

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FLORENCIO CADAMPOG, APPELLANT.

G.R. No. 148144. April 30, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is an appeal from the Decision[1] of the Regional Trial Court of Malaybalay City, Branch 9, in Criminal Case No. 7823-96, finding the appellant Florencio Cadampog guilty of rape committed against complainant Prudencia Lasara,[2] and sentencing him to suffer the penalty of reclusion perpetua and to pay the sum of P50,000 as moral damages and P10,000 as actual damages.

The Information filed against the appellant reads:

That on or about the 14th day of January 1996, in the afternoon, at Sitio Himaya, Barangay Kuya, Municipality of Maramag, Province of Bukidnon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused prompted by lewd design entered the house of Prudencia Lazara and once inside, did then and there, willfully, unlawfully and criminally, wrestle, kiss, remove the panty of PRUDENCIA LAZARA and accused remove also his pants and have sexual intercourse with the latter against her will, to the damage and prejudice of PRUDENCIA LAZARA in such amount as may be allowed by law.

Contrary to and in violation of Article 335 of the Revised Penal Code in relation to Republic Act No. 7659.[3]

Upon arraignment on April 10, 1996, the appellant, with the assistance of his counsel de oficio, pleaded not guilty to the charge.[4] Trial thereafter ensued.

The Case for the Prosecution[5]

The spouses Felipe and Prudencia Lasara were farmers who lived in Sitio Himaya, Barangay Kuya, Municipality of Maramag, Bukidnon. Felipe was 41, while Prudencia was 33. They had four children, namely, seven-year-old Jimmymar, six-year-old Jaypee, five-year-old Gemma and one-year-old Jovilyn.[6]

At about 12:30 p.m. on January 14, 1996, a Sunday, Felipe with his brother-in-law Paul, and his friends Berting and Dodoy, went to the neighboring Barangay Dagumbaan to attend the festivities, as it was the eve of the fiesta.[7] Prudencia was left alone in the house with her young children.

At around 2:30 p.m. of the same day, Prudencia heard the voice of a man asking her two children, who were then playing downstairs, where she was. The children replied that their mother was upstairs. Momentarily, she heard footsteps going up the house. Suddenly, the person, who turned out to be the appellant Florencio Cadampog, their neighbor and her husband's friend, rushed towards her.[8] The appellant immediately grabbed her by the arm and hooked his other arm around her neck. She maneuvered to back away but the appellant started kissing her. She wanted to shout, but relented when she noticed that the appellant had a sheathed bolo dangling at his waist. Nevertheless, she struggled and vigorously resisted his advances, to no avail. The appellant pushed her against a wall, stripped her of her panties, causing her to be thrown off-balance. Prudencia fell on a bench, astride and

supinely flat on her back. The appellant then unzipped his trousers, pulled out his erect penis and inserted it into her vagina. He then made push-and-pull movements. Prudencia continued resisting the bestial assault on her. The appellant retaliated and scratched her face and neck.[9] Prudencia managed to push the appellant away, causing him to withdraw his penis and ejaculate outside.[10] The appellant's lust deflated when his semen splattered all over Prudencia's upper thigh.[11] The appellant dressed himself and warned Prudencia to keep the incident to herself, otherwise, he would kill her.[12] The appellant then left.

Prudencia immediately proceeded to the barangay secretary and the barangay captain, Mrs. Raguro. She reported the incident to them. The barangay captain told Prudencia that there would be a settlement at 2:00 p.m, but the latter did not agree. She then returned home.[13] Back home, she hid her husband's bolo in a safe place, and thereafter, patiently waited for her husband to return.[14]

When Felipe arrived home at around 11:00 p.m., Prudencia told him that the appellant had raped her.[15] Felipe was so enraged that his initial reaction was to look for and kill the appellant, but he relented when he realized that he had no right to take the law into his own hands.[16]

The following morning, January 15, 1996, Prudencia reported the incident to the police[17] and gave a sworn statement. Dr. Venus Tagarda of the Maramag District Hospital examined her and issued a Medical Certificate with the following findings:

PROGNOSIS/FINDINGS

-

Linear abrasions left zygomatic

-

Multiple linear abrasion to upper part of
anterior chest and neck

OPERATION PERFORMED

-

Introitus-multiparous

REMARKS

-

Sperm identification: Vagina smear done -
negative for spermatozoa
slide I, slide II[18]

Dr. Tagarda testified that there were no traces of semen found in the offended party's vagina due to the intervening period from the date of the rape and the physical examination. The linear abrasion located at the complainant's left cheekbone, and the multiple abrasions on her chest and neck could have been caused by sharp objects such as fingernails or other sharp instruments.[19]

The Case for the Appellant[20]

The accused denied the charge. He interposed the defense of alibi. He testified that he lived with his wife, Liza, and their four children in Sitio Himaya, Barangay Kuya, Municipality of Maramag, Bukidnon. They resided in a house built on a farmland owned by Constancio Paragoso, roughly 500 meters from where the spouses Felipe and

Prudencia Lasara lived.[21] On January 14, 1996, the accused, along with his wife and eldest daughter, Lady Rose, were at the farmland's grassland all day long, cutting cogon grasses to be used for Paragoso's house roofing. They started working from 7:00 a.m. until 5:00 p.m. without let up, except for a short lunch break. He chopped firewood upon returning to the house.[22] The following day, at around 11:00 p.m., lawmen came to his house and arrested him. He was brought to the municipal jail and there he learned of the charge for the first time.[23]

The appellant claimed that the charge was merely Prudencia's concoction because he refused to be a witness against a certain Romeo Alinas, against whom Prudencia had contemplated filing a criminal charge for rape.[24] The appellant recalled having a meeting with the spouses Felipe and Prudencia Lasara at their place days before January 14, 1994, where Prudencia asked him to testify in her behalf. For his refusal to do so, he ended up in jail.[25]

The appellant's wife, Liza, corroborated his story, claiming that her husband was with her and their daughter, Lady Rose, cutting cogon grasses in Paragoso's farmland the whole day of January 14, 1996. Her husband never left the place.[26] Liza recalled that after the alleged rape, she went to Prudencia, they being close friends, and requested her to withdraw the case. Prudencia however, refused to agree unless given P80,000.[27]

Constancio Paragoso, a septuagenarian farmer, also corroborated the appellant's alibi. He testified that he hired the accused and his wife to cut cogon grasses for the roofing of his house and paid them P1.00 per bundle. He claimed to be with them. He also vouched for the appellant, claiming that the latter was present at the cogonal area during the whole day of January 14, 1996.[28]

On January 12, 2001, the trial court rendered a decision finding the accused guilty of rape. The dispositive portion reads:

WHEREFORE, this court, for the foregoing reasons, finds the accused guilty beyond reasonable doubt of the crime of simple rape as defined and penalized under Article 335 of the Revised Penal Code and pursuant thereto is hereby sentenced to the penalty of reclusion perpetua together with all the accessory penalties included thereunder and to pay the offended party the sum of P50,000.00 by way of moral damages and actual damages in the amount of P10,000.00.

By virtue of this conviction and pursuant to Section 5 of Rule 114 of [the] 2000 Rules on Criminal Procedure the accused shall continue to be under detention even if the accused should appeal this decision to the proper appellate court. However, the accused shall be entitled to the full credit for the period he is detained pursuant to Article 25 of the Revised Penal Code and subject to the restriction and limitation therein imposed.

SO ORDERED.[29]

The accused, now the appellant, contends that:

THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF RAPE COMMITTED THROUGH FORCE AND INTIMIDATION WHEN THE INFORMATION WAS FATALY DEFECTIVE.[30]

The appellant asserts that the Information against him does not charge him of rape because it does not allege one of its elements, i.e, force or intimidation. He argues that the Information is void. Even if the prosecution was able to prove that he forced Prudencia to have sexual intercourse with him, he cannot be convicted of the crime charged; otherwise, he would be deprived of his right to be informed of the charge against him and to prepare for his defense.[31]

The Office of the Solicitor General, for its part, contends that the Information is not defective; neither is it void. It

argues that although the Information does not specifically allege that the appellant succeeded in having sexual intercourse with the victim with the use of force, threats or intimidation; nonetheless, it alleges that the appellant succeeded in having sexual intercourse with the victim after first wrestling with her and against her will, viz:

Appellant argues that the information is defective since it failed to allege that [the] appellant raped the victim with the use of force and/or intimidation (Appellant's Brief, p. 4).

Appellant's claim is bereft of merit.

Contrary to [the] appellant's claim, a perusal of the information shows that force was alleged therein.

As stated in the information "the above-named accused prompted by lewd design entered the house of Prudencia Lazara and once inside, did then and there, unlawfully and criminally wrestle, kiss, remove the panty of PRUDENCIA LAZARA and, accused remove also his pants and have sexual intercourse with the latter against her will."

An information is sufficient where it clearly states the designation of the offense by the statute and the acts or omissions complained of as constituting the offense. [Sta. Rita vs. CA, 247 SCRA 484 (1995)].

In the case at bar, the failure of the information to state that [the] appellant raped Prudencia "through force and intimidation" was not a fatal omission nor did it make the information defective since the word "wrestle" was used in lieu of the word "force".

"Force" is defined as power, violence, or constraint exerted upon or against a person. It is used to show that an unlawful or wrongful action is meant (Black's Law Dictionary, Sixth Edition, West Publishing Co., Minnesota, 1979, page 644).

"Wrestle," on the other hand, is to engage in a violent or determined purposive struggle to overcome an opposing force (Webster[']s Third New International Dictionary, Massachusetts, 1993, page 2640).

In the case at bar, although the word "force" was not used in the information, the prosecution used the word "wrestle" instead. Thus, it is respectfully submitted that the word "wrestle" synonymously connotes the use of force in the commission of the offense.

Moreover, the use of the phrase "against her will" in the information also implies that the rape was committed with force.[32]

We agree with the Office of the Solicitor General.

The Revised Rules of Criminal Procedure re-enacted Section 6, Rule 110 of the old Rules, thus:

Sec. 6. Sufficiency of Information - A complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

When an offense is committed by more than one person, all of them shall be included in the complaint or information. (6a)

The Information need not use the language of the statute in stating the acts or omissions complained of as constituting the offense. What is required is that the acts or omissions complained of as constituting the offense must be stated in ordinary and concise language sufficient to enable a person of common understanding to know the offense charged. Thus, Rule 110, Section 9 of the Revised Rules of Court provides:

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.

In the case at bar, the appellant is charged with rape through force, threats or intimidation under Article 335, paragraph 1 of the Revised Penal Code. The gravamen of rape is carnal knowledge of a woman against her will or without her consent.[33] We have reviewed the Information[34] and found that it contains all the elements of rape defined in Article 335, paragraph 1 of the Revised Penal Code, as amended. The Information against the appellant is quoted, viz:

INFORMATION

That on or about the 14th day of January 1996, in the afternoon, at Sitio Himaya, Barangay Kuya, Municipality of Maramag, Province of Bukidnon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused prompted by lewd design entered the house of Prudencia Lazara and once inside, did then and there, willfully, unlawfully and criminally, wrestle, kiss, remove the panty of PRUDENCIA LAZARA and accused remove also his pants and have sexual intercourse with the latter against her will, to the damage and prejudice of PRUDENCIA LAZARA in such amount as may be allowed by law.

Contrary to and in violation of Article 335 of the Revised Penal Code in relation to Republic Act No. 7659.[35]

Although the Information does not allege that the appellant used force, threat or intimidation in having sexual intercourse with the victim, it alleges that the appellant “criminally wrestled” with the private complainant and succeeded in having carnal knowledge of her against her will. The import of such allegations is that the appellant used physical force and intimidation in having carnal knowledge of her. To wrestle is to contend by grappling with and striving to trip or throw down an opponent; or to combat or overcome an opposing tendency or force, or an antagonistic person or group; or to engage in or as if in a violent or determined purposive struggle. It applies to a struggling for mastery by the use, mainly or solely of dexterous holds with the hands, arms or legs.[36]

The appellant’s submission that the Information does not sufficiently charge him of rape under Article 335, paragraph 1 of the Revised Penal Code or that the Information is defective is but an afterthought. The appellant never filed a motion to quash the Information or a motion for a bill of particulars under Rule 116, Section 10 of the Rules of Court before his arraignment. He was arraigned, assisted by counsel, and after the Information was read and explained to him in a language or dialect known to him, he entered a plea of not guilty. There was no complaint from the appellant, before he entered his plea, that the Information was defective and that he did not understand the charge against him. The appellant is, thus, deemed to have waived whatever objections as to form or substance in the Information.[37] As the Court ruled in *People v. Flores*: [38]

If the complaint against the accused-appellant was afflicted by the vice of vagueness, his remedy is to file a motion for bill of particulars. The record reveals that [the] accused-appellant did not ask for a bill of particulars in accordance with section 10, Rule 116 of the Rules of Court. The failure to move for specifications or the quashal of the information on any of the grounds provided for in the Rules of Court deprives [the] accused of the right to object to evidence which could be lawfully introduced and admitted under an information of more or less general terms but which sufficiently charges the accused with a definite crime. It is too late in the day for [the] accused-appellant to raise this issue now because objections as to matters of form and substance in the information cannot be made for the first time on appeal.[39]

Although the appellant failed to raise, as an issue, the matter of whether the prosecution was able to prove his guilt for the crime charged beyond reasonable doubt, we reviewed the records to ascertain whether or not the prosecution mustered the requisite quantum of evidence to prove the crime charged to avert a miscarriage of

justice. It is a well-settled rule that an appeal in a criminal proceeding throws the whole case open for review and it becomes the duty of the appellate court to correct any errors as may be found in the appealed judgement, whether or not it is made the subject of assignment of errors.[40] We are convinced that, indeed, the prosecution discharged its burden.

The private complainant vividly recounted before the trial court how the appellant bestially ravished her. She positively identified the appellant as the rouge who raped her on January 14, 1996.[41] She testified as follows:

...

PROS. CHING:

Q

And then what did he do when he was inside your house together with your infant baby (sic)?

A

He immediately held me and embraced me.

Q

And then when he embraced you what was your position?

A

He kept on kissing me.[42]

...

Q

Then after the accused held your right arm and encircled his right arm on the (sic) neck, what then did he do to you? or what did he do with (sic) your face?

A

He kept on kissing my face.[43]

...

Q

Were you able to successfully resist?

A

I kept on moving backward so that my face could not touch his face.

Q

Then because you were trying to avoid his advances on kissing you, what then immediately happened to you? What position did you have because of the attack?

A

I was able to lean on the wall and bench.[44]

...

Q

In that position, what then did he do to you?

A

He removed my panty.[45]

...

Q

Now, when he removed your panty, did you not resist?

A

I was afraid to resist because he was carrying with him a bolo. He had a bolo.

Q

Where was the bolo at that precise time?

A

On the side of his body.

Q

Did it have a scabbard?

A

Yes.

Q

And you mean the bolo was strung around the waist of the accused Florencio Cadampog?

A

Yes.

Q

Then you said your panty was removed, what then did the accused do next?

A

He unzipped the zipper of his pants and he pulled out his penis.

Q

When he pulled out his penis, what did you notice? You are a married woman, you should know. Was it erect or not?

A

Yes, it was erect.

Q

And then after he opened his zipper and pulled out his erect penis, what then did he do next?

A

He inserted his penis to my vagina.[46]

COURT:

...

Q

Did you resist his advances?

A

I resisted, that is why he scratched my face.[47]

...

PROS. CHING:

Q

You said that he scratched your face. Did you suffer any injury on your face?

A

Yes.

Q

What part of your body was scratched?

A

Here.

INTERPRETER:

Witness pointed to the left side of her face, the neck and the chest.[48]

...

PROS. CHING:

Q

In that position, when he inserted his penis into your vagina, did you not resist him?

A

I kept on resisting.

Q

But he was able to penetrate your vagina?

A

Yes.

Q

And when his penis was already inserted into your vagina, what then did he do?

A

He made a push and pull movement of his buttocks. He made a pumping motion of his buttocks.

COURT:

Q

How about you, what was your reaction when he kept on pumping?

A

I was afraid.

Q

Did you come to like it?

A

No, Sir.

PROS. CHING:

Q

Now, when he had that pumping motion at that time, the accused had sexual intercourse with you, what then did you do?

A

I suddenly pushed him away.

Q

And what happened after you pushed him away?

A

He was pushed away from me.

Q

And what happened to his penis when you pushed him?

A

It was withdrawn from my vagina.

Q

When it was withdrawn from your vagina, what happened next?

A

He had an ejaculation.

Q

How do you know that he had an ejaculation when the penis was pulled out from your vagina?

A

Because it spurted towards my upper thigh.

Q

Then when the penis was pulled out and the accused had an ejaculation and spurted spermatozoa (sic) in your thigh, what did he do next?

A

He then left our own house.[49]

The linear abrasion on Prudencia's left cheekbone, and the multiple abrasions on her chest and neck were eloquent testimonies of the force employed by the appellant. In rape case, the physical evidence showing use of force speaks louder than words.[50] It bears stressing that when the testimony of a rape victim is consistent with the medical findings, sufficient basis exist to warrant a conclusion that the essential requisite of carnal knowledge has thereby been established.[51]

It has been held that the conduct of the victim immediately following the alleged sexual assault is of utmost importance as tending to establish the truth or falsity of the charge of rape.[52] Thus, further strengthening this Court's conviction that the appellant is guilty of raping Prudencia is the fact that she wasted no time in reporting her ordeal to the authorities. As we have held in the case of *People v. Grefiel*: [53]

...[D]espite the outrage and shame, she lost no time in reporting the incident to the barangay captain. In less than twelve (12) hours from the commission of the crime, she narrated the sordid details of her horrifying and harrowing experience in a statement given to the police authorities, submitted to a medical examination and signed a criminal complaint for forcible abduction with rape against the accused-appellant. Not only did these acts demonstrate courage of the highest order, they also enhance the complainant's credibility. It has been repeatedly said by this Court that when a woman admits that she has been raped, she says in effect all that is necessary to show that rape has been committed; if her testimony meets the test of credibility, the accused may be convicted on the basis thereof ...[54]

Thus, the veracity of Prudencia's testimony cannot be doubted. In *People v. Jaca*, [55] we said:

The credibility of the victim is further strengthened by the spontaneity of her act immediately after the incident. We note her courage in reporting the rape, unmindful of what the incident could do on her reputation in their barrio. We fully concur with the opinion of the lower court, viz:

"The fact that, the offended party, after the beastly attack, immediately left her house to report the molestation against her honor, is a clear manifestation that she was indeed raped. ...

Her immediate response (reporting the incident) carries the stamp of truth. This is a natural reaction of a virtuous woman who had just undergone sexual molestation against her will...."[56]

The appellant's imputation of ill motive on the part of the private complainant is absurd. The appellant alleged that he was charged with rape because of his refusal to testify in Prudencia's behalf against a certain Romeo Alinas, who is Prudencia's alleged real rapist. This reason posited by the appellant is too chimerical. Prudencia does not need the appellant, much less his testimony. She could have charged Romeo Alinas of rape with dispatch if he, not the appellant, was the culprit. She did not do so.

Anent the appellant's assertion that Prudencia demanded P80,000 from his wife in consideration of Prudencia's desistance from charging him with rape, the latter offered no evidence to prove his allegation other than the bare claim of his wife, Liza. Besides, the evidence shows that it was Liza who approached Prudencia, not the other

way around.

The Court does not see how Prudencia, a married woman, and mother of four children, could demean her womanhood, risk public censure, and expose herself to the rigors, embarrassments and headaches of a public trial, if her motive was other than to secure justice. As aptly pointed out in *People v. Dagami* [57] –

...[A] married woman with a husband and three daughters would not publicly admit that she had been criminally abused unless that was the truth. Similarly, it defies reason in this case why a mother of four would concoct a story of defloration, allow the examination of her private parts and publicly disclose that she has been sexually abused if her motive were other than to fight for her honor and bring to justice the person who defiled her. Pertinently, it stands to reason that Visitacion would not bring herself, her family and her husband to embarrassment, to public scrutiny and being the talk of the community unless what she had testified that she was raped is true. It is settled that where there is no evidence to show any dubious reason or improper motive why a prosecution witness would testify falsely against an accused or falsely implicate him in a heinous crime, the testimony is worthy of full faith and credit.[58]

It bears stressing that when it comes to the issue of credibility, the trial court judge is in the best position to rule on the matter, considering that he has the vantage point of observing first hand the demeanor and deportment of the witnesses. In the absence of proof that the trial court had overlooked or disregarded arbitrarily certain facts and circumstances of significance in the case, as in the case at bar, its appreciation of the credibility of witnesses will not be altered on review.

The appellant's defenses of denial and alibi deserve scant consideration, in view of Prudencia's positive identification of the appellant as the one who defiled her, coupled with Dr. Tagarde's testimony and medical findings.

The appellant's denial of the charge against him is futile, in light of Prudencia's positive testimony that he raped her on January 14, 1996. Denial is inherently a weak defense. It cannot prevail over positive identification, unless buttressed by strong evidence of non-culpability.[59]

The appellant's defense of alibi must also fail. Well-settled is the rule that alibi is an inherently weak defense which cannot prevail over the positive identification of the accused by the victim.[60] Prudencia has positively identified the appellant as the one responsible for the assault on her chastity.[61] His alibi cannot, thus, exculpate him from liability.

In addition to the positive identification made by Prudencia, the appellant's alibi placed him within the periphery of the locus criminis. In order for the defense of alibi to prosper, it is not enough to prove that appellant was somewhere else when the offense was committed; it must, likewise, be demonstrated that he was so far away that it was not possible for him to have been physically present at the place of the crime or its immediate vicinity at the time of its commission.[62] In *People v. Bracamonte*,[63] we said –

Alibi, the plea of having been elsewhere than at the scene of the crime at the time of the commission of the felony, is a plausible excuse for the accused. Let there be no mistake about it. Contrary to the common notion, alibi is in fact a good defense. But to be valid for purposes of exoneration from a criminal charge, the defense of alibi must be such that it would have been physically impossible for the person charged with the crime to be at the locus criminis at the time of its commission, the reason being that no person can be in two places at the same time. The excuse must be so airtight that it would admit of no exception. Where there is the least possibility of accused's presence at the crime scene, the alibi will not hold water.[64]

The trial court correctly convicted the appellant of rape and sentenced him to suffer the penalty of reclusion perpetua. Article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act No. 7659[65] reads:

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.

The trial court is mandated to impose the penalty of reclusion perpetua regardless of any attendant generic aggravating circumstance as provided for in Article 63 of the Revised Penal Code.

Nevertheless, generic aggravating circumstances may be appreciated as basis for an award of exemplary damages, in line with prevailing case law.[66] In this case, the aggravating circumstance of dwelling is attendant because the appellant raped the victim in her house.[67] Hence, the victim is entitled to an award of exemplary damages.

While the trial court correctly awarded moral damages in the amount of P50,000, it failed to award civil indemnity to the victim. The award of civil indemnity ex delicto of P50,000 to a rape victim is mandatory upon the finding of rape.[68] Civil indemnity is distinct from and must not be denominated as moral damages, which are based on different jural foundations.[69] The victim is entitled to P25,000 as exemplary damages.[70]

The trial court's award of P10,000 as actual damages should be deleted for lack of factual basis. To seek recovery of actual damages, it is necessary to prove the actual amount of loss with a reasonable degree of certainty, premised upon competent proof and on the best evidence obtainable by the injured party.[71] The Court can only grant such amount for expenses if they are supported by receipts.[72]

IN THE LIGHT OF THE FOREGOING, the Decision of the Regional Trial Court of Malaybalay City, Branch 9, convicting appellant Florencio Cadampog guilty beyond reasonable doubt of rape and sentencing him to reclusion perpetua is **AFFIRMED** with **MODIFICATION**. The appellant is directed to pay the victim Prudencia Lasara the amount of P50,000 as civil indemnity; P50,000 as moral damages; and, P25,000 as exemplary damages. The award of P10,000 as actual damages is deleted for lack of proof thereof.

SO ORDERED.

Puno, (Chairman), Quisumbing, Austria-Martinez, and Tinga, JJ., concur.

[1] Penned by Judge Rolando S. Venadas, Sr.

[2] Private complainant's surname is also spelled "Lazara" in the records.

[3] Records, p. 14.

[4] Id. at 18.

[5] The prosecution presented the following witnesses: Prudencia Lasara, Felipe Lasara, and Dr. Venus Tagarda.

[6] TSN, 3 October 1996, pp. 2-4 (Prudencia Lasara).

[7] TSN, 8 October 1996, p. 37 (Felipe Lasara).

[8] TSN, 3 October 1996, pp. 6-7 (Prudencia Lasara).

- [9] Id. at 8-11.
- [10] Id. at 13.
- [11] Id. at 14.
- [12] Id. at 27.
- [13] Id. at 14-16.
- [14] Id. at 18.
- [15] Id. at 16-17.
- [16] TSN, 8 October 1996, p. 42 (Felipe Lasara).
- [17] TSN, 3 October 1996, p. 16 (Prudencia Lasara).
- [18] Records, p. 5.
- [19] TSN, 18 November 1996, pp. 51-55.
- [20] The defense presented as witnesses Florencio Cadampog, Liza Cadampog, and Constancio Paragoso.
- [21] TSN, 20 January 2000, p. 4.
- [22] Id. at 5-6.
- [23] Id. at 7-8.
- [24] Id. at 9.
- [25] Id. at 10.
- [26] TSN, 9 May 2000, pp. 5-9 (Liza Cadampog).
- [27] Id. at 10.
- [28] Id. at 15-17 (Constancio Paragoso).
- [29] Records, p. 119.
- [30] Rollo, p. 64.
- [31] Id. at 70.
- [32] Brief for the Appellee, pp. 6-8.
- [33] *People v. Igat*, 291 SCRA 100 (1998).
- [34] Records, p. 14.
- [35] Ibid. (Emphasis supplied)
- [36] Webster's Third New International Dictionary (Unabridged, p. 2640).
- [37] *People v. Garcia*, 281 SCRA 463 (1997).

[38] 374 SCRA 631 (2002).

- [39] Id. at 649.
- [40] People v. Medina, 300 SCRA 98 (1998).
- [41] TSN, 3 October 1996, p. 4 (Prudencia Lasara).
- [42] Id. at 7-8.
- [43] Id. at 8.
- [44] Id. at 9.
- [45] Id.
- [46] Id. at 9-10.
- [47] Id. at 10.
- [48] Id. at 11.
- [49] Id. at 12-14.
- [50] People v. Ganduma, 160 SCRA 799 (1988).
- [51] People v. Galisim, 369 SCRA 727 (2001).
- [52] People v. Lamarozza, 299 SCRA 116 (1998).

[53] 215 SCRA 596 (1992).

- [54] Id. at 609.

[55] 229 SCRA 332 (1994).

- [56] Id. at 337-338.
- [57] G.R. No. 136397, November 11, 2003.
- [58] Id. at 22.
- [59] People v. Elona, 388 SCRA 547 (2002).
- [60] People v. Losano, 310 SCRA 707 (1999).
- [61] TSN, 17 August 1995, p. 3 (Aileen Marilou Generoso).
- [62] People v. Barera, 262 SCRA 63 (1996).

[63] 257 SCRA 380 (1996).

- [64] Id. at 384.
- [65] The crime was committed before R.A. No. 8353 took effect.
- [66] People v. Evina, G.R. No. 124830-31, June 27, 2003.
- [67] Article 14, paragraph 3, Revised Penal Code.

[68] People v. Gonzales, 385 SCRA 573 (2002).

[69] People v. Emocling, 297 SCRA 214 (1998).

[70] People v. Catubig, 363 SCRA 621 (2001).

[71] People v. Dy, 375 SCRA 15 (2002).

[72] People v. Gutierrez, Jr., 302 SCRA 643 (1999).

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