

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, vs. SAMMY RAMOS Y DALERE, Accused Appellant.

G.R. No. 172470. April 08, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For review is the Decision[1] dated 10 February 2006 of the Court of Appeals in CA-G.R. CR-HC No. 00003 which affirmed the Decision[2] of the Regional Trial Court (RTC) of Gubat, Sorsogon, Branch 54, finding appellant Sammy D. Ramos guilty of four (4) counts of rape but acquitted him of the other 46 charges. Appellant was sentenced to suffer the penalty of reclusion perpetua for each count and to pay the victim AAA[3] the amounts of P50,000.00 as civil indemnity and P25,000.00 as moral damages, for every conviction.

Appellant was charged under Article 335(1) of the Revised Penal Code before the RTC with 50 counts of rape spanning the period of 18 January 1992 to 28 March 1992 against his 13-year old daughter.

The four charges which are the subject matter of this appeal were docketed as Criminal Cases No. 1770, 1771, 1772 and 1831. The four similarly-worded Informations, except for the dates of commission, contained the following allegations, to wit:

Criminal Case No. 1770

That on or about the night of January 18, 1992, at Barangay Cogon, Gubat, Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, through force and intimidation, did then and there, willfully, unlawfully and feloniously have carnal knowledge with his own 12-year old daughter, AAA against her will and without her consent, to her damage and prejudice.[4]

The three other Informations alleged that the rape was committed on 19 January 1992 (Criminal Case No. 1771);[5] on 20 January 1992 (Criminal Case No. 1772);[6] and on 28 March 1992 (Criminal Case No. 1831).[7]

Upon arraignment on 12 February 1993, appellant, assisted by counsel de parte, pleaded not guilty to each count of rape. [8] Thereafter, joint trial on the merits ensued.[9]

From AAA's testimony, the prosecution was able to establish the following:

AAA was born out of wedlock on 5 October 1978 to appellant Sammy Ramos and BBB in Consuelo, Santa Marcela, Kalinga, Apayao.[10] She grew up in the custody of her mother who was living with her maternal grandparents in Ballesteros, Cagayan.[11] It was there that she studied and finished her elementary education from Grade I until Grade V.[12] Sometime in May of 1991 and after finishing Grade V, she stowed away from her maternal grandparent's house because her uncle attempted to sexually molest her.[13] Wanting to experience the love and protection of a father, she proceeded to the hometown of her father in Sta. Marcela, Kalinga, Apayao. There, she stayed with her paternal grandmother for a week until she was fetched by her father's live-in-partner, Maribel Serayda. Maribel Serayda brought AAA to appellant who was then working in Cogon, Gubat, Sorsogon. It was the first time she met her father who worked there as a heavy equipment operator in a construction

company allegedly owned by his uncle. While assigned in Sorsogon, AAA's father lived with his live-in partner in one of the barracks for the company employees. When she arrived, AAA stayed with the couple in the barracks. Appellant allowed AAA to continue her studies and she was enrolled in Grade VI in June 1991. Towards the end of 1991, however, Maribel Serayda left because she could no longer bear the physical abuse done to her by the appellant.[14] From that time, AAA was left alone with appellant in the barracks. The dwelling had two bedrooms which they separately occupied.[15]

On 18 January 1992, appellant committed the first act of rape. When AAA went to sleep, at about 3:00 a.m., clad in a duster and a panty underneath, she woke up finding appellant on top of her and holding her breast.[16] He covered her mouth with a blanket and told her not to tell anybody or he would kill her. She tried to extricate herself from the appellant, but the latter proved to be too strong for her. He then removed her panty and inserted his penis into her vagina.[17] Upon realizing that her struggle to repel appellant from satisfying his bestial desire was coming to naught, AAA began to cry. Appellant switched on the light in the room and turned on the radio. It was from the radio that AAA heard the exact time of the first sexual assault.[18]

On the night of 19 January 1992, appellant repeated what he did to AAA the day before. He again forced himself into her and threatened to kill her if she would tell anybody of the incident. [19]

The following night, 20 January 1992, appellant committed the third rape at the same place. He again stayed on top of her and had sexual intercourse against her will.[20] As in the previous occasions, she did not report the same because she was afraid of him.[21]

The molestation continued nightly from 21 January to 28 March 1992, except from February 1 to 14 of 1992, when appellant was assigned in Casiguran.[22]

The last rape incident, which, as mentioned earlier, occurred on 28 March 1992 coincided with the graduation exercises of AAA. During the ceremony, AAA was accompanied by the female secretary of the construction firm named Deding. The graduation program ended at around 9 p.m., after which AAA and Deding went to the barracks to eat. Appellant did not eat with the two. When Deding left, AAA went to sleep. She was again awakened from her sleep when she felt appellant was on top of her and ravished her against her will.[23]

On 4 April 1992, she related these harrowing experiences to Nelly Enaje who helped her escape from the claws of the appellant.[24] Three days after, Nelly Enaje brought her to Danilo Enaje, the Barangay Captain of Cogon.[25] Danilo Enaje accompanied the victim to the police station. The policemen had her undergo a physical examination at the Gubat District Hospital under Dr. Edna Gorospe who disclosed that the victim's hymen had old lacerations at various areas and that the labia minora had abrasion which means that the victim could have been raped several times before she was examined.[26]

AAA explained that aside from fact that she was afraid of the threat of the appellant, it took her some time to leave appellant and to report the abuses done to her because she had no other relatives in Sorsogon and that she wanted to finish her schooling which was then in its final stage.[27]

The defense presented its only witness, the appellant, who denied having committed the charges hurled against him. He claimed that he came to Cogon, Gubat, Sorsogon, in 1991 to work with a construction company as road roller operator. The victim, whom he admitted to be his daughter, stayed with her in a bunk house provided for them by his employer. He testified that sometime in 1992, AAA, together with a friend, took his money which was kept inside the bunk house and ran away from Cogon.[28] He reported the incident to the barangay captain of Cogon. He looked for AAA in Abuyog, Irosin, Sorsogon and in Manila, but his search was in vain. Upon his return to Cogon, he learned that AAA and her friend were both in Abuyog. He was later called by the mayor of

Gubat, Sorsogon, and was put behind bars.[29]

The RTC, in a decision dated 30 August 1998, convicted the appellant of 4 counts of rape in Criminal Cases No. 17170, 1771, 1772 and 1831 which were committed on 18 January, 19 January, 20 January, and 28 March 1992, respectively. The RTC, however, acquitted appellant of the other 46 rape charges against him for failure of the prosecution to prove his guilt beyond reasonable doubt. The decretal portion reads:

WHEREFORE, judgment is hereby rendered finding the accused Sammy Ramos y Dalere GUILTY beyond reasonable doubt of the crime of rape on four (4) counts in Criminal Case Nos. 1770,1771,1772 and 1831, and hereby sentences him to RECLUSION PERPETUA for each and every count of the crime committed, with all the accessory penalties of the law; and to pay AAA the amount of FIFTY THOUSAND PESOS (P50,000.00) as civil indemnity and TWENTY-FIVE THOUSAND PESOS (P25,000.00) for moral damages, for each of the four felonies of rape, subject to the provisions of Art. 70 of the Revised Penal Code.

The other cases against the accused as stated above, are hereby DISMISSED for failure of the prosecution to prove the guilt of the accused beyond reasonable doubt.[30]

In its decision dated 10 February 2006, the Court of Appeals affirmed the decision of the RTC, thus:

IN VIEW OF THE FOREGOING, the judgment is rendered AFFIRMING the decision appealed from and DISMISSING the appeal.[31]

Hence, the instant recourse.

In his brief, the appellant assigns the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MULTIPLE RAPE NOTWITHSTANDING THE FACT THAT PRIVATE COMPLAINANT HAD HER CLOTHES ON DURING THE OCCURRENCE OF THE ALLEGED INCIDENTS.

II

THE TRIAL COURT GRAVELY ERRED IN NOT FINDING THAT THE TIMID AND PASSIVE CONDUCT AND ACTUATION OF THE PRIVATE COMPLAINANT IMMEDIATELY AFTER THE SUPPOSED SEXUAL ASSAULT ON HER CAST SERIOUS DOUBT ON THE CRIMINAL LIABILITY OF THE ACCUSED-APPELLANT.

Appellant expresses a strong concern over the victim's account of the alleged rape incidents. He claims that the rapes could not have been committed because the offended party had her clothes on all the time when the said incidents took place. He likewise points out that the victim's timid and passive conduct during and after every incident of defloration runs counter to the normal reaction of a rape victim since it is unnatural for a victim to continue living with her tormentor and not to extricate herself from said abusive environment. Moreover, he insists that his conviction of four counts of rape is unwarranted because the victim merely gave general statements that she was raped, but she failed to disclose sufficient details to substantiate her allegations.

In determining the guilt or innocence of the accused in cases of rape, the courts have been traditionally guided by three settled principles, namely: (a) an accusation for rape is easy to make, difficult to prove and even more difficult to disprove; (b) in view of the intrinsic nature of the crime, the testimony of the complainant must be scrutinized with utmost caution; and (c) the evidence of the prosecution must stand on its own merits and cannot draw strength from the weakness of the evidence for the defense.[32]

Since the crime of rape is essentially one committed in relative isolation or even secrecy, hence, it is usually only

the victim who can testify with regard to the fact of the forced coitus.[33] In its prosecution, therefore, the credibility of the victim is almost always the single and most important issue to deal with.[34] If her testimony meets the test of credibility, the accused can justifiably be convicted on the basis thereof; otherwise, he should be acquitted of the crime.[35]

In this case, upon assessing the victim's testimony, the RTC found her credible, thus:

In the case at bar, AAA did not only say she had been raped, she described in detail how she had been sexually abused by her own natural father and the testimony of the private complainant bears the earmarks of truth. No woman especially one who is of tender age would concoct a story of defloration, allow an examination of her private parts and thereafter permit herself to be subjected to a public trial, if she is not motivated solely by the desire to have the culprit punished.

x x x x

On the basis of substantial evidence of culpability which the defense of denial and alibi failed to overcome, this Court is persuaded into finding and holding, as it hereby finds and holds that on four (4) occasions: (1) in the early morning of January 18, 1992; (2) in the evening of January 19, 1992; (3) in the evening of January 20, 1992; and (4) in the evening of March 28, 1992 in Cogon, Gubat, Sorsogon.[36]

This Court itself has assiduously scrutinized the transcripts of stenographic notes of this case and like the RTC, it finds the victim's testimony of the incident forthright and straightforward, reflective of an honest and realistic account of the tragedy that befell her. She narrated the first and the second rape incidents in this manner:

Q:

Now, at the initial stage of the hearing you mentioned that your stepmother by the name of Maribel left your father in December 1991. After she left your father, who was with you together with your father in Cogon?

A:

Only the two of us.

Q:

Now, you were then staying in that barracks you mentioned last time-the barracks of the 642 Construction at Cogon?

A:

Yes, sir.

Q:

Can you still describe to us that barracks or your place of residence?

A:

Yes, sir.

Q:

How many bedrooms were there in that barracks?

A:

Two.

Q:

Those are bedrooms?

A:

Yes, sir.

x x x x

Q:

After Maribel, your stepmother, had left, you and your father were using that one room as your bedroom?

A:

No, sir. I was staying in one room and he was staying in the other room.

x x x x

Q:

While you were alone in your room on January 18, 1992, while sleeping then, do you know of any incident that happened in your person?

A:

There was.

Q:

What was it, AAA?

A:

I was touched “ginalaw” by my Papa.

Q:

When you said “Ginalaw ako ng Papa ko,” what do you mean, AAA?

A:

He abused me.

Q:

In what manner?

A:

(At this juncture the witness is crying and wiping her tears with her handkerchief.) I cannot tell of any manner why somebody entered my room while I was sleeping. And then, I sensed that somebody was on top of me. I tried to extricate myself but he was so strong. He held my breasts with his two hands and then covered my mouth with

a blanket.

Q:

And after your mouth was covered by the blanket, what happened next?

A:

He told me that if I will tell somebody I would be killed.

Q:

Have you recognized that somebody who placed himself on top of you?

A:

His voice.

Q:

And whose voice was that?

A:

That of my Papa.

x x x x

Q:

After your father placed a blanket in your mouth, what did he do, if any?

A:

His organ was in me.

Q:

In going to bed that night of January 18, 1992, what were you wearing?

A:

A duster and panty.

Q:

You said a while ago that your father inserted his organ, where was it inserted?

A:

Into my vagina.

x x x x

Q:

You said a while ago that your Papa was able to insert his organ in your vagina. What did you do when your father inserted his organ in your vagina?

A:

I was crying.

Q:

Why were you crying then? Or why did you cry?

A:

Because he was doing that to me.

Q:

And when your father was doing this act to you, was your room where you were situated not lighted with any kind of light for that matter?

A:

There was.

Q:

Where was the light situated?

A:

Inside.

Q:

What room?

A:

Both rooms were lighted.

x x x x

Q

Was it lighted when this thing was done to you by your Papa?

A:

No. sir.

Q:

Do you know who switched off that light?

A:

Before I went to sleep I usually switched off the light.

Q:

So, we are certain that at the time this thing was happening, the electric light was off then?

A:

Yes, sir.

x x x x

Q:

Do you recall what hour in the night that this thing happened on January 18, 1992?

A:

Early morning.

Q:

Why can you say that it was early morning?

A:

Because after he used me he switched on the light and he switched on the radio to have music. And in the course of the music I heard the time.

Q:

And what time was it that you heard on the radio?

A:

About 3:00 o'clock.

x x x x

Q:

In the night of January 19, who was with you in that barracks which you considered as your residence?

A:

My Papa.

Q:

Do you recall of any untoward incident again that happened in your person on the night of January 19?

A:

Yes, sir.

Q:

What was that again?

A:

He again raped me.

Q:

Why can you say that he raped you again? What was done to your person?

A:

He repeated what he had done to me before.

Q:

And what did you do also after he was repeating the act he had done to you?

A:

I was fighting and crying.

Q:

And what did he do after he had done that thing to you again on the night of January 19? What did he do next?

A:

He again told me not to tell anybody because he is going to kill me.[37]

The victim recounted the third rape in this fashion:

Q:

On January 20, 1992, in the evening of said date, do you recall where were you?

A:

Yes, sir.

Q:

Where were you then situated?

A:

Inside the house.

Q:

What were you doing on the night of January 20, 1992?

A:

Sleeping.

Q:

While you were sleeping, do you recall of any untoward incident that happened to you personally?

A:

Yes, sir.

Q:

What was that, AAA?

A:

I was abused by my father.

Q:

When you say abused, what do you mean?

A:

My father laid on top of me.

Q:

And what did you do next after laying on top of you?

A:

I was crying and I was defenseless because he was strong.

Q:

Why did you cry then?

A:

Because something had been done to me.

Q:

Please be candid and frank with us. What was done to you by accused Ramos?

A:

I was raped.

Q:

And what did you do when this accused raped you on the night of January 20?

A:

I could do nothing, except to obey because I was afraid.

Q:

Before he put himself on top of you, do you recall what he had done to you?

A:

There is.

Q:

What was that?

A:

My mouth was shut and then both of my hands were held.[38]

As to the fourth rape, the victim testified:

Q:

Now, if you can still remember, Madam witness, when was it that he last raped you?

A:

March 28, 1991.

x x x x

Q:

And, according to you, March 28 was the last time that your father raped you?

A:

Yes, sir.

Q:

When was the graduation exercises in the elementary school where you enrolled in 1992?

A:

The 28[th]

x x x x

Q:

Alright, you said that the graduation exercises was on March 28, 1992. Have you participated in that graduation exercises?

A:

Yes, sir.[39]

Q:

x x x My question is, what time was the graduation exercises held in that school?

A:

In the afternoon.

Q:

Please tell us whether your father, Sammy Ramos, attended the graduation exercises?

A:

No, sir.

Q:

If any, do you have some companion to attend the graduation exercises?

A:

I have.

Q:

Please tell us the name?

A:

Deding.

Q:

Who is this Deding?

A:

She is the secretary of 642 Construction.

x x x x

Q:

Do you still recall what time was the closing exercises finished?

A:

Yes, sir.

Q:

What time was it?

A:

9:00 o'clock in the evening.

Q:

And after 9:00 o'clock in the evening, where did you go next?

A:

I was accompanied back to Cogon.

Q:

By whom?

A:

The secretary of 642.

Q:

Of course you reached your place in Cogon in that barracks where you and your father were residing?

A:

Yes, sir.

Q:

What did you do next after reaching that place from your graduation?

A:

We ate.

Q:

How about Deding?

A:

She ate with us.

Q:

And after eating, where did she go, if any?

A:

She returned home at Gubat.

Q:

And how about you, what did you do next?

A:

I was left at the barracks.

Q:

And what did you do when you were left at the barracks?

A:

I went to sleep.

Q:

By the way, where was your father, Sammy Ramos, when you and Deding were eating that night?

A:

He was at the barracks.

Q:

Did he eat with you?

A:

He did not.

Q:

What happened while you were sleeping that night, Madam witness?

A:

I felt that he was on top of me and he repeated his abusing.

Q:

When you said he, to whom do you refer?

A:

My father.

Q:

And how did he repeat the act against you?

A:

He placed his personal organ inside my personal organ.

Q:

What did you do when he was doing this act to you?

A:

I was crying but I could not fight because he was strong.[40]

From the foregoing, the prosecution adequately established in graphic detail that during the incidents in question, AAA stayed with the appellant in the barracks of the 642 Construction in Cogon, Gubat, Sorsogon and that appellant ravished his 13-year old daughter in four different dates, i.e., in the early morning of 18 January 1992, during the nights of 19 January 1992, 20 January 1992 and 28 March 1992. In all these deflorations, the victim resisted the bestial acts of the appellant, but the same proved fruitless as the latter was far stronger than her. Medical findings revealed that the victim's hymen had old lacerations at various areas and that her labia minora had abrasion which are consistent with her claim that she was molested. Against the damning evidence adduced by the prosecution, what appellant could only muster is a barefaced denial. Unfortunately for the appellant, his defense is much too flaccid to stay firm against the weighty evidence for the prosecution. Denial, if unsubstantiated by clear and convincing evidence, is a negative and self-serving evidence which deserves no weight in law and cannot be given greater evidentiary value over the testimony of credible witnesses who testify on affirmative matters.[41] Between the self-serving testimony of appellant and the positive identification by the eyewitness, the latter deserves greater credence.[42]

Appellant's assertion that the sexual assault against the victim could not have been consummated because AAA was wearing her underwear every time appellant attempted on her chastity is not supported by evidence. During trial it was revealed by the victim that in all those four rape incidents, appellant removed her panty before inserting his penis and put it back after he satisfied his filthy desire. This was clarified by the victim when the trial court raised some clarificatory questions on this matter, thus:

Court: (to witness)

Q:

Counsel for the accused had been using the word intercourse, rape and sexual intercourse and you were answering "yes". My question is: why is it that when you were asked by counsel for the accused that while the accused was on top of you holding your hands and his two feet over your two feet, your underwear were still intact, thereafter he left you and you said "yes". Do you mean to tell the Court that he left you without doing anything against your femininity?

A:

There is.

Q:

What was that?

A:

I was abused.

Q:

What do you mean by “abused”?

A:

His own was placed inside me.

Q:

But you said your father left with your panty still intact. How could it be possible?

x x x x

A:

After he used me he put on again my panty.

Q:

You mean he removed your panty before he used you and after using you he put it back, is that what you mean?

A:

Yes, sir.

Q:

And that is being done by the accused every time he used you?

A:

Yes, sir.[43] (Emphasis supplied.)

Appellant tries to discredit the victim's testimony by questioning her deportment which was not that of an “outraged woman robbed of her honor.” It should be borne in mind, in this connection, that the victim was only a naive thirteen (13)-year old child when the depredation happened to her. Since childhood, she had been longing to experience the love and protection of a father. When she finally found herself under the refuge of her father, it brought the bliss of an answered prayer. This idyllic experience, however, remained a fleeting episode because the person who should shield her from harm and evil was the very same person who wrought malady upon her. Such must be a startling occurrence for her. Behavioral psychology teaches that people react to similar situations dissimilarly.[44] Their reactions to harrowing incidents may not be uniform.[45] AAA’s conduct of staying with her tormentor and her failure to prevent the repetition of the rape incident should not be taken against her. She was too disturbed and too young to totally comprehend the consequences of the dastardly acts inflicted on her by the appellant. Rape victims, especially child victims, should not be expected to act the way mature individuals would when placed in such a situation.[46] It is not proper to judge the actions of children who have undergone traumatic experience by the norms of behavior expected from adults under similar circumstances.[47] The range of emotions shown by rape victims is yet to be captured even by calculus.[48] It is, thus, unrealistic to expect uniform reactions from rape victims. Certainly, the Court has not laid down any rule on how a rape victim should behave immediately after she has been violated.[49] This experience is relative and may be dealt with in any way by the victim depending on the circumstances, but her credibility should not be tainted with any modicum of doubt. Indeed, different people act differently to a given stimulus or type of situation, and there is no standard form of behavioral response when one is confronted with a strange or startling or frightful experience.[50] It

would be insensitive to expect the victim to act with equanimity and to have the courage and the intelligence to disregard the threat made by the appellant. When a rape victim is paralyzed with fear, she cannot be expected to think and act coherently. This is especially true in this case since AAA was repeatedly threatened by appellant if ever she would tell anybody about the rape incidents. The threat instilled enormous fear in her such that she failed to take advantage of any opportunity to escape from the appellant. Also, as AAA explained, she withstood her father's lechery and stayed with him despite what he did because she wanted to complete her studies until 28 March 1992 when she graduated. Besides, getting away from appellant was a task extremely difficult for a 13-year old girl, alone with the predator in a far-away place, motherless, without any relative to turn to in an hour of need, penniless, and uninformed in the ways of the world. In fact, it was only when a Good Samaritan crossed her path that the victim was able to report to the authorities about her father's spiteful deeds.

As regards the initial delay of the victim in reporting the rape incident, suffice it to state that the delay in revealing the commission of rape is not an indication of a fabricated charge.[51] It is not uncommon for a young girl to conceal for some time the assault on her virtue.[52] Her hesitation may be due to her youth, the moral ascendancy of the ravisher, and the latter's threats against her. In the case at bar, the victim's fear of her father who had moral ascendancy over her, was explicit. Such reaction is typical of a thirteen-year-old girl and only strengthens her credibility.

Appellant's allegation that the complaints for rapes were prompted by the victim's hatred of the appellant for abandoning her is bereft of any basis. The victim even during her tender years had been looking for her father. She was, in fact, delighted when she saw her father for the first time in May of 1991. If AAA at all nurtured ill-will against her father, it was because he, instead of acting as protector of his daughter, defiled her. Assuming arguendo that AAA harbored hatred against appellant, it would be unlikely for a 13-year old girl to fabricate such story. This Court has held that testimonies of rape victims who are young and immature deserve full credence, considering that no young woman, especially of tender age, would concoct a story of defloration, allow an examination of her private parts, and thereafter pervert herself by being subjected to a public trial, if she was not motivated solely by the desire to obtain justice for the wrong committed against her.[53] It is highly improbable for an innocent girl, who is very naïve to the things of this world, to fabricate a charge so humiliating not only to herself but to her family. Moreover, it is doctrinally settled that testimonies of rape victims who are of tender age are credible.[54] The revelation of an innocent child whose chastity was abused deserves full credit, as the willingness of the complainant to face police investigation and to undergo the trouble and humiliation of a public trial is eloquent testimony of the truth of her complaint. [55]

In sum, the Court finds that the RTC, as well as the Court of Appeals, committed no error in giving credence to the evidence of the prosecution and finding appellant guilty of the charges. The Court has long adhered to the rule that findings of the trial court on the credibility of witnesses and their testimonies are accorded great respect unless it overlooked substantial facts and circumstances, which if considered, would materially affect the result of the case.[56] In rape cases, the evaluation of the credibility of witnesses is addressed to the sound discretion of the trial judge whose conclusion thereon deserves much weight and respect because the judge has the direct opportunity to observe them on the stand and ascertain if they are telling the truth or not.[57] This deference to the trial court's appreciation of the facts and of the credibility of witnesses is consistent with the principle that when the testimony of a witness meets the test of credibility, that alone is sufficient to convict the accused.[58] This is especially true when the factual findings of the trial court are affirmed by the appellate court.[59]

As to the penalty imposed, the RTC correctly sentenced appellant to reclusion perpetua for each count. Note that the rapes complained of in this case took place on 18 January 1992 to 28 March 1992, prior to the restoration of the death penalty for cases of qualified rape by virtue of Republic Act No. 7659 or the Death Penalty Law. The

death penalty law took effect only on 31 December 1993.[60] As thus correctly found by the RTC, Article 335 of the Revised Penal Code, before its amendment by Republic Act No. 7659, is applicable. The rapes committed by appellant are, therefore, simple, penalized by reclusion perpetua.

The RTC ordered the appellant to pay the victim the amount of P50,000.00 for each count of rape as civil indemnity. In accordance with prevailing jurisprudence, such award is in order.[61] However, the award of moral damages in the amount of P25,000.00 for each count of rape is modified and increased to P50,000.00 conformably with the recent pronouncement of the Court.[62]

WHEREFORE, the Decision of the Court of Appeals dated 10 February 2006, affirming the Decision dated 30 August 1998 of the Regional Trial Court, Branch 54, Gubat, Sorsogon, finding appellant Sammy Ramos y Dalere GUILTY beyond reasonable doubt of 4 counts of rape and sentencing him to suffer the penalty of RECLUSION PERPETUA for each count and ordering him to pay the victim P50,000.00 for each count as civil indemnity, is AFFIRMED. The award of moral damages for each of the four rapes in favor of the victim is increased to P50,000.00.

SO ORDERED.

Austria-Martinez, (Acting Chairperson), Tinga, Nachura, and Reyes, JJ., concur.

* Assigned as Special Member.[1] Penned by Associate Justice Mario L. Guariña III with Associate Justices Roberto A. Barrios and Santiago Javier Ranada, concurring; rollo, pp. 3-9.

[2] Penned by Judge Haile F. Frivaldo.

[3] Under Republic Act No. 9262 also known as “Anti-Violence Against Women and Their Children Act of 2004” and its implementing rules, the real name of the victim and those of her immediate family members are withheld and fictitious initials are instead used to protect the victim’s privacy.

[4] CA rollo, p. 42.

[5] Id. at 44.

[6] Id. at 46.

[7] Id. at 84.

[8] Records, p. 60.

[9] Id. at 88.

[10] Id. at 233.

[11] TSN, 7 October 1993, p. 8.

[12] Id.

[13] Id. at 9.

[14] TSN, 13 October 1994, p. 9.

[15] TSN, 20 January 1994, p. 9.

[16] Id. at 10.

- [17] Id. at 17.
- [18] Id. at 19.
- [19] Id. at 21-22.
- [20] TSN, 12 May 1994, p. 8.
- [21] Id.
- [22] TSN, 20 January 1994, p. 8.
- [23] TSN, 30 June 1994, p. 5.
- [24] Id.
- [25] TSN, 12 May 1994, p.
- [26] TSN, 8 June 1995, pp. 19-21.
- [27] TSN, 26 January 1995, p. 7.
- [28] TSN, 16 April 1998, pp. 14-15.
- [29] Id. at 7.
- [30] Records, p. 324.
- [31] Rollo, p. 8.
- [32] *People v. Orquina*, 439 Phil. 359, 365-366 (2002).
- [33] *People v. Quijada*, 378 Phil. 1040, 1047 (1999).
- [34] Id.
- [35] *People v. Babera*, 388 Phil. 44, 53 (2000).
- [36] Records, pp. 322-324.
- [37] TSN, 20 January 1994, pp. 8-22.
- [38] TSN, 12 May 1994, pp. 7-9.
- [39] TSN, 20 January 1994, pp. 22-23.
- [40] TSN, 30 June 1994, pp. 2-5.
- [41] *People v. Morales*, 311 Phil. 279, 288 (1995).
- [42] *People v. Baccay*, 348 Phil. 322, 327 (1998).
- [43] TSN, 26 January 1995, pp. 13-14.
- [44] *People v. Buenviaje*, 408 Phil. 342, 352 (2001).
- [45] Id.
- [46] *People v. Remoto*, 314 Phil. 432, 444-445 (1995).
- [47] Id.

[48] Id.

[49] *People v. Malones*, 469 Phil. 301, 326 (2004).

[50] Id.

[51] *People v. Balmoria*, 398 Phil. 669, 675 (2000).

[52] Id.

[53] *People v. Palaña*, 429 Phil. 293, 303 (2002).

[54] *People v. Hinto*, 405 Phil. 683, 693 (2001).

[55] Id.

[56] *People v. Dagpin*, 400 Phil. 728, 739 (2000).

[57] *People v. Digma*, 398 Phil. 1008, 1016 (2000).

[58] *People v. Cula*, 385 Phil. 742, 752 (2000).

[59] *People v. Gallego*, 453 Phil. 825, 849 (2003).

[60] The imposition of the Death Penalty has been prohibited pursuant to Republic Act No. 9346 entitled “An Act Prohibiting the Imposition of Death Penalty in the Philippines” which took effect immediately after its publication in two newspapers of general circulation, namely *Malaya* and *Manila Times*, on 29 June 2006 in accordance with Section 5 thereof.

[61] *People v. Calongui*, G.R. No. 170566, 3 March 2006, 484 SCRA 76, 88.

[62] Id.

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