

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PEDRO NOGPO, JR. A.K.A. "TANDODOY," ACCUSED-APPELLANT.

G.R. No. 184791. April 16, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For Review under Rule 45 of the Revised Rules of Court is the Decision[1] dated 28 February 2008 of the Court of Appeals in CA-G.R. CR-H.C. No. 00745, entitled, *People of the Philippines v. Pedro Nogpo, Jr. a.k.a. "Tandodoy,"* affirming the Decision[2] rendered by the Regional Trial Court (RTC) of Naga City, Branch 25, in Criminal Case No. 2001-0724, finding accused-appellant guilty beyond reasonable doubt of rape under paragraph (1)(a), Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353, sentencing him to reclusion perpetua and ordering him to pay Fifty Thousand Pesos (P50,000.00) as civil indemnity and Fifty Thousand Pesos (P50,000.00) as moral damages and costs de oficio.

The following are the factual antecedents:

On 20 August 2001, the Assistant Provincial Prosecutor of Camarines Sur filed rape charges against accused-appellant Pedro Nogpo, Jr. alias "Tandodoy," before the RTC of Naga City, Branch 25, in Criminal Case No. 2001-0724, under paragraph (1)(a), Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353.[3] The Information, charging accused-appellant with rape, reads:

That on or about 4:00 a.m. of March 9, 2001, in Barangay XXX, Municipality of XXX, Province of XXX, in Philippines and within the jurisdiction of this Honorable Court, the accused with lewd design, using force, threats and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one (AAA),[4] against her will, to her damage and prejudice.[5]

On his arraignment on 15 October 2001, the Information was read to accused-appellant in Bikol, a dialect known to him. Duly assisted by counsel, he pleaded not guilty to the offense charged.

Pre-trial was terminated on 23 October 2001, with the parties agreeing to the following stipulations:

- Identities of the accused and the [private complainant];
- Presence of the accused at (XXX) on [9 March 2001];
- The [private complainant] has six (6) minor children;
- Existence of the medical certificate of the [private complainant];
- The accused was arrested at Magallanes, Lopez, Quezon on 3 May 2001.[6]

The Prosecution presented six witnesses: private complainant's husband, BBB; Dr. Catherine Buban; Rolando Delloro; Cipriano Palominano, Jr.; private complainant, AAA; and Dr. Rico Nebres, for its evidence-in-chief. It also presented four witnesses on rebuttal: private complainant, AAA; private complainant's husband, BBB;

Jacobo Pasilaban and another witness CCC. On the other hand, the defense presented two witnesses, Ofelia Nogpo and accused-appellant Pedro Nogpo, Jr., for its evidence-in-chief; and two witnesses on sur-rebuttal: Renato Rubio and Domingo Palino.

The prosecution's version of the events is narrated as follows:

Spouses BBB and private complainant AAA, with their six children, ages 12, 10, 7, 5, 2, and 3 mos., resided at XXX, which was approximately 30 meters away from their nearest neighbor. In order to earn a living, BBB would leave his house early every morning to drive the passenger jeepney owned by his sister-in-law plying the Naga-Pasacao route. His wife, AAA, who finished Grade 1 and who was suffering from defective hearing, was a housewife.

On 9 March 2001 at around 3:00 o'clock in the early morning, BBB left their house in order to go to Iraya to haul and transport coconuts to the Naga City Supermarket. When he left, private complainant AAA closed the door of their house and returned to sleep on a wooden bed beside her 3-month-old baby. Private complainant was awakened upon smelling a strong odor of Ginebra San Miguel tonic that emanated from accused-appellant, who was then seated on the bed trying to embrace her. Shocked at the events that were transpiring, she shouted for help from her husband, BBB, but accused-appellant punched her on the abdomen. After she shouted for help a second time, accused-appellant punched her again, this time hitting her breast. Accused-appellant locked her neck, mashed her thigh, and warned her not to continue making noises; otherwise she would get killed. Although private complainant tried to put up resistance, she was nevertheless subdued by accused-appellant when her strength gave way, and so he had sexual intercourse with her. At the time accused-appellant was lying on top of her, he covered her mouth because she was shouting for help. Her baby, who was only three months old at that time, was also crying loudly. After accused-appellant was through having carnal knowledge of her, he warned private complainant not to report the incident to the police authorities; otherwise he would kill all of them. He then exited through their front door and left AAA's residence. At about that time, which was already 5:00 o'clock in the morning, Rolando Delloro (Delloro), who was then fetching water at the back portion of AAA's house, saw accused-appellant at the vicinity, walking away from the house going towards the road leading to the Barangay Hall. AAA saw Delloro and asked his help in apprehending accused-appellant for raping her. Delloro's wife, Merly, accompanied AAA to the latter's mother-in-law, CCC, whose house was 100 meters away. Upon learning of what had happened, CCC immediately reported the incident to the Bgy. Captain. When BBB returned home at around 6 a.m. of the same day, AAA informed him that she was raped by accused-appellant. They then reported the incident to the police station of Pasacao, Camarines Sur, where AAA gave her statement.

Thereafter, they proceeded to the Bicol Medical Center in Naga City, where private complainant was subjected to a physical examination by Dr. Catherine Buban and Dr. Rico Nebres, who examined her private parts and issued a Medical Certificate with the following diagnosis:

(+) Tenderness left breast in palpation

(+) Hematoma left mid clavicular line 2.0 cm widest laceration is in level of sub-coastal area diameter.

Clinical Microbiological Report: stained smear shows presence of spermatozoa.[7]

Accused-appellant vehemently denied the accusations against him, with the defense presenting a counter-statement of facts.

Accused-appellant admitted having sexual congress with private complainant on 9 March 2001. He testified, however, that he and private complainant had been maintaining illicit relations from 6 June 1998 until 9 March 2001. According to him, the alleged rape imputed to him was consensual sexual intercourse between them. He

alleged that on 8 March 2001 at 11:00 o'clock in the morning, he was told by private complainant to go to her house on the following day or on March 9, at around 4:00 o'clock in the early morning, because her husband BBB would be away driving a jeepney. Following private complainant's instructions, he went to her house. Upon knocking at the window of private complainant's house and after calling her name, he was allowed by her to enter. Once inside, private complainant led him to the bed and they had sex. After having sex for almost two hours, he decided to leave, fearing that private complainant's husband, BBB, might arrive. She told him to return at around lunchtime the following day. The next day, he returned to private complainant's house and they talked about their relationship. He wanted to put a stop to their relationship, because private complainant was a married woman, but she pleaded with him not to end the affair.

He further testified that he only had sex with private complainant on two occasions. The first was on 6 June 1998, when their relationship started, and the last was on 9 March 2001. Between said dates, they had no sexual intercourse but would meet twice a month.[8]

Ofelia Nogpo, a sister of accused-appellant, corroborated the latter's testimony. She testified that on 8 March 2001 at 10:00 o'clock in the morning, private complainant went to her store looking for accused-appellant. Since her brother was not around, private complainant instructed her to tell him to just go to her house. She later informed accused-appellant about private complainant's visit. Even prior to 9 March 2001, private complainant used to frequent her store looking for her brother.[9]

On sur-rebuttal, Renato Rubio, a driver, testified that accused-appellant worked as an "extra" conductor of BBB in 1996 or 1997. He had seen accused-appellant about three times riding BBB's jeepney and holding money. He likewise saw accused-appellant counting money at the terminal.

Domingo Palino, a baggage carrier, testified that accused-appellant worked as conductor for BBB in 1996 or 1997. He used to ride BBB's jeepney whenever his padyak developed trouble. He had seen accused-appellant at private complainant's house in 2001 when he went to Barangay Odicon to collect money from his brother.

After trial on the merits, the trial court rendered judgment on 12 June 2003, finding accused-appellant guilty of rape, adjudicating as follows:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered finding the accused, PEDRO NOGPO JR. alias "Tandodoy," GUILTY beyond reasonable doubt of the crime of rape and hereby sentences him to suffer the penalty of RECLUSION PERPETUA, and is ordered to pay the sum of Fifty Thousand (P50,000.00) Pesos as civil indemnity, and another Fifty Thousand (P50,000.00) Pesos as moral damages to the [private] complainant, (AAA). With costs de oficio.

Considering that the accused has been undergoing detention during the pendency of the trial of this case, the same is hereby credited in the service of his sentence.[10]

Accused-appellant filed a Notice of Appeal on 3 July 2003. Thereafter, on 28 February 2008, the Court of Appeals affirmed the RTC conviction of accused-appellant in this wise:

WHEREFORE, the appealed decision of the Regional Trial Court of Naga City, Branch 25, in Criminal Case No. 2001-0724 dated June 12, 2003 is AFFIRMED.[11]

Hence, this appeal.

Accused-appellant, in his brief, ascribes to the trial court the following errors:

I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF RAPE

DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II.

THE TRIAL COURT GRAVELY ERRED IN NOT CONSIDERING THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT.[12]

Accused-appellant claims that the trial court gravely erred in finding him guilty beyond reasonable doubt of the crime of rape.

The appeal is bereft of merit.

At the time of the rape, Republic Act No. 8353 or the Anti-Rape Law of 1997, which amended Article 335 of the Revised Penal Code and classified rape as a crime against persons, was already effective. The new provisions on rape, provided under Articles 266-A, state:

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; x x x.

In reviewing rape cases, this Court has been guided by the following well-established principles: (a) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (b) due to the nature of the crime of rape where only two persons are usually involved, the testimony of the private complainant must be scrutinized with extreme caution; and (c) 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.[13]

Private complainant narrated on the witness stand how accused-appellant sexually abused her in a manner reflective of honest and unrehearsed testimony, thus:

PROS. TADEO:

May I proceed. Mrs. AAA, this is a continuation of your direct examination. We are already in the stage where you were awakened. You stated during the previous hearing that when your husband left your house to drive a passenger jeepney, you followed him and after you locked the door, you went to your bed again, were you able to sleep that early morning?

A

Yes sir.

Q

What awaken[ed] you in that early morning?

A

I was awakened when I smelled gin.

Q

What else?

A

Upon smelling that gin I woke up and I saw him (witness pointing to the accused Pedro Nogpo, Jr.).

Q

What was your position when you first saw him, that person whom you pointed a while ago?

A

I was lying on my bed.

Q

What else did the person you pointed a while go did (sic) to you?

A

He was sitting besides (sic) me and tried to embrace me.

Q

What else?

COURT:

Q

What did Pedro Nogpo do to you in that early morning of March 9, 2001?

A

He seated besides (sic) me and tried to embrace me.

Q

Was he able to embrace you?

A

No sir.

PROS. TADEO:

Q

Why?

A

I rose up because I was shocked and I shouted thinking that my husband was there.

Q

Why did you shout for your husband when you know that at 3:00 in the morning he left your house?

A

I was shock[ed] and there was nobody whom I will call.

Q

Will you please illustrate to this court how you shouted?

A

I called the name of BBB.

Q

When you shouted what did Pedro Nogpo do?

A

He boxed me.

Q

Where, in what part of your body?

A

Abdomen.

COURT:

Q

How many times did he box you in your abdomen?

A

Only one.

PROS. TADEO:

Q

What else did Pedro Nogpo did (sic) to you?

A

I shouted again but he boxed me on my breast.

Q

Then what happened next?

A

He tried to twist my neck.

Q

Of your knowledge, what hand did the accused use in twisting your neck?

A

His right hand.

Q

While he was twisting your neck, what else was he doing to you?

A

His other hand was trying to mash my thigh.

Q

After that what happened?

A

He told me that if I continue to make noise he will kill me.

Q

Did you heed to these words of the accused not to make noise?

A

No sir.

COURT:

Q

Is the accused armed with any weapon at that time?

A

None Sir.

PROS. TADEO:

Q

All the time the accused was twisting your neck and mashing your thing, what did you do aside from shouting?

A

I bad mouthed him telling him to leave and I also tried to fight him back but he was too strong.

Q

After the resistance you made, what happened next?

A

He choked me.

Q

What hand was used by the accused in choking you?

A

His right hand.

Q

While the accused was choking your neck, what was your position?

A

I was standing.

Q

How about the accused?

A

He was also standing.

Q

Then what followed next?

A

(No answer)

COURT:

Q

Where you wearing panty at that time?

A

When I was about to sleep at 8:00 o'clock in the evening, I removed my panty because I was suffering from "bosiao."

Q

How about in the early morning, do I understand from you, you have not yet put on your panty?

A

None yet, sir.

Q

What about bra, were you wearing your bra?

A

None because I was breastfeeding my child.

Q

What did the accused do to your vagina and your breast?

A

He used me.

Q

What about your lips, did he kiss you?

A

(No answer. Witness is crying.)

PROS. TADEO:

May we move for a recess to give way to the crying of this witness.

At the resumption of hearing, the following transpired:

COURT:

There is a pending question from the court.

Q

He kept on kissing me on my lips.

PROS. TADEO:

Q

You said you were used or raped by the accused Tandodoy, how was he able to succeed in raping you when you said you were resisting him?

A

(No answer.)

Q

When you said you were used by Nogpo, what was your position then?

A

He told me to lie down on the bed.

Q

Did you automatically heed the accused?

A

No sir.

Q

Why?

A

He pushed me.

COURT:

Q

You said that Pedro Nogpo told you to lie down, however, you did not follow him, so he pushed you, after he pushed you what happened to you?

A

I was pushed to sit on the bed.

Q

Are you giving us the impression that it was due to the force used by Nogpo that you were made to sit on the bed?

A

Yes sir.

PROS. TADEO:

Q

While you were pushed to sit on the bed, what else did the accused do to you?

A

He came near and used me.

Q

When you said he used you, what did he do to you?

A

He was choking my neck while using me.

Q

When you said used what part of the body of the accused is being used when you said he used you?

COURT:

Q

What do you mean when you said he used you?

A

(No answer)

PROS. TADEO:

Q

What did the accused used (sic) or did the accused insert something in your body?

ATTY. CABRAL:

Leading.

COURT:

Reform.

PROS. TADEO:

Q

After you said you were choked, will you illustrate to this honorable court what do you mean by your words that accused used you?

A

He fucked me.

Q

What did he use in fucking you? You said you were fucked by the accused, what part of his body was used in fucking you?

A

His penis.

Q

You said you were used, will you please illustrate to this honorable court how did the accused fuck you?

A

(No answer)

Q

You said he used his penis, definitely it was inserted in your vagina, more or less, how many minutes or seconds was his penis inserted into your vagina?

A

Two (2) seconds.

Q

By the way, do you know a second?

A

No sir.

Q

Assuming this 2 seconds, within that period of 2 seconds, what was the motion of the accused while he was fucking you?

A

He was on top of me.

Q

How about the motion of his body?

A

(No answer)

Q

You are a married woman, do you know orgasm?

A

Yes sir.

Q

During the time Pedro Nogpo fucked you, did he reach orgasm?

A

Yes sir.

Q

How about you?

A

No sir.

Q

After he reached orgasm, what did he do next?

A

He left.

COURT:

Q

How about you, what did you do while Pedro Nogpo was on top of you?

A

I fought him by resisting but he was strong.

Q

What was Pedro Nogpo doing with his 2 hands while on top of you?

A

His one hand is covering my mouth.

Q

How about his other hand?

A

Pressed on the bed.

Q

Why was Pedro Nogpo covering your mouth?

A

To prevent me from shouting?

Q

Why, were you shouting while he was on top of you?

A

Yes sir.

Q

What did you shout?

A

I was asking help from my husband.

Q

What were the words you actually shouted calling for your husband?

A

Floro help me.

PROS. TADEO:

Q

After Pedro Nogpo reached orgasm, did he utter words to you?

A

He told me that he will kill all of us if I divulge the matter.[14]

Not denying having carnal knowledge of private complainant, accused-appellant seeks to establish that said act was free and voluntary on their part, as they were lovers. Interposing the "sweetheart theory," he claims that he and private complainant were lovers who engaged in consensual sex at dawn on 9 March 2001. From the foregoing arguments, the burden of evidence has shifted to accused-appellant. He should prove with clear and convincing evidence his affirmative defense that it was a consensual sexual intercourse.

Accused-appellant's defense, based on the much abused "sweetheart theory" in rape cases, so blandly invoked in the instant case, rashly derides the intelligence of the Court and sorely tests its patience.

In *People v. Casao*,^[15] the Supreme Court ruled that the "sweetheart theory" in rape is not credible on the bare testimony of the accused. First, accused-appellant's claim that he and the private complainant were lovers is self-serving. Next, the sweetheart theory proffered by accused-appellant deserves scant consideration, considering that such defense needs strong corroboration, which accused-appellant failed to produce in evidence. Accused-appellant's sweetheart theory, which was already weak, became even weaker when supported by a relative, in this case, her own sister. Where nothing supports his sweetheart theory except the testimony of a relative, it deserves but scant consideration. In fact, the alleged "illicit love affair" angle appears to be a mere fabrication of accused-appellant and his sister, to exculpate himself from the rape charges filed against him.

Testifying before the trial court, accused-appellant narrated that he and private complainant, a married woman, were in an illicit relationship and had been "sweethearts" since 6 June 1998 or for a period of more than three years already at the time the rape was allegedly committed in March 2001. Being "sweethearts," he and private complainant allegedly rendezvoused at least twice a month, and engaged in sexual intercourse twice. The first time was allegedly on 6 June 1998; the second was on 9 March 2001, the time he was accused of raping private complainant. The Court notes that while accused-appellant adamantly insists that he and private complainant were lovers and had been "sweethearts" since the year 1999, no love letter, memento, or pictures were presented by accused-appellant to prove that such a romantic relationship existed. A sweetheart defense, to be credible, should be substantiated by some documentary or other evidence of the relationship,^[16] which is patently absent here.

Third, further weakening accused-appellant's defense, even assuming *arguendo* that they were lovers, is that rape could still have been committed if he had carnal knowledge with private complainant against her will.[17] This Court has consistently ruled that a "love affair" does not justify rape, for the beloved cannot be sexually violated against her will.[18]

A sweetheart cannot be forced to have sex against her will - love is not a license for lust.[19]

The fact, however, is that during her testimony in the trial court, private complainant vehemently denied that she and accused-appellant had ever been lovers.

The gravamen of the offense of rape is sexual intercourse without consent. In the instant case, accused-appellant obtained carnal knowledge of private complainant by the use of force, threat, and intimidation. The testimony of private complainant that accused-appellant employed force by restraining her on the neck and punching her on the breast is substantially corroborated by the medical examination conducted on her, the same day of the assault, by Dr. Catherine Buban and Dr. Rico Nebres, who had no interest whatsoever in the outcome of the case. The Medical Certificate[20] indicates that private complainant sustained hematoma in her left mid clavicular line and showed tenderness on the breast.

The defense blames private complainant for not duly resisting accused-appellant, considering that she was an adult woman of 33 years while accused-appellant was only 22, drunk and unarmed. Suffice it to say that in rape cases, the law does not impose a burden on the private complainant to prove resistance. The degree of force and resistance is relative, depending on the circumstances of each case and on the physical capabilities of each party. It is well settled that the force or violence required in rape cases is relative; when applied, it need not be overpowering or irresistible.[21] When force is an element of the crime of rape, it need not be irresistible; it need but be present, and so long as it brings about the desired result, all consideration of whether it was more or less irresistible is beside the point.[22]

Accused-appellant likewise questions the credibility of the prosecution witnesses. The defense points out certain circumstances that would render the charges of private complainant unbelievable. The defense claims glaring lapses and material contradictions in the testimonies of private complainant and her husband.

According to accused-appellant, private complainant made conflicting statements as to whether she knew accused-appellant before the incident. Assuming that there were really inconsistencies, the same pertain only to minor and trivial details, not touching on the whys and wherefores of the crime, and strengthen rather than diminish private complainant's credibility, as they erase suspicion of a rehearsed testimony. In fact, such minor inconsistencies do not impair private complainant's credibility. In *People v. Toledo*,[23] correctly cited by the appellate court, this Court ruled that the credibility of a witness is not impaired where there is consistency in relating the principal occurrence and a positive identification of the accused. Inconsistencies on minor details are insignificant. Rather than eroding the credibility of the witness, such differences constitute signs of veracity.

Accused-appellant also faults private complainant, considering her failure to tell her husband BBB on 9 March 2001 that she was allegedly raped that morning. The records of the case elucidate on this matter. To recall, private complainant kept on crying the entire day of the incident. And while she was not able to tell her husband directly what had happened, probably due to the unbearable pain of personally telling her husband, she did not hesitate to tell his mother that she was raped. The testimony of private complainant was given in an honest and believable manner, devoid of any hint of falsity or attempt at fabrication. The trial court observed the demeanor and deportment of private complainant when she testified in court and narrated her ordeal, and it noted that she was candid, frank and straightforward in her answers to questions relating to her harrowing experience, but that she felt embarrassed, would often cry and hesitated, or sometimes would not answer some questions even if the case

was tried in a closed door hearing, where only the proper parties were allowed inside the court. In several instances, her testimony was interrupted by fits of crying and outbursts of emotion, leaving no room for doubt that she was truthful in her narration of events.

The incident occurred in a 1½-meter x 2-meter wooden bed with a 3-month-old baby inside a 3-meter x 3-meter room, while the rest of the children were sleeping in the dining room of a small house, which barely had a floor area of 40 square meters. While private complainant was struggling to repel the attack against her honor, her 3-month-old baby was crying loudly. However, this was not impossible, as lust respects no time and place. In *People v. Agbayani*,^[24] the Court stated that "(t)he evil in man has no conscience. The beast in him bears no respect for time and place; it drives him to commit rape anywhere -- even in places where people congregate such as in parks, along the roadside, within school premises, and inside a house where there are other occupants." The crime of rape may be committed even when the rapist and the private complainant are not alone. Rape may take only a short time to consummate, given the anxiety of its discovery, especially when committed near sleeping persons. Oblivious to the goings on, thus, the court has held that rape is not impossible even if committed in the same room while the rapist's spouse is sleeping^[25] or in a small room where other family members also sleep.^[26] It was not impossible or incredible for the members of the complainant's family to be in deep slumber and not to be awakened while the brutish sexual assault on her was being committed.^[27]

The conduct of the private complainant immediately following the alleged assault is of utmost importance so as to establish the truth or falsity of the charge of rape. The pattern of private complainant's behavior after the sexual assault was indicative of her resistance to accused-appellant's monstrous acts. After accused-appellant had sexual intercourse with private complainant, she lost no time in asking Rolando Delloro, the first person she saw, to seek help in apprehending him. She then sought help from Merly, her nearest neighbor, and from her mother-in-law. Her mother-in-law then informed her husband, BBB, when he came home at 6:00 o'clock in the morning of 9 March 2001. Immediately thereafter, they proceeded to report the incident to the local police, and she submitted herself for physical examination at the Bicol Medical Center in Naga City. Indeed, private complainant would not have sought police and medical assistance if her claim of rape were a mere fabrication.

The foregoing circumstances, coupled with the simple and direct manner in which private complainant described her ordeal, corroborated by the police records and testimonies of the attending obstetrician-gynecologist and surgeon, are indicia of truthfulness.

A litany of cases echoes the rule that great respect for the findings of the trial court on the credibility of witnesses and their testimonies is accorded. Assessing credibility of witnesses is the domain of the trial court, which has observed the deportment of the witnesses as they testified. The findings of fact of a trial court, arrived at only after a hearing and an evaluation of what can be usually expected to be conflicting testimonies of witnesses, certainly deserve respect from an appellate court.^[28] And as correctly found by the trial court, private complainant's version of sexual violence upon her by accused-appellant is more credible and sounds more real, because it is more in accord with human experience, unlike accused-appellant's sweetheart theory. The Court of Appeals further affirmed the findings of the RTC. In this regard, it is settled that when the trial court's findings have been affirmed by the appellate court, said findings are generally conclusive and binding upon this Court. We find no compelling reason to deviate from their findings.

Finally, a major indicium of accused-appellant's guilt is the fact that he took flight immediately after the incident. He was arrested on 3 May 2001 in the remote place of Lopez, Quezon. Accused-appellant initially testified that he had been helping harvest copra in Lopez, Quezon, for about two months already at the time of arrest. He later on recanted, stating that he went to Quezon only in April 2001. Flight signifies an awareness of guilt and a consciousness on the part of an accused that he has no tenable defense to the charge of rape against him.

We conclude, after a thorough and intensive review, that the prosecution was able to establish beyond reasonable doubt the rape committed by accused-appellant on private complainant, through her credible testimony corroborated by the medical conclusions of the expert witness for the prosecution, as well as by the testimonies of the other prosecution witnesses.

Rape, defined and penalized under paragraph 1(a) of Article 266-A, in relation to Article 266-B, both of the Revised Penal Code, as amended by Republic Act No. 8353, is punishable by reclusion perpetua, to wit:

ART. 266-B. Penalties. - Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

Consequently, the penalty of reclusion perpetua is proper.

The trial court also ordered accused-appellant to indemnify private complainant in the amount of P50,000.00 and to pay her moral damages in the amount of P50,000.00. This is in line with prevailing jurisprudence that civil indemnification is mandatory upon the finding of rape.[29] On the other hand, moral damages in rape cases are awarded without need of showing that the private complainant experienced trauma or mental, physical and psychological suffering.[30]

WHEREFORE, premises considered, the decision appealed from finding accused-appellant Pedro Nogpo, Jr. guilty beyond reasonable doubt of the crime of rape under paragraph (1)(a), Article 266-A of the Revised Penal Code, as amended by Republic Act No. 8353, and sentencing him to suffer the penalty of reclusion perpetua and ordering him to pay the offended party, private complainant AAA, the amounts of P50,000.000 as civil indemnity, and P50,000.00 as moral damages, as well as costs de oficio, is hereby AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Peralta, JJ., concur.

[1] Penned by Associate Justice Ricardo R. Rosario with Associate Justices Rebecca de Guia Salvador and Magdangal M. de Leon, concurring; CA rollo, pp. 134-145.

[2] Penned by Judge Jaime E. Contreras; id. at 27-34.

[3] The new provisions on rape, provided under Articles 266-A and 266-B of the Revised Penal Code, state:

Article 266-A. Rape; When And How Committed. - Rape is committed -

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

- a) Through force, threat, or intimidation;
- b) When the offended party is deprived of reason or otherwise unconscious;
- c) By means of fraudulent machinations 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;

Article 266-B. Penalties. - Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua.

[4] The address of the private victim is withheld to protect her privacy, pursuant to Republic Act No. 9262 (The Anti-Violence Against Women and Their Children Act of 2004) and its implementing rules; and Administrative Matter No. 04-10-11-SC (The Supreme Court Rule on Violence Against Women and their Children), effective 15

November 2004. See also *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006, 502 SCRA 419.

[5] Records, p. 1.

[6] *Id.* at 32-33.

[7] Exhibit A; *id.* at 6.

[8] TSN, 4 June 2002, pp. 3-11.

[9] TSN, 13 May 2002, pp. 4-5, 11, 17.

[10] CA rollo, p. 34.

[11] Rollo, p. 14.

[12] CA rollo, p. 65.

[13] *People v. Ruales*, 457 Phil. 160, 169 (2003); *People v. Rizaldo*, 439 Phil. 528, 533 (2002).

[14] TSN, 29 January 2002, pp. 2-11.

[15] G.R. No. 100913, 23 March 1993, 220 SCRA 362, 366.

[16] *People v. Garces, Jr.*, 379 Phil. 919, 937 (2000); *People v. Limos*, 465 Phil. 66, 94-95 (2004).

[17] *People v. Vallena*, 314 Phil. 679, 688 (1995).

[18] *People v. Garces, Jr.*, *supra* note 16 at 937.

[19] *People v. Manahan*, 374 Phil. 77, 84 (1999), citing *People v. Tismo*, G.R. No. 44773, 4 December 1991, 204 SCRA 535, 554; *People v. Espiritu*, 375 Phil. 1012, 1020 (1999), citing *People v. Tayaban*, 357 Phil. 494, 510 (1998), in turn citing *People v. Domingo*, G.R. No. 97921, 8 September 1993, 226 SCRA 156, 172.

[20] Exhibit A; records, p. 6.

[21] *People v. Arenas*, G.R. No. 92068, 5 June 1991, 198 SCRA 172, 183.

[22] *People v. Momo*, 59 Phil. 86, 87 (1931).

[23] *People v. Toledo*, 333 Phil. 261, 270-272 (1996).

[24] G.R. No. 122770, 16 January 1998, 284 SCRA 315, 340.

[25] *People v. Ignacio*, G.R. Nos. 106644-45, 7 June 1994, 233 SCRA 1, 7.

[26] *People v. Cervantes*, G.R. No. 90257, 21 May 1993, 222 SCRA 365, 368.

[27] *People v. Mangompit, Jr.*, 406 Phil. 411, 427-428 (2001).

[28] *People v. Fabian*, 453 Phil. 328, 338 (2003).

[29] *People v. Elpedes*, 403 Phil. 676, 692 (2001); *People v. Baway*, 402 Phil. 872, 897-898 (2001).

[30] *People v. Espinosa*, G.R. No. 138742, 15 June 2004, 432 SCRA 86, 103.

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