

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ERNESTO MALIBIRAN, ACCUSED-APPELLANT.

G.R. No. 173471. March 17, 2009

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

For automatic review is the Decision[1] of the Court of Appeals (CA) rendered on March 31, 2006 in CA-G.R. CR-H.C. No. 00064, modifying the June 23, 2003 Decision[2] of the Regional Trial Court (RTC), Branch 96 in Baler, Aurora in Criminal Case Nos. 2913, 2919, and 2920. The RTC convicted accused-appellant Ernesto Malibiran of three counts of Qualified Rape.

The Facts

On September 18, 2002, three separate Informations for Rape under Articles 266-A and 266-5 of the Revised Penal Code (RPC) were filed with the RTC against Ernesto. Save for the approximate dates and times of commission of the crime against AAA,[3] the following information in Criminal Case No. 2913 typified the other two:[4]

The undersigned First Assistant Provincial Prosecutor hereby accuses Ernesto Malibiran of the crime of rape committed as follows:

That [before Christmas in December 2001; one morning after Christmas in 2001 but before May 13, 2002; and one afternoon after Christmas in 2001 but before May 13, 2002, respectively] in Dipasaleng, Diniog, Dilasag, Aurora, and within the jurisdiction of this Honorable Court, the said accused did then and there willfully, unlawfully, and feloniously have carnal knowledge of his eight (8) year old granddaughter [AAA].

CONTRARY TO LAW.

Upon arraignment, Ernesto pleaded not guilty to the above charges. A joint trial then ensued. The prosecution presented five (5) witnesses, among them AAA, her mother, BBB, and the doctor who conducted the medical examination on AAA.[5]

As summarized by the trial court and adopted for the most part by the CA in the decision subject of this review, the People's version is as follows:

AAA was born on April 30, 1994 to BBB, AAA's mother, and CCC, AAA's father. Ernesto is BBB's father, making him the maternal grandfather of AAA. BBB, AAA, and her siblings stayed from August 2001 to May 2002 with Ernesto in Dipasaleng, Diniog, Dilasag, Aurora. In 2001, AAA was a child of seven. Ernesto raped her several times, i.e., around 20 times, initially before Christmas of 2001, coinciding with what AAA referred to as before the singing of Pasko Na Naman Muli; and after the season, or after the singing of Pasko Na Naman Muli. According to AAA, the rape incidents occurred either at noon or in the evening when members of the family were out. Ernesto would usually pull her inside the room, strip her of her shorts, lay her down, go on top of her, and insert his penis into her sex organ, the process accompanied by the mashing and sucking of breasts. In the first of

the series of rape incidents, Ernesto threatened AAA with death should she report the matter to her mother.

At about noon of May 13, 2002, BBB, while resting in their house, noticed her father suddenly pulling AAA to the kitchen. When she stood up and approached the two, Ernesto pushed AAA away. When AAA was later asked by BBB what Ernesto did to her, AAA replied that Ernesto had mashed her breast and touched her private part. It was at this juncture that AAA disclosed to her mother about the sexual abuses she had suffered in the immediate past. BBB then twice wrote to and sought the assistance of the municipal social worker, Jessamin Torre, who in turn later reported the matter to the police.

On May 17, 2002, Dr. German Tiongson examined AAA. A medical certificate he later issued indicated, among other things, that AAA's labia majora sustained two lacerations.

The justification Ernesto offered by way of exculpation was both denial and alibi. He testified that he could not have raped AAA "before Christmas of December 2001" as the child was, on December 24, 2001, at the nearby house of Marlon Aldave, returning home the following day. Neither could he have committed the crime one morning after Christmas of 2001 but before May 13, 2002 since, according to him, AAA spent Lent with the same neighbor, while practically the entire family was at the house on May 13, 2002. On that day of May, so Ernesto claimed, he hit AAA's arm with a piece of wood for meddling with his cooking, an event which ended in an altercation between him and BBB. He surmised that BBB's act of charging him was motivated by the anger she harbored after he mauled two of her suitors.

Also presented to testify for the defense was Ernesto's son, Orly, to back up Ernesto's account of what transpired on May 13, 2002.

The Ruling of the RTC

On June 23, 2003, the RTC rendered a Decision, finding Ernesto guilty beyond reasonable doubt of qualified rape on all three counts and sentencing him to death. The dispositive portion of the RTC's decision reads:

WHEREFORE, premises considered, the Court finds accused Ernesto Malibiran GUILTY beyond reasonable doubt of THREE (3) counts of RAPE, defined and penalized under Articles 266-A and 266-B of the Revised Penal Code and hereby sentences him to suffer the supreme penalty of DEATH ON THREE (3) COUNTS and orders him to pay [AAA] P225,000.00 as indemnity ex delicto; P150,000.00 as moral damages and P75,000.00 as exemplary damages.

The Clerk of Court is hereby ordered to prepare the mittimus for the transfer of the accused to the National Bilibid Prisons, Muntinlupa City, and to submit the records of the case to the Supreme Court for its automatic review.

SO ORDERED.[6]

The RTC forthwith elevated the records of the case to this Court for automatic review. In accordance, however, with the ruling in *People v. Mateo*,^[7] the Court, per its August 24, 2004 Resolution,^[8] transferred the case to the CA for intermediate review.

The Ruling of the CA

On March 31, 2006, the CA rendered judgment affirming the RTC's decision, inclusive of the death penalty thus imposed, but only with respect to Ernesto's conviction in Criminal Case Nos. 2913 and 2920. The appellate court acquitted Ernesto of the crime charged in Criminal Case No. 2919 "in view of [AAA's] denial that the rape took place in the morning contrary to that stated in [the information] in Criminal Case No. 2919."^[9] The CA also modified the appealed RTC decision by reducing the amount awarded as civil indemnity and damages. The fallo of the CA's decision reads:

WHEREFORE, the decision appealed from is hereby AFFIRMED insofar as the court finds the accused-appellant Ernesto Malibiran guilty of QUALIFIED RAPE in Criminal Case Nos. 2913 and 2920, while the decision in Criminal Case No. 2919 is hereby REVERSED AND SET ASIDE. Correspondingly, the award of damages is MODIFIED. Appellant is ordered to pay the victim indemnity ex delicto of P150,000.00, moral damages of P100,000 and exemplary damages of P25,000.00. No pronouncement as to costs.

SO ORDERED.[10]

Thus, this automatic review is before us, both the People and the defense manifesting their willingness to submit the case on the basis of their respective appeal briefs submitted before the CA.

The Issue

The sole issue, as raised before and passed upon by the appellate court, comes down to the question of whether or not the pieces of evidence adduced are sufficient to convict Ernesto beyond reasonable doubt of two counts of Qualified Rape under Articles 266-A and 266-B of the RPC. In fine, assailed in this recourse are the credibility of the prosecution's witnesses, AAA and her mother in particular, and the adequacy of its evidence.

The Court's Ruling

As a preliminary matter, it should be stressed that while it is not a trier of facts and is not wont to go over and re-assess the evidence adduced during trial, more so when the appellate court joins the trial court in its findings and conclusions, the Court, in criminal cases falling under its review jurisdiction pursuant to Art. VIII, Section 5 (2)(d)[11] of the 1987 Constitution, is tasked to assiduously review such cases, as here. This attitude of circumspection in the review of a decision involving rape conviction becomes all the more necessary owing to the pernicious consequences that such conviction bears on both the accused and the offended party.[12]

By the distinctive nature of rape cases, conviction usually rests solely on the basis of the testimony of the victim, provided that such testimony is credible, natural, convincing, and consistent with human nature and the normal course of things.[13] Accordingly, we adhere to the following guiding principles in the review of similar cases, to wit:

(1)

an accusation for rape can be made with facility; it is difficult to prove but more difficult for the accused, though innocent, to disprove;

(2)

in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and

(3)

the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.[14]

After a careful deliberation on this case, taking into meticulous account the arguments raised by the parties' in their respective briefs, the Court resolves to affirm the CA decision for the interplay of the following reasons:

First, the testimony of private complainant AAA was categorical and positive as to the molestations committed by Ernesto through force and threats of physical harm;

Second, medical evidence provides confirmatory dimension to the fact of rape;

Third, the defenses of denial and alibi do not foreclose the commission of rape by Ernesto;

Fourth, the qualifying blood relationship between the minor AAA and Ernesto had adequately been proved.

Testimony of Victim Categorical and Credible

As determined by the CA, confirming the findings of the RTC, AAA's testimony was positive and credible, deserving to be accorded great weight. To recall, AAA recounted how her grandfather sexually ravaged her, at least, per her count, about 20 times. The molestations were perpetrated around noon time or in the afternoon when her mother and siblings were out of the house. Describing how AAA deposed herself on the witness stand, the trial court said: "Under rigid examinations, AAA remained steadfast and never wavered in her assertion that Erning raped her several times." [15] Be this as it may, we cannot but agree with the probative value given by the courts a quo to AAA's testimony. We reproduce a portion of AAA's testimony which detailed how Ernesto defiled her:

FISCAL RONQUILLO (to the witness)

What happened when your grandfather pulled you inside the room?

A He removed my shorts and he laid me down, Sir.

Q On what did he make you lie down?

A On the floor, Sir.

Q After he made you lie down on the floor, what else happened?

A He inserted his penis into my vagina, Sir.

x x x x

Q After your grandfather inserted his penis into your private part, what else did he do?

A He mashed my breasts, Sir.

x x x x

Q

While the penis of your grandfather was in your vagina and you [said] that you were lying on the floor, were you then facing downwards, upwards or sideward?

A Lying upwards, Sir.

Q How about your grandfather, what was his position then?

A He was facing me, Sir.

x x x x

Q

While the penis of your grandfather was inside your vagina, what was he doing aside from mashing your breast?

x x x x

A He was "dinedede" sucking my nipple.

Q While doing that, what was the position of your grandfather, was he lying down, standing or sitting down?

A He was lying, Sir.

Q On what was he lying on?

A On my breast. ("Sa dibdib ko po.")

Q Do you mean to say that your grandfather was on top of you?

A Yes, Sir.

x x x x

FISCAL RONQUILLO

You said that the body of your grandfather was moving, how was it moving? Was it moving sideways or was it moving up and down?

A Up and down, Sir.

Q

When he was moving his body up and down, what was the movement of his penis which was inside your vagina? Does his penis move with his body?

A Yes, Sir.

x x x x

FISCAL RONQUILLO

You said that your grandfather was lying on top of you and moving his body up and down. Was it long or was it only for a short time?

A It took a long time, Sir.

x x x x

FISCAL RONQUILLO

Did you feel pain?

A Yes, Sir.

Q Was it very painful?

A Yes, Sir.

x x x x

FISCAL RONQUILLO

Can you tell us how many times your grandfather did that thing to you?

A I could not remember anymore the number of times, Sir.

Q Are you now studying?

A Yes, Sir.

Q In what grade are you in?

A Grade II, Sir.

Q So, you already know how to count?

A Yes, Sir.

Q When you said it had been many times, could it be about ten times?

A More than that, Sir.

Q Could it be twenty times?

A Yes, Sir.[16]

Ernesto would have this Court believe AAA's testimony bordered on the absurd when she testified that Ernesto was on top of her with his penis on her vagina, doing an up-and-down movement, mashing her breast, and sucking her nipple at the same time.[17] It was, according to Ernesto, physically impossible for him to have performed the foregoing overt acts simultaneously.

We are not persuaded. AAA's above testimony ought to be taken in the light of her tender years and of her being innocent to the ways of the world. As the CA observed aptly:

x x x [AAA's] testimony, although imperfect, does not defeat her credibility. Considering her tender age and innocence, she cannot be expected to understand all the questions propounded to her by adults; nor can she be expected to narrate with precision each and every account of how she was abused. As correctly argued by the State, "[AAA's] answer should not, therefore, to be taken as literal answers of a physicist on several acts or motions taking place at the same time. Her descriptions of the acts of appellant must be understood to mean sequentially and not simultaneously." [18]

Apropos the assault on AAA's credibility, it bears to stress that she was still a very young barrio girl when she was put in the witness box. Jurisprudence teaches that the testimony of child-victims are normally given full weight and credit, since when a girl, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed.[19] When the offended party is of tender age and immature, courts are inclined to give credit to their accounts of what transpired, considering not only their relative vulnerability but also the shame and embarrassment to which they would be exposed if the matter to which they testified is not true.[20] In the instant case, AAA was only eight when she was raped and not yet 10 when she testified in open court about her ordeal at the hands of her very own grandfather.

Lest it be overlooked, AAA's allegation of having been a rape victim finds corroboration in the physical findings of penetration, itself a reasonable indicium of sexual congress.[21] There can be no shirking from the fact that AAA was indeed raped by Ernesto. It is unthinkable, if not completely preposterous, that a granddaughter would concoct a story of rape against her own grandfather, bearing in mind the cultural reverence and respect for elders that is too deeply ingrained in Filipino children, aside from undergoing medical examination and subjecting herself to the stigma and embarrassment of a public trial if her motive were other than to have the culprit punished.

Results of the Medical Examination Buttress the Charge of Rape

The reality of AAA having experienced sexual intercourse, as an element of penile rape, may reasonably be deduced from the findings of Dr. Tiongson who conducted a physical and genital examination on May 17, 2002. Dr. Tiongson testified:

Q You were required to bring with you the clinical record of [AAA], did you bring it with you?

A Yes, Sir. (and witness turned over the said clinical record to the prosecution)

Q In the clinical record of [AAA], there is an entry for May 17, 2002, who made that entry?

A This entry was usually made by the attending nurse and the content of this entry was done by me, Sir.

Q And in the clinical record of [AAA] who is the attending physician who examined her?

A I was the one who examined her, Sir.

x x x x

PROS. RONQUILLO To the witness.

Q Can you explain to us in a layman language your findings when you examined [AAA] on May 17, 2002?

A

In my internal examination her vagina easily admit one (1) finger; her lacerations old, healed in the 4:00 o'clock and 8:00 o'clock position.

Q Where is this laceration found?

A It is found on the labia majora vagina, Sir.

x x x x

Q You said that this laceration is in the 4:00 o'clock and 8:00 o'clock position?

A

Yes, Sir the laceration was pointed to the position of the clock pointing in the 4:00 o'clock and 8:00 o'clock position.[22]

As may be noted, a finger of a grown man--Dr. Tiongson's--can easily pass through AAA's vagina, notwithstanding her age. This reality, coupled with the old and healed lacerations situated at the four o'clock and eight o'clock positions in AAA's labia majora, is compelling physical proof of defloration.[23] It has been said that when the testimony of a rape victim is consistent with medical findings, sufficient basis exists to warrant a conclusion that the essential requisite of carnal knowledge has been established.[24]

Alibi and Denial Incredible and Do Not Discount Rape

Viewed against the convincing evidence of the prosecution, Ernesto's bare denial and alibi, while legitimate defenses in rape cases, must necessarily fail. Denial is an intrinsically weak defense which must be buttressed by strong evidence of non-culpability to merit acceptability. The supporting exculpatory proof is, to be sure, absent. Ernesto's allegation of trumped up charges concocted by an irate and ill-motivated BBB is incredible and unfounded. BBB belongs to a culture which would not accuse or testify against a father and in the process drag herself and the family to a lifetime of embarrassing gossip just to assuage her own hurt feelings. As we articulated in *People v. Oliva*, no mother would subject her child to the humiliation, disgrace, and trauma attendant to a prosecution for rape, if she were not motivated solely by the desire to incarcerate the person responsible for her child's defilement.[25]

On the witness stand, Ernesto narrated that, on May 13, 2002, he hit AAA for disturbing him while cooking lunch, and that AAA ran to BBB who verbally tussled with her father. Orly, Ernesto's 12-year-old son, corroborated his father's account of what happened that day. When the trial court, however, asked clarificatory questions, Orly admitted to not being in the house and, hence, not exactly knowing what happened on May 13, 2002, and that

what he testified to was what his brother Alvin told him. Orly's testimony, therefore, was pure hearsay and the trial court was correct in disregarding his testimony.

The trial and appellate courts' dismissal of Ernesto's proffered alibi stands justified too. Ernesto's line, relative to this defense, was that AAA was not in his house on December 24, 2001 and also on March 26 to 27, 2002, as she was purportedly in the nearby house of one of BBB's suitors. Even granting that this is true, still, such a fact does not discount the commission of rape on AAA. As admitted by Ernesto, AAA stayed in his residence from August 2001 to May 2002 or upon his arrest. The Informations for Criminal Case Nos. 2913 and 2920 show that the commission of the crime was "before Christmas in December 2001" and "one afternoon after Christmas in 2001 but before May 13, 2002" which covers not only December 24, 2001 and March 26 to 27, 2002. At any rate, alibi, like denial, is also a weak defense, being a self-serving negative evidence. It cannot overcome, let alone give more evidentiary weight than, the positive declaration of credible witnesses,[26] as here.

Qualifying Circumstance of Minority and Affinity Proved

Minority and relationship which, in a prosecution for rape, constitute special qualifying circumstances must be alleged in the information and proved during trial.[27] These aggravating, nay, qualifying, circumstances have been duly alleged and proved beyond reasonable doubt.

In the instant case, the twin aggravating circumstances of minority of the victim and her blood ties to the offender were properly appreciated. Ernesto's filial ascendancy was properly alleged in the informations and duly established by the presentation of the birth certificates of BBB and AAA as well as the marriage certificate of Ernesto. The birth certificate of BBB as well as the marriage contract of Ernesto and his wife Edna Caballe proved BBB to be Ernesto's daughter.[28] And the birth certificate[29] of AAA proved that she is the daughter of BBB and, thus, the granddaughter of Ernesto. Ernesto was duly identified by AAA as her grandfather, the latter not even impugning the relationship during trial. Likewise, alleged in the information and duly proved during trial by virtue of her birth certificate was AAA's minority.[30]

The concurrence of the minority of the rape victim and her relationship to the offender is a special qualifying circumstance which ups the penalty.[31] AAA's minority and her relationship to Ernesto having been duly established, the imposition of the death penalty upon Ernesto would have been appropriate were it not for the supervening passage of Republic Act No. (RA) 9346 or An Act Prohibiting the Imposition of Death Penalty in the Philippines, which took effect on June 30, 2006.[32] Sec. 2 of RA 9346 imposes the penalty of reclusion perpetua in lieu of death when the law violated makes use of the nomenclature of the penalties of the RPC, as here. Moreover, Ernesto is not eligible for parole since Sec. 3 of RA 9346 clearly provides that "persons convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua by reason of the law, shall not be eligible for parole."

Finally, as regards the damages awarded by the CA, we find such to be in line with jurisprudence. Civil indemnity ex delicto is mandatory upon a finding of the fact of rape while moral damages are awarded upon such finding without need of further proof, because it is assumed that a rape victim has actually suffered moral injuries entitling the victim to such award.[33] In line with the ruling in *People v. Sambrano*,[34] as reiterated in *People v. Audine*,[35] we affirm the CA judgment awarding for each count civil indemnity of PhP 75,000 and moral damages of PhP 75,000.

In line moreover with *People v. Catubig*,[36] the presence of an aggravating circumstance, whether ordinary or qualifying, entitles the offended party to an award of exemplary damages.[37] We modify the judgment with respect to exemplary damages by awarding PhP 25,000 per count.

WHEREFORE, the Decision dated March 31, 2006 of the CA in CA-G.R. CR-H.C. No. 00064 finding

accused-appellant Ernesto Malibiran guilty beyond reasonable of two (2) counts of qualified rape is AFFIRMED with the MODIFICATION that each penalty of death imposed on him is reduced to reclusion perpetua per count without eligibility for parole. The amount of civil indemnity for Civil Case Nos. 2913 and 2920 shall be PhP 75,000 each or a total of PhP 150,000; the same holds true for moral damages of PhP 75,000 for each case or a total of PhP 150,000; and the exemplary damages shall be PhP 25,000 each or a total of PhP 50,000.

As modified, the Decision dated June 23, 2000 of the RTC in Criminal Case Nos. 2913, 2919, and 2920 shall read as follows:

WHEREFORE, premises considered, the Court finds accused Ernesto Malibiran GUILTY beyond reasonable doubt of TWO (2) counts of QUALIFIED RAPE in Criminal Case Nos. 2913 and 2920, defined and penalized under Articles 266-A and 266-B of the Revised Penal Code and hereby sentences him to suffer the penalty of RECLUSION PERPETUA ON TWO (2) COUNTS without eligibility for parole and orders him to pay victim AAA PhP 75,000 for each count or a total of PhP 150,000 as indemnity ex delicto; PhP 75,000 for each count or a total of PhP 150,000 as moral damages; and PhP 25,000 for each count or a total of PhP 50,000 as exemplary damages. The accused is hereby ACQUITTED in Criminal Case No. 2919.

No pronouncement as to costs.

SO ORDERED.

Puno, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Leonardo-De Castro, and Brion, JJ., concur.

Nachura, J., no part signed pleading as sol gen

[1] Rollo, pp. 3-18. Penned by Associate Justice Mariano C. del Castillo and concurred in by Associate (now Presiding) Justice Conrado M. Vasquez, Jr. and Associate Justice Magdangal M. de Leon.

[2] CA rollo, pp. 22-28. Penned by Judge Corazon D. Soluren.

[3] The real name of the victim and any information that may compromise her privacy are withheld in accordance with the ruling in *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[4] CA rollo, pp. 8, 10 and 12, all dated July 29, 2002.

[5] The others were PO3 Marciano Buencamino, Jr, the arresting police officer, and Jessamin Torre, a municipal social worker. Ernesto and Orly Malibiran testified for the defense.

[6] *Supra* note 2, at 28.

[7] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[8] CA rollo, p. 50.

[9] *Supra* note 1, at 16.

[10] *Supra* note 1, at 16-17.

[11] SEC. 5. The Supreme Court shall have the following powers:

x x x x

(2) Review, revise, reverse, modify, or affirm on appeal or certiorari, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:

x x x x

(d) All criminal cases in which the penalty imposed is reclusion perpetua or higher.

[12] *People v. Malones*, G.R. Nos. 124388-90, March 11, 2004, 425 SCRA 318, 329.

[13] *People v. Corpuz*, G.R. No. 168101, February 13, 2006, 482 SCRA 435, 444.

[14] *Id.*; *People v. Bidoc*, G.R. No. 169430, October 21, 2006, 506 SCRA 481, 495; *People v. Arsayo*, G.R. No. 166546, September 26, 2006, 503 SCRA 275, 284; *People v. Quiachon*, G.R. No. 170236, August 31, 2006, 500 SCRA 704, 714.

[15] *Supra* note 2, at 27.

[16] TSN, February 7, 2003, pp. 5-8.

[17] CA rollo, p. 64. Appellant's Brief before the CA.

[18] *Supra* note 1, at 13-14.

[19] *Corpuz*, *supra* note 13, at 448. See also *Bidoc*, *supra* note 14.

[20] *People v. Candaza*, G.R. No. 170474, June 16, 2006, 491 SCRA 280, 295-296; *Llave v. People*, G.R. No. 166040, April 26, 2006, 488 SCRA 376, 400.

[21] *Corpuz*, *supra*.

[22] TSN, March 11, 2003, pp. 3-4.

[23] *People v. Sambrano*, G.R. No. 143708, February 24, 2003, 398 SCRA 106, 113.

[24] *People v. Muros*, G.R. No. 142511, February 16, 2004, 423 SCRA 69, 81.

[25] G.R. No. 108505, December 5, 1997, 282 SCRA 470, 482.

[26] *Candaza*, *supra* note 20, at 297.

[27] *People v. Barcena*, G.R. No. 168737, February 16, 2006, 482 SCRA 543, 556.

[28] Records, Exhibits "H," "I," and "J."

[29] *Id.*, Exhibit "A."

[30] *Id.*

[31] *Corpuz*, *supra* note 13, at 453; citations omitted.

[32] RA 9346, Sec. 5 provides that the Act will take effect immediately after its publication in two national newspapers of general circulation. The Act was published in *Malaya* and *Manila Times*, two national papers of general circulation, on June 29, 2006. Accordingly, RA 9346 took effect on June 30, 2006; cited in *People v. Tubongbanua*, G.R. No. 171271, August 31, 2006, 500 SCRA 727, 741.

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

[34] *Supra* note 23, at 117.

[35] G.R. No. 168649, December 6, 2006, 510 SCRA 531.

[36] G.R. No. 137842, August 23, 2001, 363 SCRA 621, 635.

[37] Calongui, supra note 33.

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