

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARMANDO TAGUD, SR., ACCUSED-APPELLANT.

G.R. No. 140733. January 30, 2002

Ponente: CARPIO, J.

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CARPIO, J.:

An Information for a crime punishable with the supreme penalty of death must adhere to a higher standard in complying with the requirements of the law and the Rules of Court. The qualifying circumstance must be alleged with more particularity to alert the accused that his life hangs in the balance because of the special circumstance that raises the crime to a higher category. Thus, when the victim's minority qualifies the crime of rape, the exact age of the victim must be specifically alleged in the Information to warrant the imposition of the death penalty.

THE CASE

Before this Court for automatic review is the Decision[1] dated September 22, 1999 of the Regional Trial Court of xxx, Branch 6, in Criminal Case No. 06-7190, finding Armando Tagud, Sr. guilty of the crime of qualified rape and sentencing him to suffer the death penalty.

THE CHARGE

Appellant was charged with the crime of rape in an amended Information that reads:

“That on or about May 23, 1998, in the City of xxx, Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of violence and/or intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of his minor daughter AAA, against her will.

Contrary to and in violation of Art. 266-A, Chapter 3 of the Revised Penal Code, as amended by R.A. No. 8353.”[2]

ARRAIGNMENT AND PLEA

When arraigned on March 9, 1999, appellant, with the assistance of counsel, entered a plea of guilty with the proposal that the lesser penalty of reclusion perpetua be imposed upon him.[3] However, private complainant AAA (“AAA” for brevity) and her mother, BBB (“BBB” for brevity), disagreed insisting that appellant should be executed by lethal injection or in their words, “E-Echagaray”. [4] The trial court advised appellant to enter a plea of not guilty since in any case the prosecution is still required to present evidence. Accordingly, the appellant entered a plea of not guilty.

On May 11, 1999, the first hearing date, appellant through counsel, moved in open court for leave to withdraw his former plea of not guilty and to be re-arraigned for the purpose of entering a plea of guilty. The court granted the motion.

Appellant was re-arraigned on the amended Information in the Cebuano-Visayan dialect that he speaks and

understands. The trial court asked appellant searching questions to determine the voluntariness and full comprehension of the consequences of his plea. Appellant informed the court that it was his own personal decision to withdraw his former plea of not guilty and enter a plea of guilty.[5] He likewise manifested in open court that he understood the consequences of his plea of guilt.[6] Thereafter, trial ensued to prove appellant's guilt and the precise degree of his culpability.

THE TRIAL

Version of the Prosecution

The prosecution presented four witnesses, namely: (1) the complainant, AAA; (2) the brother of AAA, CCC ("CCC" for brevity); (3) the common-law wife of appellant, Wenefreda; and (4) the Medico Legal Officer of the xxx Health Office, Dr. Leonardo Labanon.

In the People's Brief, the Solicitor General summarized the prosecution's version of the incident, as follows:

"Appellant is the common-law husband of BBB with whom he has two children, AAA and CCC. AAA was born on May 24, 1981 in Butuan City. At the time AAA testified, she was seventeen years of age. (pp. 3-4, TSN, May 20, 1999; p. 20 TSN, June 24, 1999; Exhibits "B" and "B-1").

On April 24, 1998, AAA was employed as a house helper by Mrs. Areola at xxx (p. 5, TSN, Ibid).

On May 23, 1998, at 7:00 p.m., more or less, AAA temporarily left her employer's abode and went to their house in xxx because the next day was her birthday. When she arrived home, she saw her father, the appellant and her brother, CCC (CCC) (pp. 6-7, TSN, Ibid).

Inside the house, appellant ordered AAA to lie on the floor face down. When AAA complied, appellant stepped on her back as she lay face down on their bamboo floor. Feeling intense pain, AAA pleaded with her father to stop. Appellant then forced AAA to lie on her back and ordered her to undress. AAA refused to remove her clothes. Appellant forcibly undressed AAA and stripped her of her dress, shorts and panty. Thereafter, appellant removed his shorts and brief. He then inserted his penis into AAA's sexual organ and made a pumping motion (pp. 10-11, TSN, Ibid). Petrified with pain, AAA told appellant "Stop it Pa", but appellant continued with his bestial act. AAA felt a stinging sensation (hapdos and sakit). AAA heard her brother CCC plead with appellant to stop raping his sister. Appellant, however, ordered CCC to go downstairs and play. Fearful of the appellant, CCC obeyed (pp. 13-14, TSN, Ibid). When appellant stopped his push and pull motions, AAA noticed a white discharge coming from appellant's penis. Appellant then casually put on his clothes and left (pp. 12-13, TSN, Ibid).

When BBB, the mother of AAA, arrived at their house that night, AAA told her that she was raped by appellant. BBB was not able to do anything out of fear of her husband (p. 14, TSN, Ibid).

In June 1998, AAA was able to muster enough courage and told her employer, Mrs. Areola, that she was raped by her own father. Mrs. Areola accompanied AAA to the Department of Social Welfare and Development (DSWD), Saray Branch to report the rape (pp. 25-26, TSN, Ibid). AAA also reported the incident to the National Bureau of Investigation (NBI) and submitted herself to medical examination (pp. 17-19, TSN, Ibid).

On July 9, 1998, Dr. Leonardo Labanon, Medico Legal Officer of the City Health Office, xxx conducted the medical examination. A medical certificate (Exhibit "A") was issued with the following results:

- (1) hymenal laceration, old, 3 and 9 o'clock position
- (2) Intruitus admits 2 fingers w/ less resistance
- (3) Slightly catatonic, depressed mood (referred to Dr. Sagge for psychiatric evaluation.)

During the trial, AAA told the court that she was first raped by appellant when she was eight years old. The sexual abuse was repeated several times. AAA testified how appellant threatened to kill her if she told anyone that she was raped by appellant. AAA told the trial court that she informed her mother about what appellant did to her. BBB, however, could not do anything since appellant would physically abuse BBB whenever she tried to stop appellant from raping her daughter (pp. 14-17, TSN, Ibid).

Version of the Defense

After the prosecution rested its case, appellant, through counsel, manifested in open court that he was waiving his right to present evidence. The trial court then considered the case submitted for decision.[7]

THE TRIAL COURT'S RULING

The trial court accorded full faith and credence to the evidence of the prosecution. The trial court believed that the evidence for the prosecution disclosed a horror story of moral depravity and sadism.[8] Appellant started sexually abusing his daughter AAA when she was only eight years old. Appellant also physically maltreated AAA's mother, BBB, whenever she attempted to prevent him from perpetrating a vile and wicked act upon AAA. Cowed into submission, BBB failed to stop her husband's beastly acts. It was only on May 23, 1998, the last sexual assault, that AAA broke free from this sexual bondage when she narrated her ordeal to her employer, Mrs. Areola. This led to the filing of the criminal case against appellant. In view of the undisputed evidence of the prosecution and appellant's plea of guilt, the trial court rendered a judgment of conviction on September 22, 1999. The dispositive portion of the decision reads:

"WHEREFORE, the court finds the accused Armando Tagud, Sr. GUILTY beyond reasonable doubt as principal of the crime of qualified rape defined and penalized in Article 266-A in relation to Art. 266-B of the Revised Penal Code as amended by R.A. 8353 and hereby imposes upon him the single and indivisible penalty of death by lethal injection and to indemnify the victim, AAA the sum of P50,000.00 as moral damages and P50,000.00 as exemplary damages."[9]

Hence, the automatic review of this case before us.

THE ISSUES

Appellant seeks the reversal of his conviction by contending that -

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE.

II

ASSUMING THAT THE ACCUSED IS GUILTY, THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE DEATH PENALTY DESPITE THE FAILURE OF THE PROSECUTION TO PROVE THE ACTUAL AGE OF THE VICTIM.

THE COURT'S RULING

The Court sustains the conviction of appellant, but the penalty imposed by the trial court should be reduced to reclusion perpetua.

Appellant contends that he entered a plea of guilty believing that the trial court would appreciate in his favor his admission. Had he known that the penalty would still be death, he would have opted to plead not guilty and would

have adduced evidence in his defense.

Appellant's argument fails to persuade us. The record reveals that appellant was duly informed of the consequences of his plea of guilt. We quote:

“Atty. Susan Escalona:

Your Honor, the accused intends to withdraw his former plea of not guilty and we will re-enter a plea of guilty of the crime charged.

COURT:

Alright, the motion to withdraw the former plea of not guilty entered by the accused on March 9, 1999 is granted.

Re-arraign the accused. (The Information was read to accused Armando Tagud)

Now, Armando Tagud, the Information was read to you in the Cebuano-Visayan dialect. Did you understand the Information?

A:

Yes, sir.

Q:

Do you speak and understand the Cebuano-Visayan dialect?

A:

Yes, sir.

Q:

So, what is your plea?

A:

I am guilty, sir.

Q:

Now, on March 9, 1999 the Information was read to you in the Cebuano-Visayan dialect and you entered a plea of not guilty. Your counsel submitted a motion that you are withdrawing your former plea of not guilty and that you intend to re-enter a plea of guilty to the crime charged. Do you understand that?

A:

Yes, sir, I understand.

Q:

And so, you are now entering a plea of guilty to the offense charged?

A:

Yes, sir.

Q:

Do you know that the victim in this case is your own daughter named Arlene (AAA) Tagud is below 18 years old?

A:

Yes, sir.

Q:

So, when you entered a plea of guilty to the crime of rape committed by you against your own daughter, have you not been forced, threatened or coerced into entering a plea of guilty?

A:

This is my own will, sir.

Q:

Do you know that by entering a plea of guilty for having raped your own daughter who is a minor, the law specifically imposes upon the judge the obligation to impose the penalty of death and no other sentence can be given to you?

A:

Yes, sir.

Q:

And despite this information that you might be sentenced to a penalty of death, you will still continue your plea of guilty?

A:

Yes, sir, I cannot do anything if that is the decision.

Q:

Is your plea of guilty your own decision?

A:

Yes, sir.

COURT:

Alright, Atty. Escalona...

Atty. S. Escalona:

Your Honor, we ask that the voluntary plea of guilty of the accused be appreciated in his favor...

COURT:

Yes, but still the court will receive the evidence for the people.

Atty. Escalona:

Yes, Your Honor, but we want to make it of record that the voluntary plea of guilty be appreciated...

COURT:

Yes, but the single x x x mitigating circumstance does not apply any consideration.

Atty. Escalona:

Yes, Your Honor.”[10]

Clearly, the trial judge faithfully observed the requirement that when the accused pleads guilty to a capital offense, the judge must conduct a searching inquiry into the voluntariness and full comprehension by the accused of his plea of guilt.[11] Appellant was properly informed that the only sentence that could be imposed on him, if found guilty, is the death penalty. A mitigating circumstance like a plea of guilt does not operate to lower the death penalty which is a single indivisible penalty.[12]

Appellant also assails the credibility of AAA on the ground that she is mentally retarded. We have carefully reviewed the transcript of the testimony of AAA, and there is no evidence whatsoever that she was not competent to testify as a witness. The trial court correctly ruled that appellant failed to substantiate his claim that AAA was not psychologically qualified to testify in court.[13] Appellant's claim that AAA is mentally retarded contradicts appellant's allegation that AAA's testimony was rehearsed because she testified in a "straight forward and scripted manner" - something not expected from a mentally retarded person.

The trial court correctly gave full faith and credence to AAA's testimony. Youth and immaturity are generally badges of truth and sincerity.[14] The victim would not make public the offense, undergo the trouble and humiliation of a public trial, and endure the ordeal of narrating all its gory details, if she had not in fact been raped.[15] We quote AAA's testimony:

"Q:

This is May 23, 1998. Why did you go home on May 23, 1998?

A:

Because on May 24, the following day is my birthday.

Q:

Were you able to arrive at your home at 7:00 of May 23, 1998?

A:

Yes, sir.

Q:

When you arrived in your house, what happened?

A:

When I arrived, the persons in the house were my father and my brother.

Q:

What is the name of your father again?

A:

Armando Tagud, Sr.

Q:

What is the name of this brother that you mentioned?

A:

CCC

Q:

When you arrived at your place and after you saw your father and your brother both Armandos, what happened?

A:

I went up our house.

Q:

When you were inside your house, what happened?

x x x

WITNESS:

My father said, you lie face down

x x x

Q:

When your father said for you to lie face down, did you follow that?

A:

Yes, sir.

x x x

Q:

And after you were already lying face down on the floor, what else did your father do to you?

A:

He step on my back.

Q:

And when your father step on your back, what did you feel?

A:

Painful.

Q:

What did you tell your father?

A:

I told my father do not step on my back because it is already painful.

Q:

And after you said that, what did your father tell you?

A:

Then my father told me to lie on my back.

Q:

And, did you immediately follow this order of your father?

A:

No, sir.

Q:

What did you tell your father?

A:

I said my back is very painful, I can not endure it.

Q:

What did your father tell you?

A:

To lie on my back.

Q:

Did you follow him?

A:

No, sir.

Q:

What else happened after that?

A:

He forced me to lie on my back.

Q:

Was he able to lie (you) on your back?

A:

Yes, sir.

Q:

When you were already lying on your back on the floor, what did your father tell you to do?

A:

He told me to undress myself.

Q:

And, did you follow his direction?

A:

No, sir.

Q:

Then, what happened after that?

A:

He undressed all my clothes.

Q:

When you said he undressed everything, what does that include?

A:

My dress, shorts and panty.

Q:

Now when you were totally naked, what did your father do?

A:

Then he removed his brief.

Q:

Only his brief?

A:

And shorts.

Q:

Was he able to remove his shorts and brief?

A:

Yes, sir.

Q:

After he was able to remove his undergarments, what did he do to you?

A:

He inserted his penis to my vagina.

Q:

Was he able to insert his penis to your vagina?

A:

Yes, sir.

Q:

After penetrating his penis to your vagina, what else did he do?

A:

He do a pumping motion.

Q:

What happened after that pumping motion?

A:

I told him, "Stop it 'Pa', because it is painful, I can not endure it anymore.

Q:

After you told him that, what happened?

A:

He did not mind me. He did not resent me.

Q:

He continued pumping?

A:

Yes, sir.

Q:

What happened after that?

A:

It is painful.

Q:

And, what did you notice at the time he made those pumping motion?

A:

(hapdos and sakit) Painful with stinging sensation.

x x x

Q:

Now after this incident of May 23, 1998, did you report this matter to your mother?

A:

Yes, sir.

Q:

What did your mother say?

A:

She can not do anything because she will be physically maltreated by my father.

Q:

Miss Tagud, this incident of May 23, 199(8), was this the only occasion that your father rape you?

A:

Many times already.

Q:

How old were you when he first molested you?

ATTY. ESCALONA:

Your Honor, we object to that . . .

COURT:

Witness may answer

WITNESS:

Eight (8) years old.”[16]

We find no cogent reason to disturb the findings of the trial court upholding AAA’s credibility. We have repeatedly held that the trial court’s assessment on credibility must be respected, unless the trial court plainly overlooked certain facts of substance.[17] In this case, the trial court carefully observed and found AAA’s demeanor to be “positive, unequivocal, and unrelenting” in charging her own father with rape.[18]

Appellant further faults the prosecution witnesses for inconsistent statements and for making up an incredible story. Appellant claims that at around 7 p.m. of May 23, 1998, AAA happened to be with her mother and brother. Appellant asserts that no mother in her right mind would allow her daughter to be raped in her presence. This argument is misleading because AAA's mother, BBB, actually arrived at the scene of the crime right after appellant had finished ravishing AAA. BBB testified that:

“Q:

And upon your arrival in your house, what happened?

A:

When I arrived, they were already lying down side by side and h[e]r father is already wearing brief.

Q:

When you went upstairs, did you hear anything from them?

A:

Before I reached the house, I heard AAA saying “Don’t, don’t”. So I hurriedly went upstairs and saw AAA crying.”[19]

It was actually AAA's brother, Junior, who was present in the house when appellant was raping AAA. AAA testified as follows:

“Q:

You said Ms. Tagud at that time you arrived at your house when you went upstairs, your brother CCC was there. What did your brother CCC [do] when you were being raped by your father?

A:

He said, “Pa, do not do that to ‘Ate’ because h[e]r back is already painful.”

Q:

What did your father say?

A:

He told J.R. to go down and play.

Q:

Did your brother follow the order of your father?

A:

Yes, sir, because he was afraid.”[20]

The presence of AAA's brother that evening of May 23, 1998 did not discourage appellant from raping his daughter AAA. Even the presence of AAA's mother did not, in other occasions, deter appellant from committing

bestly acts on his daughter. When AAA was just nine years old, BBB saw appellant, with penis erect, on top of AAA in the act of raping her. [21]

Rape is not necessarily committed only in an isolated place, for rapists have no respect for locale or time when they carry out their evil deed. Rape can be committed in places where people congregate, in parks, along the roadside, within school premises, inside an occupied house, and even in a room where other members of the family are also sleeping. There is no rule or norm that a woman can only be raped in seclusion. [22] This case vividly demonstrates that the presence of AAA's brother did not deter appellant from raping AAA.

The witnesses of the prosecution do not have any ill motive that could have induced them to falsely accuse appellant, a close relative of theirs. It is unnatural for a mother to use her own daughter as a vehicle for revenge if it will subject her child to the disgrace and stigma attendant to a prosecution for rape, unless she was motivated solely by the desire to incarcerate the person truly responsible for her daughter's defilement.[23]

The fact of rape was further supported by the results of the medical examination conducted by Dr. Leonardo Labanon, Medico Legal Officer of the xxx Health Office. Dr. Labanon testified that:

“Q:

Now, in finding no. 1 it is stated: “hymenal laceration, old, 3 and 9 o'clock position”, will you please explain this to us, Doctor?

A:

Actually, the hymen is a thin membrane located at the entrance of the vaginal canal, 3 and 9 o'clock position corresponds to the appearance of the hymenal laceration which resembles the 3 and 9 o'clock position of the clock, and OLD – because the borders are no longer coaptible.

Q:

What do you mean by “old laceration”, Doctor?

A:

In other words, the laceration is more than 3 weeks already, maybe months or years . . .

Q:

You examined her on July 9, 1998 and the last rape occurred on May 23, 1998?

A:

As far as the information is concerned, yes. . .

Q:

The laceration could be caused by what?

A:

Any rigid object caused the laceration.

Q:

Could it be correct that a penis caused this laceration?

A:

Yes, possible.

Q:

Now, in finding no. 2 it states: "Intuitus admits 2 fingers with less resistance", what does this mean, Doctor?

A:

It means that the vaginal canal is already penetrated.

Q:

Many times already?

A:

Possible." [24]

We agree with the trial court that appellant's guilt for the crime of rape has been proven beyond reasonable doubt. However, the death penalty imposed upon him is unwarranted. The trial court meted out the death penalty pursuant to Article 266-A and Article 266-B of the Revised Penal Code, as amended by R.A. No. 8353, to wit:

"Article 266-A. Rape. When and How Committed. – Rape is committed.

1)

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

a) Through force, threat or intimidation;

x x x

Article 266-B. Penalties. – x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying 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)

To justify the imposition of the death penalty in this case, the single special qualifying circumstance of the minority of the victim and her relationship to the offender must be specifically alleged in the Information and proven during the trial.[25] The Revised Rules of Criminal Procedure, which took effect on December 1, 2000, expressly require both qualifying and aggravating circumstances to be specifically alleged in the Information. Sections 8 and 9, Rule 110 of the Revised Rules of Criminal Procedure provide as follows:

“SEC. 8. Designation of the offense. - The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

SEC. 9. Cause of the accusation. - The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment.” (Emphasis supplied)

Even under the old Rules of Criminal Procedure, jurisprudence[26] already required that qualifying circumstances must be specifically alleged in the Information to be appreciated as such.

In imposing the death penalty, the trial court took into account the age of AAA, who was then seventeen years (17) old when appellant raped her on May 23, 1998. The birth certificate of AAA, presented by the prosecution as evidence, shows that she was born on May 24, 1981 and appellant is her father.[27] While the amended Information correctly alleged AAA’s relationship with appellant, it failed to specify AAA’s age. The amended Information alleged that on or about May 23, 1998, appellant “by means of violence and/or intimidation, did x x x have carnal knowledge of his minor daughter AAA, against her will.”[28]

Notably, the amended Information merely stated that appellant had carnal knowledge of his minor daughter without stating AAA’s actual age. In a rape case where the very life of the accused is at stake, such an inexact allegation of the age of the victim is insufficient to qualify the rape and raise the penalty to death. The sufficiency of the Information is held to a higher standard when the only imposable penalty is death. The constitutional right of the accused to be properly informed of the nature and cause of the accusation against him assumes the greatest importance when the only imposable penalty in case of conviction is death.

Our ruling in *People vs. Jose Elpedes*[29] is applicable to this case. The Information therein alleged that the accused had “x x x carnal knowledge with his own daughter Alma S. Elpedes, a minor against her will and consent, x x x.” The age of the victim therein was proven during trial but her actual age was not specifically alleged in the Information. The Court in that case reduced the penalty of death to reclusion perpetua. The Court explained that:

“The failure to allege accurately the minority of the victim in the information bars accused-appellant’s conviction for rape in its qualified form which is punishable by death. It must be borne in mind that the requirement for complete allegations on the particulars of the indictment is based on the right of the accused to be fully informed of the nature of the charges against him so that he may adequately prepare for his defense pursuant to the due process clause of the Constitution.” (Emphasis supplied)

Also in *People vs. Rafael Salalima*[30] this Court ruled that:

“Qualifying circumstances must be properly pleaded. Moreover, x x x the minority of the victim and the offender’s relationship to the victim must be taken together and constitute only one special qualifying circumstance. Both must be alleged in the complaint or the information and duly proved by the quantum of proof in criminal cases to justify the imposition of the mandatory death penalty. Thus, even if the victim is below eighteen years of age and the offender is her parent or relative, but these facts are not alleged in the information, or that only one is so alleged, their proof as such by evidence offered during the trial cannot sanction the imposition of the penalty.”

In this case, the qualifying circumstance of relationship was specifically alleged and proven during trial. However, the averment of the victim’s minority, though proven during trial, was not accurately pleaded in the Information.

Thus, the penalty that could be imposed on appellant is only reclusion perpetua and not the death penalty.

We note that in the course of their testimonies, AAA and BBB mentioned other incidents of rape not covered in the amended Information. However, we cannot convict appellant for those other acts of rape. Settled is the rule that there can only be one conviction for rape if the Information charges only one offense, even if the evidence shows that more than one was in fact committed.[31] Every charge of rape is a distinct and separate crime so that each rape charged should be proven beyond reasonable doubt.[32] Here, what was covered by the amended Information was the single act of rape committed by appellant in the evening of May 23, 1998. Thus, appellant can only be convicted for the incident of rape charged in the amended Information and proven during trial.

The award of damages made by the trial court must be modified. The trial court ordered the payment of moral and exemplary damages but failed to award civil indemnity. This Court has consistently ruled that upon the finding of the fact of rape, the award of civil indemnity is mandatory. If the death penalty is imposed, the indemnity *ex delicto* should be P75,000.00. If the death penalty is not decreed, the victim should instead be entitled to P50,000.00.[33] Since the death penalty in the present case is reduced to reclusion perpetua, the proper civil indemnity is P50,000.00. The award of P50,000.00 as moral damages was correctly made. Moral damages in rape cases may be awarded to the victim without need of pleading or proof of basis therefor.[34] In addition, exemplary damages are due to deter fathers with aberrant sexual behavior.[35] However, the award of P50,000.00 as exemplary damages should be reduced to P25,000.00 based on prevailing jurisprudence.[36]

WHEREFORE, the Decision dated September 22, 1999 of the Regional Trial Court of xxx, Branch 6, in Criminal Case No. 06-7190, is hereby **AFFIRMED** with **MODIFICATION** in that appellant **ARMANDO TAGUD, SR.** is found guilty only of simple rape and not in its qualified form. Appellant is sentenced to suffer the penalty of reclusion perpetua and to pay complainant AAA P50,000.00 civil indemnity, P50,000.00 moral damages, and P25,000.00 exemplary damages.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.

[1] Penned by Judge Valerio M. Salazar.

[2] Rollo, p. 11.

[3] *Ibid.*, p. 17.

[4] *Ibid.*

[5] TSN, May 11, 1999, pp. 1-a to 1-c.

[6] *Ibid.*

[7] Rollo, p. 20.

[8] *Ibid.*

[9] *Ibid.*, p. 23.

[10] *Supra*, see note 5.

[11] *People vs. Antonio Magat*, 332 SCRA 517 (2000); *People vs. Efren Jabien*, 332 SCRA 702 (2000); *People*

vs. Dayot, 187 SCRA 637 (1990). Section 3, Rule 116 of the Revised Rules of Criminal Procedure provides as follows: “Plea of guilty to a 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 shall require the prosecution to prove his guilt and the precise degree of culpability. The accused may present evidence in his behalf.”

[12] Article 63 of the Revised Penal Code provides as follows: “ In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

[13] TSN, May 20, 1999, pp. 2-3.

[14] People vs. Reynaldo De Villa, G.R. No. 124639, February 1, 2001; People vs. Jesus Cledoro, Jr., G.R. No. 111860, June 29, 2001; and People vs. Juntilla, 314 SCRA 568 (1999).

[15] People vs. Manolito Agustin, G.R. No. 135524-25, September 24, 2001.

[16] TSN, May 20, 1999, pp. 6-15.

[17] People vs. Reynaldo Rebato, G. R. No. 139552, May 24, 2001.

[18] Rollo, p. 22.

[19] TSN, June 24, 1999, p. 11.

[20] TSN, May 20, 1999, pp. 13-14.

[21] TSN, June 24, 1999, pp. 5-9.

[22] People vs. Gonzales, 338 SCRA 678 (2000).

[23] People vs. Castro Geraban, G.R. No. 137048, May 24, 2001.

[24] TSN, May 11, 1999, pp. 4-5.

[25] People vs. Danilo Catubig, G.R. No. 137842, August 23, 2001; People vs. Cornelio Supnad, G.R. Nos. 133791-94, August 8, 2001.

[26] People vs. Sala, 311 SCRA 301 (1999); People vs. Reñola, 308 SCRA 145 (1999); and People vs. Perez, 296 SCRA 17 (1998).

[27] Rollo, p. 21.

[28] Rollo, p. 11.

[29] G.R. Nos. 137106-07, January 31, 2001.

[30] G.R. Nos. 137969-71, August 15, 2001.

[31] People vs. Antido, 278 SCRA 425 (1997).

[32] People vs. Jose Elpedes, *supra*.

[33] People vs. Poñado, 311 SCRA 529 (1999); People vs. Maglente, 306 SCRA 546 (1999); People vs. Wilfredo Olarte, G.R. Nos. 129530-31, September 24, 2001; People vs. Jose Elpedes, *supra*.

[34] People vs. Rafael Salalima, *supra*; People vs. Manolito Agustin, G.R. No. 135524-25, September 24, 2001.

[35] People vs. Docena, 322 SCRA 820 (2000).

[36] People vs. Manolito Agustin, *supra*.

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