No. 36,517-96, the victim was only ten years old when she was raped by her father. However, the death penalty cannot be imposed upon the appellant because the crime was committed in 1992 when R.A. 7659 was not yet in effect.[29] As regards Criminal Case No. 36,380-96, it was proven that the victim was only 14 years old when she was raped by her father in 1996. Thus, the penalty of death was correctly meted out by the trial court.

The mitigating circumstance of plea of guilty cannot be appreciated in his favor because reclusion perpetua and death are indivisible penalties imposed in their entirety regardless of any mitigating circumstance that attended the commission of the crime. [30]

Finally, we rectify the error committed by the trial court with respect to the award of damages to the victim. The award of P30,000.00 as moral damages is not in line with the prevailing jurisprudence,[31] fixing the amount at P50,000.00 for each count of rape. In addition, the amount of P50,000.00 should be awarded to her as indemnity ex delicto in Criminal Case No. 36,517-96 since the penalty is only reclusion perpetua; while in Criminal Case No. 36,380-96 where the penalty imposed is death, the indemnity ex delicto for the victim should be in the amount of P75,000.00. [32] Since the fact of relationship between the offender and the victim is an aggravating circumstance, she is entitled to the award of exemplary damages of P25,000.00 for each count of rape.[33] In *People vs. Catubig*,[34] this Court clarified that an aggravating circumstance, whether ordinary or qualifying, should entitle the offended party to an award of exemplary damages within the meaning of Article 2230 of the Civil Code.

WHEREFORE, the appealed Joint Decision in Criminal Case Nos. 36,517-96 and 36,380-96 is AFFIRMED, with MODIFICATION in the sense that appellant Gregorio S. Lima is ordered to PAY the victim, Sherilyn Lima, P50,000.00 as indemnity ex delicto in Criminal Case No. 36,517-96, and P75,000.00 in Criminal Case No. 36,380-96; and, in each case, P50,000.00 as moral damages; and P25,000.00 as exemplary damages. Costs against the appellant.

Relative to Criminal Case No. 36,380-96 wherein we affirm the imposition of death penalty upon the appellant,

three (3) members of the Court, although maintaining their adherence to the separate opinions expressed in *People vs. Echegaray* that R.A. 7659, insofar as it prescribes the penalty of death, is unconstitutional, nevertheless submit to the ruling of the majority that the law is constitutional and that the death penalty should be accordingly imposed.

In consonance with Sec. 25 of R.A. 7659, amending Art. 83 of the Revised Penal Code, upon finality of this Decision, let the record of this case be forthwith forwarded to the Office of the President for the possible exercise of his pardoning power.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, De Leon, Jr., Sandoval-Gutierrez, Carpio, Austria-Martinez, and Corona, JJ., concur.
Melo, Kapunan, and Ynares-Santiago, JJ., on official leave.

[1] RTC records, Vol. II, p. 1.

[2] *Ibid.*, Vol. I, p. 1.

[3] Transcript of Stenographic Notes (TSN), November 20, 1996, pp. 1-4.

[4] Exhibit "B," RTC records, Vol. I, p. 53.

[5] TSN, November 20, 1996, pp. 36, 37, 39-41.

[6] *Ibid.*, pp. 34-36.

[7] Exhibit "B-1".

[8] TSN, November 20, 1996, pp. 26-29.

[9] Exhibit "A", RTC records, Vol I, p. 52; TSN, January 20, 1999, pp. 5-7.

[10] TSN, November 20, 1996, p. 44.

[11] *Ibid.*, November 20, 1996, pp. 46-47.

[12] TSN, November 20, 1996, p. 48.

[13] Rollo, pp. 12-25.

[14] Appellant's Brief, p. 1; Rollo, p. 59.

[15] TSN, November 20, 1996, pp. 1-3.

[16] *People vs. Estomaca*, 256 SCRA 421, 437 (1996).

[17] TSN, November 20, 1996, pp. 46-47.

[18] 304 SCRA 429, 437-438 (1999).

[19] 114 SCRA 487 (1982).

[20] 180 SCRA 685 (1989).

[21] 315 SCRA 465 (1999).

[22] *People vs. Nuñez*, 310 SCRA 168 (1999); *People vs. Jabien*, 332 SCRA 702 (2000).

[23] *People vs. Buendia*, 314 SCRA 655 (1999), citing *People vs. Correa*, 269 SCRA 76 (1997).

[24] TSN, November 20, 1996, pp. 32-37.

[25] *People vs. Syquioco*, 118 SCRA 413 (1982); *People vs. Gecomo*, 254 SCRA 82 (1996).

[26] TSN, November 20, 1996, p. 12-15.

[27] TSN, November 20, 1996, pp. 5-6.

[28] *People vs. Olivara*, 215 SCRA 759, 768 (1992).

[29] Said law took effect on December 31, 1993 (*People vs. Midtomod*, G.R. No. 121736, December 17, 1997).

[30] *People vs. Lakindanum*, 304 SCRA 429, 439 (1999); *People vs. Alvarado*, 275 SCRA 727 (1997).

[31] *People vs. Prades*, 293 SCRA 411 (1998); *People vs. Alba*, 305 SCRA 811 (1999).

[32] *People vs. Poñado*, 311 SCRA 529, 546 (1999).

[33] See also *People vs. Tabion*, 317 SCRA 126, 147 (1999).

[34] G.R. No. 137842, August 23, 2001.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.