

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, vs. JOSEPH DELA PAZ, Accused-Appellant.

G.R. No. 177294. February 19, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For review is the Decision[1] dated 27 September 2006 of the Court of Appeals in CA-G.R. CR-H.C. No. 02164, which affirmed the Decision[2] dated 4 June 2004 of the Regional Trial Court (RTC) of Manila, Branch 18, in Criminal Case No. 99-175577, finding herein appellant guilty beyond reasonable doubt of one count of qualified rape with the modification that the penalty of reclusion perpetua was imposed instead of the death penalty in view of the enactment of Republic Act No. 9346[3] which prohibits the imposition of the latter. The amount of damages awarded was also modified.

Two separate Informations[4] both dated 4 August 1999 were filed against the appellant charging him with the crime of rape, as defined and penalized under Republic Act No. 8353,[5] in relation to Republic Act No. 7610,[6] committed against AAA,[7] on the same date 16 May 1999. The two Informations read as follows:

Criminal Case No. 99175577

This state prosecutor of the Department of Justice, on sworn complaint of AAA, a thirty-one-year-old woman with a mental capacity of a child six years and six months old on account of mental retardation, and of her mother, BBB, accuses [herein appellant] Joseph Dela Paz of RAPE, defined and punished by Republic Act No. 8353, in relation to Republic Act No. 7610, committed as follows:

On 16 May 1999, at [No.] xxx, xxx, xxx, within the jurisdiction of this Honorable Court, [appellant] Joseph Dela Paz did then and there willfully, unlawfully, and feloniously have carnal knowledge of AAA, a thirty-one-year-old woman with a mental capacity of a child six years and six months old on account of mental retardation, knowing at the time that she was mentally disabled and employing force and intimidation upon her, to her damage and prejudice.[8]

Criminal Case No. 99175578

This state prosecutor of the Department of Justice, on sworn complaint of AAA, a thirty-one-year-old woman with a mental capacity of a child six years and six months old on account of mental retardation, and of her mother, BBB, accuses [herein appellant] Joseph Dela Paz of RAPE, defined and punished by Republic Act No. 8353, in relation to Republic Act No. 7610, committed as follows:

On 16 May 1999, at [No.] xxx, xxx, xxx, within the jurisdiction of this Honorable Court, [appellant] Joseph Dela Paz did then and there willfully, unlawfully, and feloniously have carnal knowledge of AAA, a thirty-one-year-old woman with a mental capacity of a child six years and six months old on account of mental retardation, knowing at the time that she was mentally disabled and employing force and intimidation upon her, to her damage and prejudice.[9]

Upon arraignment, the appellant, assisted by counsel de officio, pleaded NOT GUILTY to both charges.

At the pre-trial conference, the prosecution and the defense failed to make any stipulation of facts. The prosecution, however, requested the marking of the following documents as their Exhibits for purposes of identification, to wit: (1) Complaint Sheet[10] as Exhibit “A”; (2) Sworn Statement of the mother of AAA[11] as Exhibits “B,” “B-1” and “B-2”; (3) Sworn Statement of AAA[12] as Exhibits “C,” “C-1,” “C-2” and “C-3”; (4) Living Case No. MG-99-478[13] as Exhibit “D”; and (5) Neuro-psychiatric examination and evaluation report[14] issued by Lorenda N. Gozar, Ma. Cynthia A. Alcuaz and Romel Tuazon Papa, Psychologist-in-Charge, Chief Psychologist and Chief of the National Bureau of Investigation (NBI) Neuro-Psychiatric Service, respectively, as Exhibits “E,” “E-1,” “E-2,” and “E-3.” Thereafter, the pre-trial conference was terminated and trial on the merits ensued.

The prosecution presented the following witnesses: CCC, the younger brother of the victim; AAA, the victim; Dr. Rio Blanca Dalid, Medico-Legal Officer of the NBI; and Lorenda Nocum Gozar,[15] the psychologist at the Neuro-Psychiatric Service of the NBI.

CCC testified that he is the younger brother of the victim, AAA. Having been living in the same house, CCC was able to observe the behavior of AAA. He described her as “isip bata” although she was already 31 years old because of her marked difficulty in remembering and comprehending things and events. According to him, AAA had only finished kindergarten as she could not cope with the demands of higher education.[16]

On the night of 16 May 1999, while he, together with his wife, brother and sister were watching television in their house located at No. xxx, xxx, xxx, he saw AAA go downstairs to answer the call of nature in a comfort room situated beside their store.[17] Thirty minutes had passed, but his sister had not yet returned, so, they decided to follow her. They went down to the comfort room beside their store and began to knock at the door of the comfort room. They knocked incessantly for about 20 minutes and got no response. Consequently, they forcibly opened the door. Much to their surprise, they saw their half-dressed sister, who was crying at that time, and the naked appellant inside the comfort room. In that situation, CCC’s elder brother immediately boxed the appellant on the right cheek. The appellant, who was a friend, neighbor and drinking buddy of CCC, apologized at once and asked for their forgiveness. Thereafter, they talked to their sister, AAA, but she just kept on crying.[18]

During AAA’s testimony, she disclosed that on the night of 17 May 1999,[19] while she was defecating in a comfort room located outside their house, the one beside their store, the appellant entered. AAA shouted as she was afraid that the appellant would kill her. Once inside the comfort room, the appellant started to undress her. As she was then sitting on the toilet bowl, the appellant, who was standing in front of her, lifted her up with both her hands raised upward and then inserted his penis into her vagina. After the appellant had finished the push and pull movements, he withdrew his organ from the vagina of AAA and inserted it again for a second round. Thereafter, the appellant started to dress up AAA. It was at this point that AAA’s brothers barged into the comfort room, literally catching the appellant with his pants down. AAA’s brother then punched the appellant. In turn, the appellant asked for forgiveness.[20]

AAA further testified that she came to know the appellant who was the friend of her brother, CCC. She likewise claimed that she went to the doctor and to the police station together with her mother but she cannot remember the dates anymore.[21]

Dr. Rio Blanca Dalid, the Medico-Legal Officer of the NBI who examined AAA declared that on 18 May 1999, she examined AAA as evidenced by Living Case No. MG-99-478.[22] She found AAA’s hymen to be stretchable meaning that AAA’s hymen can accommodate an average-sized Filipino male organ in full erection without breaking the hymen.[23]

Lorenda Nocum Gozar, the clinical psychologist at the Neuro-Psychiatric Service of the NBI who conducted a

series of psychological tests on the victim to determine her mental condition, revealed in court that on 18 May 1999, the medical officer of the NBI referred to her the case of AAA. She conducted the psychological examination on the victim on the said date and the same was reduced into writing[24] on 1 June 1999. Upon examining AAA, she found that AAA belonged to the Mentally Retarded Group with a mental age of six years and six months and an Intelligence Quotient (I.Q.) of 40, although she was already 31 years old. In arriving at such conclusion, she used the Stanford Binet Intelligence Scale, the Projective Test, behavioral examination, psychological test examination, psychological evaluation and psychological interview. All of the said types of psychological tests yielded the same results as regards the mental condition of the victim. She also observed that AAA gave long answers to simple questions. Like, when AAA was asked what her name was, she replied, “si Joseph ni-rape ako.” Thus, she concluded that AAA could really be classified as a mental retardate.[25]

For its part, the defense presented the appellant who categorically denied having raped AAA. Appellant averred that he does not know any reason why the family of AAA filed such a serious charge against him. No cross-examination was conducted upon the appellant; thus, the defense formally offered appellant’s testimony and the medical findings of the NBI which showed that there was no sign of extragenital injuries on the victim at the time of her medical examination.[26]

On 4 June 2004, the trial court rendered the assailed Decision convicting the appellant of only one count of rape, the decretal portion of which reads, thus:

WHEREFORE, viewed from above observations and findings the [appellant] should be held liable for only one count of rape – Criminal Case No. 99-175577 acquitting him on the second information Criminal Case No. 99-175578 pertaining to the second insertion of the male organ.

In Criminal Case No. 99-175577:

Finding the prosecution’s evidence sufficient to support the allegation in the information having committed sexual intercourse to a woman with a mental capacity of a 6 years and 6 months although 31 years old with the aggravating qualifying circumstance of the [appellant’s] knowledge of the mental disability and or emotional disorder of the victim AAA, without any mitigating circumstance, he is hereby found guilty of rape under Republic Act [No.] 8353 Article 266A paragraph d, in relation to paragraph B-5 subparagraph 10, without applying the indeterminate sentence law, the [appellant] is hereby sentenced to suffer the penalty of DEATH.

x x x x

He is hereby ordered to indemnify the victim the sum of P50,000.00 representing civil liability.

In Criminal Case No. 99-175578:

The [appellant] is hereby acquitted in the above numbered criminal case.[27] (Emphases supplied.)

The records of this case were originally transmitted to this Court on automatic review.

Pursuant to People v. Mateo,[28] the records of the present case were transferred to the Court of Appeals for appropriate action and disposition.

In his brief, appellant assigns the following errors, viz:

- THE TRIAL COURT GRAVELY ERRED IN DISREGARDING THE [APPELLANT’S] DEFENSE.
- THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE [APPELLANT] FOR THE CRIME CHARGED.[29]

Accordingly, the Court of Appeals, taking into consideration the assignment of errors stated by the appellant in

his Appellant's Brief and after a thorough study of the records of the case, rendered a Decision on 27 September 2006, affirming the conviction of the appellant for one count of rape aggravated by the appellant's knowledge of the victim's mental disability and/or emotional disorder, with the following modifications: (1) the penalty of reclusion perpetua was imposed in lieu of the death penalty, in view of the enactment of Republic Act No. 9346 which prohibits the imposition thereof; and (2) the amount of civil indemnity awarded by the RTC to the victim was increased from P50,000.00 to P75,000.00 and appellant was ordered to pay the victim moral damages in the amount of P50,000.00. The dispositive portion of the decision reads:

WHEREFORE, premises considered, the appeal is DISMISSED. The appealed [D]ecision dated [4 June 2004] of the [RTC] of Manila, Branch 18 in Criminal Case No. 99-175577, finding the [appellant] guilty of one (1) count of Qualified Rape is AFFIRMED, with the MODIFICATION that he is hereby sentenced to suffer the penalty of reclusion perpetua, in view of the abolition of the death penalty with the enactment of Republic Act No. 9346. Moreover, the [appellant] is ordered to pay the victim P75,000.00 as civil indemnity and P50,000.00 as moral damages.

Costs de officio.[30]

Aggrieved by the aforesaid Decision, the appellant filed a Notice of Appeal.[31] The Court of Appeals then forwarded to this Court the records of this case.

On 11 July 2007,[32] this Court resolved to accept the present case and notify the parties that they may file their respective supplemental briefs, if they so desired. Both the Office of the Solicitor General and the appellant manifested that they were adopting their respective briefs dated 27 June 2005 and 24 February 2005, respectively, as their supplemental briefs.

After a careful review of the records of this case, this Court affirms appellant's conviction.

The gravamen of the offense of rape is sexual intercourse with a woman against her will or without her consent.[33] Article 266-A, paragraph 1 of the Revised Penal Code, as amended by Republic Act No. 8353, states that:

ART. 266-A. Rape; When and How Committed. - Rape is committed.

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

a) Through force, threat or intimidation;

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

c) By means of fraudulent machination or grave abuse of authority; and

d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

On the basis thereof, for the charge of rape to prosper, the prosecution must prove that (1) the offender had carnal knowledge of a woman, and (2) he accomplished such act through force or intimidation, or when she was deprived of reason or otherwise unconscious, or when she was under 12 years of age or was demented.[34] Clearly, carnal knowledge of a woman who is a mental retardate is rape under the aforesaid provisions of law. Proof of force or intimidation is not necessary, as a mental retardate is not capable of giving consent to a sexual act. What needs to be proven are the facts of sexual congress between the accused and the victim, and the mental retardation of the latter.[35]

In *People v. Dalandas*,[36] citing *People v. Dumanon*,[37] this Court held that mental retardation can be proven by evidence other than medical/clinical evidence, such as the testimony of witnesses and even the observation by

the trial court.[38]

In the present case, both clinical and testimonial evidence were presented by the prosecution to prove that AAA is a mental retardate. The prosecution presented the neuro-psychiatric examination and evaluation report made by the clinical psychologist, who conducted a series of psychological tests on the victim to ascertain her mental condition. Based on such series of psychological tests performed on AAA, she was found to be suffering from Moderate Mental Retardation with an I.Q. of 40 and a mental age equivalent to that of a six-year-and-six-month-old child. The testimonies given by CCC and the clinical psychologist likewise affirmed the fact that AAA is, indeed, a mental retardate. CCC testified that her sister, although 31 years old already, was “isip bata” and had marked difficulty in understanding things and events. Likewise, the clinical psychologist noticed that when she examined AAA, the latter gave long answers to simple questions. With the series of psychological tests she gave the victim, she has no doubt that AAA is a mental retardate.

With the foregoing pieces of evidence offered by the prosecution, it is beyond cavil that they were able to prove that AAA is a mental retardate. It is also noteworthy that even the defense did not dispute the fact that the victim is suffering from mental retardation. Thus, this Court is in conformity with the findings of both the trial court and the appellate court that AAA is unquestionably a mental retardate.

As it is settled that the victim in the present case is a mental retardate, the only thing that must be established is the fact of sexual congress between the appellant and the victim.

In the case at bar, the appellant denied having raped the victim. He even argues that the trial court deprived him of his right to be presumed innocent when it disregarded his defense of denial. This contention is specious.

Jurisprudence holds that denial, like alibi, is inherently weak and crumbles in the light of positive declarations of truthful witnesses who testified on affirmative matters that appellant was at the scene of the crime and was the victim’s assailant. To merit credibility, it must be buttressed by strong evidence of non-culpability. Also, being a negative defense, denial must be substantiated by clear and convincing evidence; otherwise, it would merit no weight in law and cannot be given greater evidentiary value than the testimony of credible witnesses who testified on affirmative matters.[39]

As between categorical testimonies that ring of truth on one hand and a bare denial on the other, this Court has strongly ruled that the former must prevail. Indeed, positive identification of the appellant, when categorical and consistent and without any ill motive on the part of the eyewitnesses testifying on the matter, prevails over alibi and denial.[40]

In this case, AAA positively identified the appellant as the person who had raped her. This can be proven by the following testimony of the victim:

Q:

I’ll (sic) repeat the question. On [17 May 1999] at around 11:00 p.m. do you remember where you were?

A: I was defecating Mam (sic) in the CR.

Q:

Where is your CR located?

A: “Sa labas po.”

x x x x

Q: While you were defecating what unusual incident that happened if any?

A: I shouted Mam (sic).

Q: Why?

A: I was afraid he will kill me.

Q: Who?

A: Joseph dela Paz.

Q: Where is Joseph dela Paz now?

A: Over there Mam (sic). (Witness pointing to a man who answered by the name Joseph dela Paz.)

Q:

What was Joseph doing to you at the (sic) time?

A: He inserted his penis to my vagina, Mam (sic).

Q: How did he do that?

A: Dalawang beses po Mam (sic).

Q: Were you wearing anything when he did this?

A: Yes, Mam (sic).

Q: What did he do?

A: He took off my clothes.[41]

Moreover, even the appellant admitted that he did not know any reason why AAA or her family would charge him with such a grave offense.[42] He was even a friend of CCC, a brother of AAA. And absent any ill motive on the part of the victim or her family, the appellant's defense of denial cannot prevail over AAA's positive identification of the appellant.

Significantly, at the time that the appellant was punched by the brother of AAA when he was caught naked inside

the comfort room with AAA, the appellant immediately asked for forgiveness. It is well-entrenched in our jurisprudence that a plea for forgiveness by the appellant may be considered as analogous to an attempt to compromise. In criminal cases, except those involving quasi-offenses or those allowed by law to be settled through mutual concessions, an offer of compromise by the accused may be received in evidence as an implied admission of guilt.[43] No person would ask for forgiveness unless he has committed some wrong, for to forgive means to absolve; to pardon; to cease to feel resentment against on account of a wrong committed; to give up a claim to requital or retribution from an offender.[44] Thus, the trial court did not commit an error when it disregarded the appellant's defense of denial.

The appellant further contends that, granting *arguendo* that he can be held liable, his liability is only for the crime of attempted rape, as the result of the medical findings revealed that the victim did not suffer perineal lacerations and that it was possible that the male organ was not inserted at all into the victim's vagina. Moreover, considering that the victim in this case is a mental retardate with an I.Q. of 40, she cannot be expected to know the difference between a mere touching of the external area of her genitals and a successful penetration, however slight, as to consummate the crime of rape. The aforesaid arguments given by the appellant deserve scant consideration.

A freshly broken hymen is not an essential element of rape. Even if the hymen of the victim was still intact, the possibility of rape cannot be ruled out. The rupture of the hymen or laceration of any part of the woman's genitalia is not indispensable to a conviction for rape.[45] Also, the rupture of the hymen or vaginal laceration is not necessary for rape to be consummated.[46] It is settled that a mere touching, no matter how slight, of the labia or lips of the female organ by the male genitalia even without rupture or laceration of the hymen is sufficient to consummate rape. Full penetration is not required, as proof of entrance showing the slightest penetration of the male organ within the labia or pudendum of the female organ is sufficient. In proving sexual intercourse, it is enough that there was the slightest penetration of the male organ into the female sex organ.[47]

Furthermore, a medical examination is not indispensable to the prosecution of a rape. Insofar as the evidentiary weight of the medical examination is concerned, we have already ruled that a medical examination of the victim, as well as a medical certificate, is merely corroborative in character and is not an indispensable element for conviction in rape. What is important is that the testimony of private complainant about the incident is clear, unequivocal and credible, and this we find here to be the case.[48]

In the instant case, the medical findings revealed that the hymen of the complainant was still intact. Nevertheless, the same does not negate the fact of rape committed by the appellant against AAA, as the Medico-Legal Officer of the NBI who conducted the medical examination on AAA clearly explained that AAA's hymen is stretchable, meaning, AAA's hymen can accommodate an average-sized Filipino male organ in full erection without breaking the hymen.

More importantly, the victim positively identified the appellant as her assailant. That she had sexual intercourse with him was sufficiently established by her testimony before the court *a quo*. The victim, though a mental retardate, was able to describe how she was ravished by the appellant.

It bears emphasis that the competence and credibility of mentally deficient rape victims as witnesses have been upheld by this Court where it was shown that they could communicate their ordeal capably and consistently. Rather than undermine the gravity of the complainant's accusations, it even lends greater credence to her testimony, as someone feeble-minded and guileless could speak so tenaciously and explicitly on the details of the rape if she has not in fact suffered such crime at the hands of the accused.[49] Besides, having the mental age level of a six-year-and-six-month-old normal child would even bolster her credibility as a witness, considering that a victim at such tender age would not publicly admit that she had been criminally abused and ravished unless

that was the truth. For no woman, especially one of tender age, practically only a girl, would concoct a story of defloration, allow an examination of her private parts and thereafter expose herself to a public trial, if she were not motivated solely by the desire to have the culprit apprehended and punished to avenge her honor and to condemn a grave injustice to her.[50]

Moreover, the trial judge's assessment of the credibility of witnesses' testimonies is, as has repeatedly been held by this Court, accorded great respect on appeal in the absence of grave abuse of discretion on its part, it having had the advantage of actually examining both real and testimonial evidence including the demeanor of the witnesses. The rule finds an even more stringent application where the said findings are sustained by the Court of Appeals.[51] In the case at bar, no cogent reason can be appreciated to warrant a departure from the findings of the trial court with respect to the assessment of AAA's testimony, the same being clear, unequivocal and credible.

Given the foregoing, the prosecution's evidence has clearly established beyond doubt that AAA was mentally retarded because the results of the mental and the psychological tests showed that she had a mental age equivalent to that of a six-year-and-six-month-old child. This Court has held in a long line of cases that if the mental age of a woman above twelve years is that of a child below twelve years, even if she voluntarily submitted to the bestial desires of the accused, or even absent the circumstances of force or intimidation or the fact that the victim was deprived of reason or otherwise unconscious, the accused would still be liable for rape under Article 266-A, paragraph 1(d) of the Revised Penal Code, as amended by Republic Act No. 8353. The rationale, therefore, is that if sexual intercourse with a victim under twelve years of age is rape, then it should follow that carnal knowledge of a woman whose mental age is that of a child below twelve years would also constitute rape.[52]

Thus, this Court firmly believes that both the trial court and the Court of Appeals were correct in convicting the appellant for the crime of consummated rape and not merely attempted rape.

Finally, the argument of the appellant that the prosecution failed to prove beyond reasonable doubt that he knew of the victim's mental retardation cannot hold water.

Knowledge of the offender of the mental disability of the victim at the time of the commission of the crime of rape qualifies the crime and makes it punishable by death under Article 266-B, paragraph 10[53] of the Revised Penal Code, as amended by Republic Act No. 8353. An allegation in the information of such knowledge of the offender is necessary, as a crime can only be qualified by circumstances pleaded in the indictment. A contrary ruling would result in a denial of the right of the accused to be informed of the charges against him, and hence a denial of due process.[54]

In this case, knowledge of the offender of the mental disability of the victim at the time of the commission of the crime of rape was properly alleged in the Information filed against the appellant. The said Information states:

On 16 May 1999, at [No.] xxx, xxx, xxx, within the jurisdiction of this Honorable Court, [appellant] Joseph Dela Paz did then and there willfully, unlawfully, and feloniously have carnal knowledge of AAA, a thirty-one-year-old woman with a mental capacity of a child six years and six months old on account of mental retardation, knowing at the time that she was mentally disabled x x x.[55] (Emphasis supplied.)

Such knowledge of the victim's mental retardation was sufficiently proven by the prosecution beyond reasonable doubt. The prosecution had established that appellant frequented the house of the victim because he was a friend and a drinking buddy of AAA's brother, CCC. The appellant was also living a door away from the house of the victim from the time that they came to know each other. The appellant and the victim also had conversations whenever the appellant visited her brother.

Worthy to note is the fact that AAA has an I.Q. of 40; thus, she does not belong to borderline cases of mental

retardation, the I.Q. of which ranges from 70-89,[56] wherein it is difficult to determine whether the victim is of normal mind or is suffering from a mild mental retardation. Hence, as found by the trial court and the appellate court, AAA's mental retardation was clearly apparent and noticeable to people who had interactions with her like herein appellant. The appellant cannot therefore feign ignorance as regards AAA's mental condition.

All told, the prosecution was able to prove that the appellant is guilty beyond reasonable doubt of the crime of rape under Article 266-A, paragraph 1(d) of the Revised Penal Code, as amended by Republic Act No. 8353. Taking into consideration the presence of the special qualifying circumstance of the appellant's knowledge of the victim's mental retardation,[57] the same being properly alleged in the Information charging the appellant of the crime of rape and proven during trial, this Court has no option but to impose on the appellant the supreme penalty of death.

With the enactment, however, of Republic Act No. 9346, the imposition of the death penalty has been prohibited. Accordingly, this Court affirms the ruling of the appellate court that the penalty to be meted to appellant is reclusion perpetua. The same is in accordance with Section 2 of Republic Act No. 9346, and as provided under Section 3 of the said law, the appellant shall not be eligible for parole under the Indeterminate Sentence Law.[58]

This Court likewise affirms the civil indemnity awarded by the Court of Appeals to AAA in accordance with the ruling in *People v. Sambrano*,[59] which states:

As to damages, [this Court] held that if the rape is perpetrated with any of the attending qualifying aggravating circumstances that require the imposition of the death penalty, the civil indemnity for the victim shall be P75,000. Thus, the trial court's award of P75,000 as civil indemnity is in line with existing case law. Also, in rape cases moral damages are awarded without need of proof other than the fact of rape because it is assumed that the victim has suffered moral injuries entitling her to such an award. However, the trial court's award of P50,000 as moral damages should also be increased to P75,000 pursuant to current jurisprudence on qualified rape. Lastly, exemplary damages in the amount of P25,000 is also called for, by way of public example, and to protect the young from sexual abuse.

It should be noted that while the new law prohibits the imposition of the death penalty, the penalty provided for by law for a heinous offense is still death and the offense is still heinous. Consequently, the civil indemnity for the victim is still P75,000.00.[60]

As a final point. This Court modifies the award of moral damages by the appellate court. We also find it proper to award exemplary damages to the victim. The appellate court merely imposed the sum of P50,000.00 as moral damages. To conform with the ruling in *People v. Sambrano*,[61] this Court increases the amount of moral damages from P50,000.00 to P75,000.00 and orders the appellant to also indemnify AAA in the amount of P25,000.00 as exemplary damages.

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 02164 dated 27 September 2006 finding herein appellant Joseph dela Paz guilty beyond reasonable doubt of one count of qualified rape committed against AAA, a thirty-one-year-old woman with a mental capacity of a child six years and six months old on account of mental retardation, knowing at the time that she was mentally retarded, and sentencing him to suffer the penalty of reclusion perpetua, instead of death, in view of the enactment of Republic Act No. 9346 prohibiting the imposition of the death penalty, is hereby **AFFIRMED** with the **MODIFICATIONS** that the amount of moral damages awarded is increased from P50,000.00 to P75,000.00, and that appellant is also ordered to indemnify the victim, AAA in the amount of P25,000.00 as exemplary damages. Costs against appellant.

SO ORDERED.

Ynares-Santiago, Austria-Martinez, Nachura, and Reyes, JJ., concur

[1] Penned by Associate Justice Amelita G. Tolentino with Associate Justices Portia Aliño-Hormachuelos and Arcangelita Romilla-Lontok, concurring. Rollo, pp. 3-22.

[2] Penned by Acting Presiding Judge Romulo A. Lopez. CA rollo, pp. 13-24.

[3] Otherwise known as “An Act Prohibiting the Imposition of Death Penalty in the Philippines.”

[4] Records, pp. 5-8.

[5] Otherwise known as “The Anti-Rape Law of 1997.”

[6] Otherwise known as “Special Protection of Children Against Child Abuse, Exploitation, and Discrimination Act.”

[7] This is pursuant to the ruling of this Court in *People of the Philippines v. Cabalquinto* (G.R. No. 167693, 19 September 2006, 502 SCRA 419), wherein this Court has resolved to withhold the real name of the victim-survivor and to use fictitious initials instead to represent her in its decisions. Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed. The names of such victims, and of their immediate family members other than the accused, shall appear as “AAA,” “BBB,” “CCC,” and so on. Addresses shall appear as “xxx” as in “No. xxx Street, xxx District, City of xxx.”

The Supreme Court took note of the legal mandate on the utmost confidentiality of proceedings involving violence against women and children set forth in Sec. 29 of Republic Act No. 7610, otherwise known as “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act”; Sec. 44 of Republic Act No. 9262, otherwise known as “Anti-Violence Against Women and Their Children Act of 2004”; and Sec. 40 of A.M. No. 04-10-11-SC, known as “Rule on Violence Against Women and Their Children” effective November 15, 2004.

[8] Records, p. 5.

[9] *Id.* at 7.

[10] *Id.* at 9.

[11] *Id.* at 10-11.

[12] *Id.* at 12-14.

[13] *Id.* at 15.

[14] *Id.* at 16-18.

[15] In the Neuro-psychiatric examination and evaluation report conducted on the victim, the psychologist signed her name as Lorenda Nocum Gozar, not Lorenda Nocum Rozar, *id.*

[16] TSN, 27 January 2003, p. 3.

[17] *Id.* at 7-8.

[18] Id. at 4-6, 11.

[19] In the Informations filed against the appellant, the date of the commission of the alleged crime of rape was 16 May 1999, but, in the transcript of the stenographic notes of the victim's testimony the date was 17 May 1999, however, the date of the commission of the alleged rape incident was not contested.

[20] TSN, 23 September 2003, pp. 6-8.

[21] Id. at 7.

[22] Records, p. 15.

[23] Testimony of Dr. Rio Blanca Dalid, TSN, 23 September 2003, pp. 2-3.

[24] Records, pp. 16-18.

[25] TSN, 11 February 2003, pp. 4-8.

[26] TSN, 21 January 2004, pp. 3-5.

[27] CA rollo, pp. 23-24.

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

[29] Id. at 37.

[30] Rollo, pp. 21-22.

[31] CA rollo, pp. 133-134.

[32] Rollo, p. 26.

[33] People v. Aagsaoay, Jr., G.R. Nos. 132125-26, 3 June 2004, 430 SCRA 450, 459.

[34] Id.

[35] People v. Magabo, 402 Phil. 977, 983-984 (2001).

[36] 442 Phil. 688 (2002).

[37] 401 Phil. 658 (2000).

[38] People v. Dalandas, *supra* note 36 at 697.

[39] People v. Tagana, 468 Phil. 784, 807 (2004).

[40] Id. at 807-808.

[41] Testimony of AAA, TSN, 23 September 2003, p. 6.

[42] TSN, 21 January 2004, p. 4.

[43] People v. Manambay, 466 Phil. 661, 680 (2004).

[44] People v. De Guzman, G.R. No. 117217, 2 December 1996, 265 SCRA 228, 245-246.

[45] People v. Dimacuha, 467 Phil. 342, 350 (2004).

[46] People v. Lerio, 381 Phil. 80, 87 (2000).

[47] People v. Pascua, G.R. No. 151858, 27 November 2003, 416 SCRA 548, 553-554.

[48] People v. Lerio, supra note 46 at 88.

[49] People v. Toralba, 414 Phil. 793, 800 (2001).

[50] People v. Agravante, 392 Phil. 543, 551 (2000).

[51] People v. Cabugatan, G.R. No. 172019, 12 February 2007, 515 SCRA 537, 547.

[52] People v. Ittang, 397 Phil. 692, 704 (2000).

[53] ART. 266-B. Penalties. x x x.

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

x x x x

10. When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

[54] People v. Magabo, supra note 35 at 988-989.

[55] Records, p. 5.

[56] People v. Dalandas, supra note 36 at 696.

[57] Art. 266-B (10) of the Revised Penal Code, as amended by Republic Act No. 8353.

[58] People v. Salome, G.R. No. 169077, 31 August 2006, 500 SCRA 659, 676; People v. Quiachon, G.R. No. 170236, 31 August 2006, 500 SCRA 704, 718-719; People v. Tubongbanua, G.R. No. 171271, 31 August 2006, 500 SCRA 727, 746.

[59] 446 Phil. 145, 161-162 (2003).

[60] People v. Salome, supra note 58 at 676; People v. Quiachon, supra note 58 at 719.

[61] Supra note 59 at 161-162.1234

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