THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FELIX ORTOA Y OBIA, APPELLANT.

G.R. No. 174484. February 23, 2009

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court on automatic review is the Decision[1] of the Court of Appeals (CA) dated May 26, 2006 in CA-G.R. CR-H.C. No. 01939 which affirmed, with modification, the decision of the Regional Trial Court (RTC) of Mandaluyong City, Branch 212, in Criminal Case Nos. MC01-386-FC-H, MC01-387-FC-H and MC01-388-FC, finding appellant Felix Ortoa[2] y Obia guilty beyond reasonable doubt of two counts of Rape and one count of Acts of Lasciviousness and sentencing him to suffer the penalties of Death and Reclusion Temporal, Medium, respectively.

The facts of the case are as follows:

AAA[3] is the eldest while BBB is the second among eight children of common-law spouses Felix Ortoa (appellant) and CCC.

In 1991, when AAA was only three years old, appellant started sexually molesting her each time her mother was at work. Appellant undressed her and ordered her to lie down on the wooden bed. He then inserted his finger into her vagina causing her to cry, as she felt pain. AAA did not narrate any of these incidents to anyone, as she thought that she and appellant were just playing games.[4]

In 1994, when AAA reached the age of six, appellant started having sexual intercourse with her. Whenever CCC was at work, he would put AAA's siblings to sleep. Once AAA's siblings are asleep, appellant would close the door and windows. He would undress AAA, insert his penis into her vagina and make push and pull movements. Appellant would only stop after he ejected a sticky white substance from his organ. AAA cried each time she was violated, but she never attempted to report these incidents to anyone, because she did not know that what her father was doing to her was a crime. Appellant repeatedly had carnal knowledge of AAA, and it was only when the latter reached the age of 12 that she realized that she was being sexually abused.[5]

In December 1999, AAA experienced profuse bleeding (dinugo) which lasted for several days. It was during this incident that she confessed to her mother that she was being sexually abused by appellant.[6] CCC confronted appellant, but did not file a complaint against him.[7]

The last time that appellant had sexual intercourse with AAA was on April 3, 2001. After appellant consummated his carnal desires, he lay beside AAA on their wooden bed. It was there that CCC saw them. CCC again confronted appellant. After a brief exchange of words, appellant left. AAA again told her mother that she was sexually abused by appellant.[8]

As to BBB, appellant started sexually abusing her when she was eight years old. Everytime she and her father were left inside their house, the latter would close the door, undress her, partially insert his penis into her vagina

and slide it into her labia.[9]

Sometime in October 2000, she was summoned by appellant and was told to close the windows and the door of their house. Thereafter, appellant told her to lie down on their wooden bed. At that time, her mother was at work while her older sister, AAA, went to school. BBB's younger siblings were at home with her and appellant. When BBB was already lying on the bed, appellant directed her to remove her underwear. Appellant then went on top of her, placed his left knee on her right thigh, pulled his short pants and briefs down to his knees and inserted his erect penis into her vagina. BBB felt pain and cried quietly. Appellant did push and pull movements. After emitting a sticky white substance from his penis, appellant lay down beside BBB and told her not to tell anybody about what he did, otherwise he would hit her. BBB then stood up and started to prepare her things, as she was about to go to school.[10]

On April 3, 2001, when BBB heard her sister, AAA, tell their mother about her sexual abuse in the hands of their father, BBB also confessed what their father did to her.[11] CCC immediately went to the employer of appellant and sought advise and help from him. Appellant's employer accompanied her to the Mandaluyong City Police Station. However, the person they wanted to talk to was not there at that time. Appellant's employer then advised CCC to go home and instructed her to return the following day.[12]

On April 4, 2001, BBB and CCC returned to the office of appellant's employer. The latter again accompanied them to the police station where they reported the sexual abuses committed by appellant against AAA and BBB.[13] Upon instruction of the police, BBB and CCC, together with AAA, returned to the station the following morning. AAA and BBB were subjected to physical examination. Thereafter, they returned to the police station where their sworn statements were taken. A social worker then took custody of AAA and BBB.[14]

Subsequently, three separate Informations[15] which were all dated July 2, 2001 were filed against appellant. The accusatory portions read:

> In Criminal Case No. MC01-386-FC-H:
>
> That sometime in 1994, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and intimidation, did, then and there willfully, unlawfully and feloniously have carnal knowledge, with her [sic] own daughter one [AAA], a minor (6 years old), against her will and consent, thus debasing and/or demeaning the intrinsic worth and dignity of the child as a human being.
>
> CONTRARY TO LAW.[16]
>
> In Criminal Case No. MC01-387-FC-H:
>
> That sometime in October 2000, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs and by means of force and intimidation, did, then and there willfully, unlawfully and feloniously have carnal knowledge, with her [sic] own daughter one [BBB], a minor (9 years old), against her will and consent, thus debasing and/or demeaning the intrinsic worth and dignity of the child as a human being.
>
> CONTRARY TO LAW.[17]
>
> In Criminal Case No. MC01-388-FC:
>
> That sometime in 1991, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs did, then and there wilfully, unlawfully and feloniously commit acts of lasciviousness with her [sic] own daughter one [AAA], a minor, three (3) years old girl, by then and there inserting his finger to the vagina of the victim, against the latter's will and consent. Thus

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> debasing and/or demeaning the intrinsic worth and dignity of the child as a human being.
>
> CONTRARY TO LAW.[18]

On arraignment, appellant pleaded not guilty to all of the charges.[19] Pre-trial conference followed. Thereafter, trial ensued.

On June 10, 2004, the RTC rendered its Decision,[20] the dispositive portion of which is as follows:

> WHEREFORE, finding accused FELIX ORTOA y OBIA GUILTY BEYOND REASONABLE DOUBT for two counts of RAPE and for ACTS OF LASCIVIOUSNESS, he is hereby sentenced to suffer the following penalty.
>
> IN CRIMINAL CASE NO. MC01-386-FC-H:
>
> The supreme penalty of DEATH; and to pay [AAA] P75,000.00 as indemnity; and P50,000.00 as moral damages.
>
> IN CRIMINAL CASE NO. MC01-387-FC-H
>
> The supreme penalty of DEATH; and to pay [BBB] P75,000.00 as indemnity; and P50,000.00 as moral damages.
>
> IN CRIMINAL CASE NO. MC01-388-FC
>
> The penalty of Indeterminate Sentence of RECLUSION TEMPORAL MEDIUM or imprisonment of sixteen (16) years, five (5) months and eleven (11) days, as minimum to eighteen (18) years, two (2) months and twenty (20) days, as maximum;
>
> And to pay BBB [sic][21] P50,000.00 as moral damages.
>
> The Branch Clerk of Court is hereby ordered to prepare the mittimus and to transmit the complete records of this case to the Honorable Supreme Court for automatic review.
>
> SO ORDERED.[22]

Appellant filed a Notice of Appeal on June 22, 2004 from his conviction of the crime of Acts of Lasciviousness in Criminal Case No. MC01-388-FC.[23] With respect to Criminal Case Nos. MC01-386-FC-H and MC01-387-FC-H, sentencing appellant to suffer the penalty of death, the RTC directed that the entire records of the cases be forwarded to this Court for automatic review.[24]

In its Resolution dated November 8, 2005, the Court referred the cases to the CA for appropriate action and disposition[25] pursuant to the Court's pronouncement in People v. Mateo.[26]

After a review of the cases, the CA rendered its decision, the dispositive portion of which reads:

> WHEREFORE, the Decision of the Regional Trial Court of Mandaluyong City, Branch 212, finding accused-appellant Felix Ortoa y Obia guilty of two (2) counts of rape in Criminal Cases Nos. MC01-386-FC-H and MC01-387-FC-H is AFFIRMED with the MODIFICATION that the accused-appellant is hereby ordered to pay exemplary damages - P25,000.00 to [AAA] and P25,000.00 to [BBB].
>
> Regarding Criminal Case No. MC01-388-FC, the judgment of conviction for acts of lasciviousness is AFFIRMED with MODIFICATION, in that the accused-appellant is hereby sentenced to an indeterminate imprisonment ranging from six (6) months of arresto mayor, as minimum, to six (6) years of prision correccional, as maximum, and to pay the victim, [AAA] P25,000.00 as exemplary damages.
>
> Let the entire records of this case be elevated to the Supreme Court for its review, pursuant to A.M. No.

> 00-5-03-SC (Amendments to the Revised Rules of Criminal Procedure to Govern Death Penalty Cases) which took effect on October 14, 2004.
>
> SO ORDERED.[27]

The case was then elevated to this Court for review.

Appellant's Assignment of Errors in his Brief is as follows:

> I
>
> THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY IN CRIMINAL CASE NO. MC01-387-FC-H WHEN PHYSICAL EVIDENCE PROVES OTHERWISE.
>
> II
>
> THE COURT A QUO GRAVELY ERRED IN GIVING FAITH AND CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES AND IN TOTALLY DISREGARDING THE VERSION OF THE DEFENSE.[28]

The Court finds appellant's contentions untenable.

To determine the innocence or guilt of the accused in rape cases, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great 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.[29]

Accordingly, in resolving rape cases, primordial consideration is given to the credibility of the victim's testimony.[30] The settled rule is that the trial court's conclusions on the credibility of witnesses in rape cases are generally accorded great weight and respect, and at times even finality, unless there appear in the record certain facts or circumstances of weight and value which the lower court overlooked or misappreciated and which, if properly considered, would alter the result of the case.[31]

Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial court stood in a much better position to decide the question of credibility.[32] Findings of the trial court on such matters are binding and conclusive on the appellate court, unless some facts or circumstances of weight and substance have been overlooked, misapprehended or misinterpreted.[33] No such facts or circumstances exist in the present case.

Both the RTC and the CA are in agreement that AAA and BBB were categorical, straightforward, spontaneous, convincing, clear and candid in their testimonies that their father raped them. The same is true with respect to AAA's testimony that appellant committed acts of lasciviousness against her.

Appellant contends that the probable reason why private complainants and their mother filed criminal complaints is that they bore grudges against him for bringing problems to their family, particularly because of his having sexual relations with a woman other than his wife and for inflicting harm on AAA as a means of imposing discipline upon her because appellant caught her having sexual intercourse with her boyfriend.[34]

Appellant's claim deserves scant consideration. The Court finds it incredible for private complainants and their mother to trump up charges of rape and acts of lasciviousness against appellant because they wanted to exact revenge on him for the simple reason that he caused them problems. No woman would cry rape, allow an

examination of her private parts, subject herself to humiliation, go through the rigors of public trial and taint her good name if her claim were not true.[35] Both AAA and BBB testified that they were aware that if their father would be found guilty as charged, he would suffer the penalty of death.[36] It takes a certain amount of psychological depravity for a young woman to concoct a story which could cause the loss of life of her own father and drag the rest of the family, including herself, to a lifetime of shame.[37]

Moreover, CCC would not allow her children to be exposed to a public trial, if the charges she made were not true. No mother would consider subjecting her own daughters to the shame, humiliation, disgrace, exposure, anxiety and tribulation attendant to a public trial for rape -- which in all likelihood would result in the incarceration, if not death, of the father of her children for the rest of his life -- if she were not motivated solely by the desire to have the person responsible for the defloration of her daughters apprehended and punished.[38] In fact, when asked how she felt upon learning that it was her husband who molested their daughters, CCC testified that she was furious.[39]

The Court is not persuaded by appellant's arguments that it is inconceivable for AAA to only report her rape and molestation to the authorities when she was already 13 years old, considering that she claimed that appellant started to sexually assault her when she was only 3 years old; that her natural reaction would be to tell her ordeal to her mother right away; that if complainants really wanted to protect themselves, it was uncharacteristic for them not to tell their molestation to anyone as there was no threat to their lives, nor was there anything that would have prevented them from divulging their sufferings.

The settled rule is that not all rape victims can be expected to act conformably to the usual expectations of everyone else; and that different and varying degrees of behavioral responses are expected in the proximity of, or in confronting, an aberrant episode.[40] It is well-settled that different people react differently to a given situation or type of situation.[41] There is no standard form of reaction for a woman when facing a shocking and horrifying experience such as a sexual assault.[42] The workings of the human mind placed under emotional stress are unpredictable, and people react differently some may shout, some may faint, and some may be shocked into insensibility, while others may openly welcome the intrusion.[43] However, any of these conducts does not impair the credibility of a rape victim.

Furthermore, the Court has held in a line of cases that long silence and delay in reporting the crime of rape have not always been construed as indications of a false accusation.[44] This principle applies with greater force where, as in this case, the victims were of tender age at the time of the rape incidents and were therefore susceptible to intimidation and threats of physical harm, especially from a close relative.[45] Contrary to appellant's claim that the victims were not threatened, AAA testified that everytime appellant raped her and she tried to shout, the former spanked her;[46] that she developed a feeling of fear every time her father was around.[47] Furthermore, AAA's failure to immediately inform anyone of her ordeal in the hands of her father was understandable, considering that at her very tender age she had as yet no idea that what appellant was doing to her was a crime. As testified to by AAA, it was only when she was 12 years old that she came to understand that she was being sexually abused by her father.[48] BBB testified, on the other hand, that appellant told her not to tell anybody about what he did to her; otherwise, he would hit her.[49]

With respect to CCC, she sufficiently explained that her delay in reporting the sexual abuses committed by appellant against their two daughters was due to the fact that she and their children were dependent upon appellant for support, and that she could not raise their children on her own; that she finally mustered enough courage to file a complaint against appellant, because she felt that she had no other choice and she also wanted said abuses to stop.[50]

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The Court is not persuaded by appellant's contention that BBB was never sexually abused because the medico-legal findings showed that she was still in a virgin state when she was examined.

The medico-legal expert who examined BBB testified that it was possible for a male organ to penetrate the labia minora and leave the hymen still intact.[51] Moreover, the Court has ruled in a number of cases that the lack of lacerated wounds does not negate sexual intercourse.[52] A freshly broken hymen is not an essential element of rape.[53] Even the fact that the hymen of the victim was still intact does not rule out the possibility of rape.[54] Research in medicine even points out that negative findings are of no significance, since the hymen may not be torn despite repeated coitus.[55] In any case, for rape to be consummated, full penetration is not necessary.[56] Penile invasion necessarily entails contact with the labia.[57] It suffices that there is proof of the entrance of the male organ into the labia of the pudendum of the female organ.[58] Penetration of the penis by entry into the lips of the vagina, even without rupture or laceration of the hymen, is enough to justify a conviction for rape.[59]

In the present case, BBB categorically testified that appellant initially slid his penis into her labia but later on directly inserted his penis into her vagina, causing her to feel pain.

It is wrong for appellant to contend that BBB simply claimed that she was raped "without even a modicum of details how the act was done." BBB's testimony specified the acts committed by appellant when he violated her in October 2000, to wit:

> Q:
>
> Could you tell us how did this rape incident happen on [sic] October 2000?
>
> A:
>
> He called me and he told me to close the door and the windows.
>
> Q:
>
> You are referring to whom?
>
> A:
>
> My father.
>
> Q:
>
> After telling you to close the windows and the door, what happened next [BBB]?
>
> A:
>
> He called me and he made me lie down on the wooden bed.
>
> Q:
>
> Where did this happen [BBB]?
>
> A:
>
> In our house.
>
> Q:
>
> Would you say that this happen [sic] in your room?
>
> A:

No sir, in our house.

Q:

How many rooms are there in your house?

A:

Only one (1) sir.

Q:

Who were present when your father called you and made you lie on the bed after closing the windows and the door?

A:

My siblings.

Q:

Could you tell us the names of your siblings?

A:

Christian, Kristel, J.R. and myself.

Q:

What happened to your mother, where is [sic] she at that time?

A:

She's at work.

Q:

What about your older sister, where was she at that time?

A:

She went to school.

Q:

While you were lying on the wooden bed, could you tell us what happened?

A:

He made me remove my panty at "tinandayan po niya ako".

Q:

What were you wearing at that time?

A:

I was wearing a duster.

Q:

Could you please (s)how that [sic] "tinandayan" was?

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A:

While I was lying on the wooden bed after removing my panty, my Papa Felix Ortoa went to [sic] top of me "tinandayan po nya ako" (at this juncture, the witness demonstrated how "tinandayan" is and at that point, the witness demonstrated that the left knee of her father was on top of her right thigh while the left knee was atop the wooden bed and it was at the said instance that the father inserted his penis to her vagina, at this juncture, using the Court herself as reference reacted the part of [BBB] and [BBB] herself was the one who acted as Felix Ortoa.

Court:

Any other fiscal?

Prosecutor Laron:

While your father was on top of you, what was he wearing at that time [AAA]?

Witness:

He simply pulled down his shorts and brief up [sic] to his knee and he inserted his penis into my vagina.

Q:

Are you sure that his penis was inserted into your vagina?

A:

Yes, sir.

Q:

Why are you so sure that his penis was already inserted to your vagina?

A:

It was painful.

Q:

Because of that pain, what did you do Miss Witness?

A:

I cried secretly.

Q:

What happened next after your father's penis was in your vagina?

A:

He finished, sir.

Prosecutor Laron:

What does it mean when you say he's finished?

Witness:

He was finished raping me. After he raped me, which means that he had already emitted a white sticky

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substance and he separated his body from my body.

Q:

Where did you see that white sticky substance?

A:

In my father's penis and in my vagina.

Q:

Could you tell us [BBB] how long did it take from the time that he inserted his penis to your vagina up to the time he emitted this white sticky substance from his penis?

A:

I cannot remember but it took a little while after the sticky substance was emitted from his penis.

Q:

Could you tell us what else did your father do between that time that he inserted his penis to your vagina up to the time he emitted that white sticky substance from his penis?

A:

None, sir.

Q:

Was he not moving his body while on top of you?

A:

He was doing the push and pull action (the witness was demonstrating how it was done by the father)

Q:

Could you tell us what happened after you saw that white sticky substance from his penis and you also saw from your vagina?

A:

My father removed his penis thereafter.[60]

With respect to the criminal offense of acts of lasciviousness, the elements of the crime as defined and penalized under Article 336 of the Revised Penal Code are as follows:

(1) That the offender commits any act of lasciviousness or lewdness;

(2) That it is done under any of the following circumstances:

- By using force or intimidation; or

- When the offended party is deprived of reason or otherwise unconscious; or

- When the offended party is under 12 years of age; and

(3) That the offended party is another person of either sex.[61]

In the instant case, AAA testified how she was molested by appellant when she was between the ages of three and

six years, to wit:

FISCAL LARON:

Let us first go to your testimony that [sic] what he did to you [AAA]?

WITNESS:

When I was three (3) years old, each time my mother was not around and only us who were left behind my father would asked [sic] me to undress.

FISCAL LARON:

Did you comply?

WITNESS:

Yes.

FISCAL LARON:

After undressing what happen [sic] next?

WITNESS:

He inserted his finger into my vagina.

FISCAL LARON:

You are referring to who Madam witness?

WITNESS:

My father Felix Ortoa.

FISCAL LARON:

And could you still recall how many times he did it to you?

WITNESS:

Several times.

FISCAL LARON:

How do you feel when he inserted he's [sic] finger into your vagina.

WITNESS:

Painful.

FISCAL LARON:

What part of your body is painful?

WITNESS:

My vagina.

FISCAL LARON:

You also stated that he did this several times in each occasion could you still recall how long did it take your

father to insert? [sic]

WITNESS:

I cannot recall how long he did it.

FISCAL LARON:

And once he's [sic] finger in your vagina, what is he doing then?

WITNESS:

He's just sitting.

COURT:

What about you, where were you?

WITNESS:

While I was lying on our wooden bed.

FISCAL LARON:

You stated that it was very painful, you would not cry, that result of that finger that have inserted into your vagina. [sic]

WITNESS:

I was crying.

FISCAL LARON:

Did you not shout?

COURT:

Your manifestation Fiscal, how old is your client?

FISCAL LARON:

Your honor, the victim is 14 years old.

COURT:

At the time that incident took place?

FISCAL LARON

At the time the incident took place, that she was that started when she was three (3) years old. [sic]

COURT:

Now she's 14 years old, what is your manifestation?

FISCAL LARON:

May we request your honor that she be allowed to asked leading questions? [sic]

COURT:

Considering her minority and the sensitivity of the question asked and the gravity of the offense, we allowed

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he could asked leading questions. [sic]

FISCAL LARON:

Madam witness, did you not try or asked for help, while it is in pain? [sic]

WITNESS:

I did not shout, I was just crying.

FISCAL LARON:

When he was doing that, while his finger was inserted into your vagina are there other persons inside the room?

WITNESS:

There were no other persons, we were usually alone.

FISCAL LARON:

Where is your mother while doing this? [sic]

WITNESS:

My mother was at work.

FISCAL LARON:

Until when did your father do this thing, like inserting his finger into your vagina.

WITNESS:

While I was three (3) years old, he inserting his finger, but when I was six (6) years old, he then started to insert his penis into my vagina. [sic][62]

It is settled that in cases of acts of lasciviousness, the lone testimony of the offended party, if credible, is sufficient to establish the guilt of the accused.[63] Such are the testimonies of victims who are young, immature, and have no motive to falsely testify against the accused, as in the instant case.[64]

Against the overwhelming evidence of the prosecution, appellant merely interposed the defense of denial. Categorical and consistent positive identification, absent any showing of ill motive on the part of the eyewitness testifying on the matter, prevails over the defense of denial.[65] As earlier discussed, there is no showing of any improper motive on the part of the victims to testify falsely against the accused or to implicate him falsely in the commission of the crime; hence, the logical conclusion is that no such improper motive exists, and that their testimonies are worthy of full faith and credence. Accordingly, appellant's weak defense of denial cannot prosper.

As to the penalty imposed in Criminal Case No. MC01-386-FC-H, the prevailing law at the time the crime was committed in 1994 was still Article 335 of the Revised Penal Code, paragraph 6(1) of which provides as follows:

x x x x

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

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

x x x x

On October 22, 1997, Republic Act (R.A.) No. 8353, otherwise known as the Anti-Rape Law of 1997, took effect; it reclassified rape as a crime against persons and amended the provisions of the Revised Penal Code on rape. This law governs Criminal Case No. MC01-387-FC-H, because the rape in this case was committed in October 2000. Accordingly, paragraph 6(1) of Article 266-B of the Revised Penal Code, as amended, provides:

x x x x

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

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

x x x x

Thus, appellant was correctly sentenced to death, as the special qualifying circumstances of minority and relationship were properly alleged in the information and proved during trial by the testimonies of the complainants,[66] their mother[67] and the appellant himself.[68] They were also supported by copies of the birth certificates of complainants.[69]

However, in view of the enactment of R.A. No. 9346[70] on June 24, 2006, the death penalty can no longer be imposed. Appellant must, thus, be sentenced to suffer the penalty of reclusion perpetua in each case, without eligibility for parole.[71]

The Court finds no error in the penalty imposed by the CA for the acts of lasciviousness committed by appellant against AAA. The CA correctly ruled that the applicable law at the time the crime was committed in 1991 was Article 336 of the Revised Penal Code and not R.A. No. 7610, otherwise known as the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, which was approved only on June 17, 1992.

Exemplary damage was correctly awarded by the CA, given the presence of the qualifying aggravating circumstances of minority and relationship.[72] However, the award of exemplary damage with respect to AAA as victim of acts of lasciviousness is reduced to P2,0000.00 in accordance with jurisprudence.[73]

In addition, AAA is also entitled to civil indemnity in the amount of P20,000.00 for acts of lasciviousness committed against her.[74]

The award of moral damages with respect to AAA and BBB as rape victims is increased to P75,000.00 in line with prevailing jurisprudence,[75] while the award of moral damages with respect to AAA as victim of acts of lasciviousness is reduced to P30,000.00, also in consonance with jurisprudence.[76]

WHEREFORE, the Decision dated May 26, 2006 of the Court of Appeals, finding appellant Felix Ortoa y Obia guilty beyond reasonable doubt of the crime of Qualified Rape is AFFIRMED with FURTHER MODIFICATIONS as follows:

In Criminal Case Nos. MC01-386-FC-H and MC01-387-FC-H, appellant is sentenced to suffer, in lieu of death, the penalty of reclusion perpetua without eligibility for parole; the award of moral damages to AAA and BBB as victims of rape is increased to P75,000.00 each.

In Criminal Case No. MC01-388-FC, appellant is ordered to pay AAA the amount of P20,000.00 as civil indemnity for the acts of lasciviousness committed against her; the award to AAA of moral damages is reduced to

P30,000.00, and exemplary damages, to P2,0000.00.

SO ORDERED.

MA. ALICIA AUSTRIA-MARTINEZ
Associate Justice

WE CONCUR:

REYNATO S. PUNO
Chief Justice

(On official leave)
LEONARDO A. QUISUMBING
Associate Justice

CONSUELO YNARES-SANTIAGO
Associate Justice

ANTONIO T. CARPIO
Associate Justice

RENATO C. CORONA
Associate Justice

(On official leave)
CONCHITA CARPIO MORALES
Associate Justice

DANTE O. TINGA
Associate Justice

(On official leave)
MINITA V. CHICO-NAZARIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

(No part)
ANTONIO EDUARDO B. NACHURA
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

ARTURO D. BRION
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

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[1] Penned by Justice Vicente S.E. Veloso with the concurrence of Justices Amelita G. Tolentino and Fernanda Lampas Peralta; CA rollo, p. 193.

[2] Referred to as "Ortua" in some parts of the records.

[3] Consistent with Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004), the real names of the rape victims in this case are withheld and, instead, fictitious initials are used to represent them. Also, the personal circumstances of the victims or any other information tending to establish or compromise their identity, as well as those of their immediate family or household members, are not disclosed in this decision; People v. Cabalquinto, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[4] TSN, April 29, 2002, pp. 5-8.

[5] Id. at 9-12.

[6] TSN, April 29, 2002, pp. 14-16

[7] TSN, August 15, 2002, p. 32.

[8] TSN, April 29, 2002, pp. 16-26.

[9] TSN, May 27, 2002, pp. 10-11.

[10] Id. at 4-10.

[11] TSN, May 27, 2002, p. 12.

[12] TSN August 15, 2002, pp. 14-16.

[13] Id. at 16-18.

[14] Id. at 19-24.

[15] Another criminal information for rape was filed against appellant involving the incident that happened between him and AAA on April 3, 2001. The case was docketed as Criminal Case No. MC01-328-FC-H and was tried by the RTC of Mandaluyong City, Branch 208. Appellant was found guilty as charged and sentenced to Death but his sentence was later reduced by the CA to reclusion perpetua pursuant to Republic Act No. 9346. The CA Decision was modified by this Court in its Decision in G.R. No. 176266, dated August 8, 2007, by increasing the award of moral damages and reducing the grant of exemplary damages.

[16] Records, p. 1.

[17] Records, p. 19.

[18] Id. at 43.

[19] Id. at 37.

[20] Id. at 201.

[21] Should be "AAA".

[22] Records, pp. 246-247.

[23] Id. at 249.

[24] Id. at 250.

[25] CA rollo, p. 190.

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

[27] CA rollo, pp. 220-221.

[28] Id. at 90.

[29] People v. Pangilinan, G.R. No. 171020, March 14, 2007, 518 SCRA 358, 373.

[30] People v. Noveras, G.R. No. 171349, April 27, 2007, 522 SCRA 777, 787.

[31] Id.

[32] People v. Balonzo, G.R. No. 176153, September 21, 2007, 533 SCRA 760, 768.

[33] People v. Hermocilla, G.R. No. 175830, July 10, 2007, 527 SCRA 296, 303.

[34] TSN, March 17, 2003, pp.10-11.

[35] People v. Marcelo, G.R. Nos. 126538-39, November 20, 2001, 369 SCRA 661, 672.

[36] TSN, April 29, 2002, p. 60; TSN, May 27, 2002, p. 18.

[37] People v. Brondial, G.R. No. 135517, October 18, 2000, 343 SCRA 600, 620.

[38] People v. Alimon, G.R. No. 87758, June 28, 1996, 257 SCRA 658, 670; People v. Gloria, G.R. No. 168476, September 27, 2006, 503 SCRA 742, 753.

[39] TSN, August 15, 2002, pp. 33-34.

[40] People v. San Antonio, Jr., G.R. No. 176633, September 5, 2007, 532 SCRA 411, 428.

[41] Id.

[42] Id.

[43] Id.

[44] People v. Mangubat, G.R. No. 172068, August 7, 2007, 529 SCRA 377, 392-393; People v. Senieres, G.R. No. 172226, March 23, 2007, 519 SCRA 13; People v. Suarez, G.R. Nos. 153573-76, April 15, 2005, 456 SCRA 333, 346; People v. Ballester, G.R. No. 152279, January 20, 2004, 420 SCRA 379, 384.

[45] Id.

[46] TSN, April 29, 2002, p. 49.

[47] Id. at 48.

[48] TSN, April 29, 2002, p. 55.

[49] TSN, May 27, 2002, p. 9.

[50] TSN, August 15, 2002, pp. 32-33.

[51] TSN, September 12, 2002, p. 44.

[52] People v. Operario, G.R. No. 146590, July 17, 2003, 406 SCRA 564, 572.

[53] Id.

[54] Id.

[55] People v. Basite, G.R. No. 150382, October 2, 2003, 412 SCRA 558, 565.

[56] People v. Operario, supra note 52.

[57] People v. Operario, supra note 52.

[58] Id.

[59] Id.

[60] TSN, May 27, 2002, pp. 5-8.

[61] Cabila v. People, G.R. No. 173491, November 23, 2007, 538 SCRA 695, 702.

[62] TSN, April 29, 2002, pp. 5-9.

[63] People v. Bon, G.R. No. 149199, January 28, 2003, 396 SCRA 506, 515.

[64] Id.

[65] People v. Quezada, G.R. Nos. 135557-58, January 30, 2002, 375 SCRA 248, 259.

[66] TSN, April 29, 2002, pp. 1-4; TSN, May 27, 2002, pp. 2-3, 17-18.

[67] TSN, August 15, 2002, pp. 2-3.

[68] TSN, March 17, 2003, pp. 2-3.

[69] Exhibits "F" and "H," pp. 141 and 144, original records.

[70] "An Act Prohibiting the Imposition of Death Penalty in the Philippines"

[71] People v. Ibañez, G.R. No. 174656, May 11, 2007, 523 SCRA 136, 144-145.

[72] Article 2230, Civil Code; People v. Villanueva, G.R. No. 169643, April 13, 2007, 521 SCRA 236, 253; People v. Gloria, G.R. No. 168476, September 27, 2006, 503 SCRA 742, 756.

[73] People v. Ceballos, Jr., G.R. No. 169642, September 14, 2007, 533 SCRA 493, 514; People v. Alcoreza, G.R. Nos. 135452-53, October 5, 2001, 366 SCRA 655, 672.

[74] People v. Magbanua, G.R. No. 176265, April 30, 2008; People v. Palma, G.R. Nos. 148869-74, December 11, 2003, 418 SCRA 365, 378.

[75] People v. Ibañez, supra note 71; People v. Villanueva, supra note 72.

[76] People v. Gabaldon, G.R. No. 174472, June 19, 2007, SCRA; Cabila v. People, G.R. No. 173491, November 23, 2007, 538 SCRA 695, 703.

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