

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIPE MIRANDILLA, JR., DEFENDANT AND APPELLANT.

G.R. No. 186417. July 27, 2011

Ponente: PEREZ, J.

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PEREZ, J.:

For Review before this Court is the Decision of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00271, [1] dated 29 February 2008, finding accused Felipe Mirandilla, Jr., (Mirandilla) guilty beyond reasonable doubt of special complex crime of kidnapping with rape; four counts of rape; and, one count of rape through sexual assault.

Mirandilla is now asking this Court to acquit him. He contends that he could not have kidnapped and raped the victim, AAA, [2] whom he claims to be his live-in partner. The records, however, reveal with moral certainty his guilt. Accordingly, We modify the CA Decision and find him guilty of the special complex crime of kidnapping and illegal detention with rape.

THE FACTS

AAA narrated her 39-day ordeal in the hands of Mirandilla.

It was 2 December 2000, eve of the fiesta in Barangay San Francisco, Legazpi City. At the plaza, AAA was dancing with her elder sister, BBB. [3]

AAA went out of the dancing hall to buy candies in a nearby store. While making her way back through the crowd, a man grabbed her hand, his arm wrapped her shoulders, with a knife's point thrust at her right side. She will come to know the man's name at the police station, after her escape, to be Felipe Mirandilla, Jr. [4] He told her not to move or ask for help. Another man joined and went beside her, while two others stayed at her back, one of whom had a gun. They slipped through the unsuspecting crowd, walked farther as the deafening music faded into soft sounds. After a four-hour walk through the grassy fields, they reached the Mayon International Hotel, where they boarded a waiting tricycle. Upon passing the Albay Cathedral, the others alighted, leaving AAA alone with Mirandilla who after receiving a gun from a companion, drove the tricycle farther away and into the darkness. Minutes later, they reached the Gallera de Legazpi in Rawis. [5]

Mirandilla dragged AAA out of the tricycle and pushed her inside a concrete house. At gunpoint he ordered her to remove her pants. [6] When she defied him, he slapped her and hit her arms with a gun, forced his hands inside her pants, into her panty, and reaching her vagina, slipped his three fingers and rotated them inside. The pain weakened her. He forcibly pulled her pants down and lifting her legs, pushed and pulled his penis inside. [7] "Sayang ka," she heard him whisper at her, [8] as she succumbed to pain and exhaustion.

When AAA woke up the following morning, she found herself alone. She cried for help, shouting until her throat dried. But no one heard her. No rescue came.

At around midnight, Mirandilla arrived together with his gang. Pointing a gun at AAA, he ordered her to open her

mouth; she sheepishly obeyed. He forced his penis inside her mouth, pulling through her hair with his left hand and slapping her with his right. After satisfying his lust, he dragged her into the tricycle and drove to Bogtong, Legazpi. At the road's side, Mirandilla pushed her against a reclining tree, gagged her mouth with cloth, punched her arm, thigh, and lap, and pulled up her over-sized shirt. Her underwear was gone. Then she felt Mirandilla's penis inside her vagina. A little while, a companion warned Mirandilla to move out. And they drove away. [9]

They reached a nipa hut and AAA was thrown inside. Her mouth was again covered with cloth. Mirandilla, with a gun aimed at her point blank, grabbed her shirt, forced her legs open, and again inserted his penis into her vagina. [10]

The following evening, Mirandilla and his gang brought AAA to Guinobatan, where she suffered the same fate. They repeatedly detained her at daytime, moved her back and forth from one place to another on the following nights, first to Bonga, then back to Guinobatan, where she was locked up in a cell-type house and was raped repeatedly on the grassy field right outside her cell, then to Camalig, where they caged her in a small house in the middle of a rice field. She was allegedly raped 27 times.[11]

One afternoon, in Guinobatan, AAA succeeded in opening the door of her cell. Seeing that Mirandilla and his companions were busy playing cards, she rushed outside and ran, crossed a river, got drenched, and continued running. She rested for awhile, hiding behind a rock; she walked through the fields and stayed out of people's sight for two nights. Finally, she found a road and followed its path, leading her to the house of Evelyn Guevarra who brought her to the police station. It was 11 January 2001. AAA was in foul smell, starving and sleepless. Evelyn Guevarra gave her a bath and the police gave her food. When the police presented to her pictures of suspected criminals, she recognized the man's face - she was certain it was him. He was Felipe Mirandilla, Jr., the police told her. [12]

The following morning, accompanied by the police, AAA submitted herself to Dr. Sarah Vasquez, Legazpi City's Health Officer for medical examination. The doctor discovered hymenal lacerations in different positions of her hymen, indicative of sexual intercourse. [13] Foul smelling pus also oozed from her vagina - AAA had contracted gonorrhoea. [14]

Mirandilla denied the charges against him. This is his version.

Mirandilla first met AAA on 3 October 2000. By stroke of fate, they bumped into each other at the Albay Park where AAA, wearing a school uniform, approached him. They had a short chat. They were neighbors in Barangay San Francisco until Mirandilla left his wife and daughter there for good. [15]

Two days later, Mirandilla and AAA met again at the park. He started courting her, [16] and, after five days, as AAA celebrated her 18th birthday, they became lovers. Mirandilla was then 33 years old.

Immediately, Mirandilla and AAA had sex nightly in their friends' houses and in cheap motels. On 24 October 2000, after Mirandilla went to his mother's house in Kilikao, they met again at the park, at their usual meeting place, in front of the park's comfort room, near Arlene Moret, a cigarette vendor who also served as the CR's guard. [17] They decided to elope and live as a couple. They found an abandoned house in Rawis, at the back of Gallera de Legazpi. Emilio Mendoza who owned the house, rented it to them for P1,500.00. [18] They lived there from 28 October until 11 December 2000. [19] From 12 December 2000 until 11 January 2001, [20] Mirandilla and AAA stayed in Rogelio Marcellana's house, at the resettlement Site in Banquerohan, Legazpi City.

Mirandilla and AAA's nightly sexual intimacy continued, with abstentions only during AAA's menstrual periods, the last of which she had on 7 December 2000. [21] In late December, however, Mirandilla, who just arrived home after visiting his mother in Kilikao, saw AAA soaked in blood, moaning in excruciating stomach pain. [22]

AAA had abortion - an inference he drew upon seeing the cover of pills lying beside AAA. Mirandilla claimed that AAA bled for days until she left him in January 2001 after quarrelling for days. [23]

Mirandilla, however, had a second version of this crucial event. He claimed that AAA missed her menstruation in December 2000 [24] and that he would not have known she had an abortion had she not confessed it to him. [25]

THE RTC RULING

Mirandilla was charged before the Regional Trial Court (RTC) of Legazpi City, Branch 5, with kidnapping with rape (Crim. Case No. 9278), four counts of rape (Crim. Case Nos. 9274 to 9277), and rape through sexual assault (Crim. Case No. 9279).

The RTC, in its decision dated 1 July 2004, convicted Mirandilla of kidnapping, four counts of rape, and one count of rape through sexual assault with this finding:

This Court has arrived at the factual conclusion that Felipe Mirandilla, Jr., in the company of three others [conferrers], kidnapped AAA in Barangay xxx, City of xxx, on or on about midnight of December 2, 2000 or early morning of December 3, 2000, held her in detention for thirty-nine days in separate cells situated in the City of xxx; xxx; and xxx. Felipe Mirandilla, Jr., carnally abused her while holding a gun and/or a knife for twenty seven times, employing force and intimidation. The twenty seven sexual intercourses were eventually perpetrated between the City of xxx and the towns of xxx and xxx. At least once, Felipe Mirandilla, Jr., put his penis inside the mouth of AAA against her will while employing intimidation, threats, and force. [26]

THE COURT OF APPEALS RULING

On review, the CA affirmed with modification the RTC ruling, convicting Mirandilla. It found him guilty of the special complex crime of kidnapping with rape (instead of kidnapping as the RTC ruled), four counts of rape, and one count of rape by sexual assault. [27] It rejected Mirandilla's defense that he and AAA were live-in partners and that their sexual encounters were consensual. [28] It noted that Mirandilla failed to adduce any evidence or any credible witness to sustain his defense. [29]

Hence, this appeal.

Mirandilla repeats his allegations that the prosecution's lone witness, AAA, was not a credible witness and that he and AAA were live-in partners whose intimacy they expressed in consensual sex.

OUR RULING

We find Mirandilla guilty of the special complex crime of kidnapping and illegal detention with rape.

Mirandilla admitted in open court to have had sexual intercourse with AAA, which happened almost nightly during their cohabitation. He contended that they were live-in partners, entangled in a whirlwind romance, which intimacy they expressed in countless passionate sex, which headed ironically to separation mainly because of AAA's intentional abortion of their first child to be - a betrayal in its gravest form which he found hard to forgive.

In stark contrast to Mirandilla's tale of a love affair, is AAA's claim of her horrific ordeal and her flight to freedom after 39 days in captivity during which Mirandilla raped her 27 times.

First Issue:

Credibility of Prosecution Witness

Jurisprudence is consistent that for testimonial evidence to be believed, it must not only come from a credible

witness but must be credible in itself - tested by human experience, observation, common knowledge and accepted conduct that has evolved through the years. [30]

Daggers v. Van Dyck, [31] illuminates:

Evidence to be believed, must not only proceed from the mouth of a credible witness, but it must be credible in itself - such as the common experience and observation of mankind can approve as probable under the circumstances. We have no test of the truth of human testimony, except its conformity to our knowledge, observation, and experience. Whatever is repugnant to these belongs to the miraculous and is outside of judicial cognizance. [32]

First, the trial judge, who had the opportunity of observing AAA's manner and demeanour on the witness stand, was convinced of her credibility: "AAA appeared to be a simple and truthful woman, whose testimony was consistent, steady and firm, free from any material and serious contradictions." [33] The court continued:

The record nowhere yields any evidence of ill motive on the part of AAA to influence her in fabricating criminal charges against Felipe Mirandilla, Jr. The absence of ill motive enhances the standing of AAA as a witness. x x x.

When AAA testified in court, she was sobbing. While she was facing Felipe Mirandilla, Jr., to positively identify him in open court, she was crying. Felipe Mirandilla Jr.'s response was to smile. AAA was a picture of a woman who was gravely harmed, craving for justice. x x x. [34]

Second, the trial court found AAA's testimony to be credible in itself. AAA's ordeal was entered into the police blotter immediately after her escape, [35] negating opportunity for concoction. [36] While in Mirandilla's company, none of her parents, brothers, sisters, relatives, classmates, or anyone who knew her, visited, saw, or talked to her. None of them knew her whereabouts. [37] AAA's testimony was corroborated by Dr. Sarah Vasquez, Legazpi City's Health Officer, who discovered the presence not only of hymenal lacerations but also gonorrhoea, a sexually transmitted disease.

More importantly, AAA remained consistent in the midst of gruelling cross examination. The defense lawyer tried to impeach her testimony, but failed to do so.

The Court of Appeals confirmed AAA's credibility in affirming the RTC decision.

We emphasize that a trial court's assessment of a witness' credibility, when affirmed by the CA, is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight or influence. [38] This is so because of the judicial experience that trial courts are in a better position to decide the question of credibility, having heard the witnesses themselves and having observed firsthand their deportment and manner of testifying under gruelling examination. [39] Thus, in *Estioca v. People*, [40] we held:

In resolving issues pertaining to the credibility of the witnesses, this Court is guided by the following principles: (1) the reviewing court will not disturb the findings of the lower courts, unless there is a showing that it overlooked or misapplied some fact or circumstance of weight and substance that may affect the result of the case; (2) the findings of the trial court on the credibility of witnesses are entitled to great respect and even finality, as it had the opportunity to examine their demeanour when they testified on the witness stand; and (3) a witness who testifies in a clear, positive and convincing manner is a credible witness. [41]

Second Issue

"Sweetheart Theory" not Proven

Accused's bare invocation of sweetheart theory cannot alone, stand. To be credible, it must be corroborated by

documentary, testimonial, or other evidence. [42] Usually, these are letters, notes, photos, mementos, or credible testimonies of those who know the lovers. [43]

The sweetheart theory as a defense, however, necessarily admits carnal knowledge, the first element of rape. Effectively, it leaves the prosecution the burden to prove only force or intimidation, the coupling element of rape. Love, is not a license for lust. [44]

This admission makes the sweetheart theory more difficult to defend, for it is not only an affirmative defense that needs convincing proof; [45] after the prosecution has successfully established a prima facie case, [46] the burden of evidence is shifted to the accused, [47] who has to adduce evidence that the intercourse was consensual. [48]

A prima facie case arises when the party having the burden of proof has produced evidence sufficient to support a finding and adjudication for him of the issue in litigation. [49]

Burden of evidence is "that logical necessity which rests on a party at any particular time during the trial to create a prima facie case in his favour or to overthrow one when created against him." [50](Emphasis supplied)

Mirandilla with his version of facts as narrated above attempted to meet the prosecution's prima facie case. To corroborate it, he presented his mother, Alicia Mirandilla; his relatives, Rogelio Marcellana and Emilio Mendoza; and, his friend Arlene Moret.

Arlene Moret, the cigarette vendor who also served as the CR's guard, testified that on 30 October 2000, AAA and Mirandilla arrived together at the park. [51] They approached her and chatted with her. On cross examination, she claimed otherwise: Mirandilla arrived alone two hours earlier, chatting with her first, before AAA finally came. [52] She also claimed meeting the couple for the first time on 30 October 2000, only to contradict herself on cross examination with the version that she met them previously, three times at least, in the previous month. [53] On the other hand, Mirandilla claimed first meeting AAA on 3 October 2000 at the park. [54]

The accused's mother, Alicia Mirandilla, testified meeting her son only once, and living in Kilikao only after his imprisonment. [55] This contradicted Mirandilla's claim that he visited his mother several times in Kilikao, from October 2000 until January 2001. [56]

Even Mirandilla contradicted himself. His claim that he saw AAA soaked in blood, agonizing in pain, with the abortifacient pills' cover lying nearby, cannot be reconciled with his other claim that he came to know AAA's abortion only through the latter's admission. [57]

Taken individually and as a whole, the defense witnesses' testimonies contradicted each other and flip-flopped on materials facts, constraining this Court to infer that they concocted stories in a desperate attempt to exonerate the accused.

As a rule, self-contradictions and contradictory statement of witnesses should be reconciled, [58] it being true that such is possible since a witness is not expected to give error-free testimony considering the lapse of time and the treachery of human memory. [59] But, this principle, learned from lessons of human experience, applies only to minor or trivial matters - innocent lapses that do not affect witness' credibility. [60] They do not apply to self-contradictions on material facts. [61] Where these contradictions cannot be reconciled, the Court has to reject the testimonies, [62] and apply the maxim, falsus in uno, falsus in omnibus. Thus,

To completely disregard all the testimony of a witness based on the maxim falsus in uno, falsus in omnibus, testimony must have been false as to a material point, and the witness must have a conscious and deliberate intention to falsify a material point. In other words, its requirements, which must concur, are the following: (1) that the false testimony is as to one or more material points; and (2) that there should be a conscious and

deliberate intention to falsity. [63]

Crimes and Punishment

An appeal in criminal case opens the entire case for review on any question, including one not raised by the parties. [64] This was our pronouncement in the 1902 landmark case of *U.S. v. Abijan*, [65] which is now embodied in Section 11, Rule 124 of the Rules of Court:

SEC 11. Scope of Judgment. - The Court of Appeals may reverse, affirm, or modify the judgment and increase or reduce the penalty imposed by the trial court, remand the case to the Regional Trial Court for new trial or retrial, or dismiss the case. (Emphasis supplied)

The reason behind this rule is that when an accused appeals from the sentence of the trial court, he waives the constitutional safeguard against double jeopardy and throws the whole case open to the review of the appellate court, which is then called upon to render such judgment as law and justice dictate, whether favorable or unfavorable to the appellant. [66]

To reiterate, the six informations charged Mirandilla with kidnapping and serious illegal detention with rape (Crim. Case No. 9278), four counts of rape (Crim. Case Nos. 9274-75-76-77), and one count of rape through sexual assault (Crim. Case No. 9279).

The accusatory portion of the information in Criminal Case No. 9278 alleged that Mirandilla kidnapped AAA and seriously and illegally detained her for more than three days during which time he had carnal knowledge of her, against her will. [67]

The Court agrees with the CA in finding Mirandilla guilty of the special complex crime of kidnapping with rape, instead of simple kidnapping as the RTC ruled. It was the RTC, no less, which found that Mirandilla kidnapped AAA, held her in detention for 39 days and carnally abused her while holding a gun and/or a knife. [68]

Rape under Article 266-A of the Revised Penal Code states that:

Art. 266-A. Rape, When and How Committed. - Rape is committed -

- By a man who shall have carnal knowledge of a woman under any of the following circumstances:

- Through force, threat or intimidation; xxx.

- By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

AAA was able to prove each element of rape committed under Article 266-A, par. 1(a) of the Revised Penal Code, that (1) Mirandilla had carnal knowledge of her; (2) through force, threat, or intimidation. She was also able to prove each element of rape by sexual assault under Article 266-A, par. 2 of the Revised Penal Code: (1) Mirandilla inserted his penis into her mouth; (2) through force, threat, or intimidation.

Likewise, kidnapping and serious illegal detention is provided for under Article 267 of the Revised Penal Code:

Article 267. Kidnapping and serious illegal detention. - Any private individual who shall kidnap or detain another, or in any manner deprive him of his liberty, shall suffer the penalty of reclusion perpetua to death;

1. If the kidnapping or detention shall have lasted more than three days. xxx

An imminent Spanish commentator explained:

la detención, la prición, la privación de la libertad de una persona, en cualquier forma y por cualquier medio ó por cualquier tiempo en virtud de la cual resulte interrumpido el libre ejercicio de su actividad." [69]

Emphatically, the last paragraph of Article 267 of the Revised Penal Code, as amended by R.A. No. 7659, [70] states that when the victim is killed or dies as a consequence of the detention or is raped, or is subjected to torture or dehumanizing acts, the maximum penalty shall be imposed. This provision gives rise to a special complex crime. As the Court explained in *People v. Larrañaga*, [71] this arises where the law provides a single penalty for two or more component offenses. [72]

Notably, however, no matter how many rapes had been committed in the special complex crime of kidnapping with rape, the resultant crime is only one kidnapping with rape. [73] This is because these composite acts are regarded as a single indivisible offense as in fact R.A. No. 7659 punishes these acts with only one single penalty. In a way, R.A. 7659 depreciated the seriousness of rape because no matter how many times the victim was raped, like in the present case, there is only one crime committed - the special complex crime of kidnapping with rape.

However, for the crime of kidnapping with rape, as in this case, the offender should not have taken the victim with lewd designs, otherwise, it would be complex crime of forcible abduction with rape. In *People v. Garcia*, [74] we explained that if the taking was by forcible abduction and the woman was raped several times, the crimes committed is one complex crime of forcible abduction with rape, in as much as the forcible abduction was only necessary for the first rape; and each of the other counts of rape constitutes distinct and separate count of rape. [75]

It having been established that Mirandilla's act was kidnapping and serious illegal detention (not forcible abduction) and on the occasion thereof, he raped AAA several times, We hold that Mirandilla is guilty beyond reasonable doubt of the special complex crime of kidnapping and serious illegal detention with rape, warranting the penalty of death. However, in view of R.A. No. 9346 entitled, *An Act Prohibiting the Imposition of Death Penalty in the Philippines*, [76] the penalty of death is hereby reduced to reclusion perpetua, [77] without eligibility for parole. [78]

We, therefore, modify the CA Decision. We hold that the separate informations of rape cannot be considered as separate and distinct crimes in view of the above discussion.

As to the award of damages, we have the following rulings.

This Court has consistently held that upon the finding of the fact of rape, the award of civil damages ex delicto is mandatory. [79] As we elucidated in *People v. Prades*, [80] the award authorized by the criminal law as civil indemnity ex delicto for the offended party, aside from other proven actual damages, is itself equivalent to actual or compensatory damages in civil law. [81] Thus, we held that the civil liability ex delicto provided by the Revised Penal Code, that is, restitution, reparation, and indemnification, [82] all correspond to actual or compensatory damages in the Civil Code. [83]

In the 1998 landmark case of *People v. Victor*, [84] the Court enunciated that if, in the crime of rape, the death penalty is imposed, the indemnity ex delicto for the victim shall be in the increased amount of NOT [85] less than P75,000.00. To reiterate the words of the Court: "this is not only a reaction to the apathetic societal perception of the penal law and the financial fluctuation over time, but also an expression of the displeasure of the Court over the incidence of heinous crimes..." [86] xxx (Emphasis supplied)

After the enactment R.A. 9346, [87] prohibiting the imposition of death penalty, questions arose as to the continued applicability of the *Victor* [88] ruling. Thus, in *People v. Quiachon*, [89] the Court pronounced that even if the penalty of death is not to be imposed because of R.A. No. 9346, the civil indemnity ex delicto of

P75,000.00 still applies because this indemnity is not dependent on the actual imposition of death, but on the fact that qualifying circumstances warranting the penalty of death attended the commission of the offense. [90] As explained in *People v. Salome*, [91] while R.A. No. 9346 prohibits the imposition of the death penalty, the fact remains that the penalty provided for by the law for a heinous offense is still death, and the offense is still heinous. [92] (Emphasis supplied)

In addition, AAA is entitled to moral damages pursuant to Art. 2219 of the Civil Code, [93] without the necessity of additional pleadings or proof other than the fact of rape. This move of dispensing evidence to prove moral damage in rape cases, traces its origin in *People v. Prades*, [94] where we held that:

The Court has also resolved that in crimes of rape, such as that under consideration, moral damages may additionally be awarded to the victim in the criminal proceeding, in such amount as the Court deems just, without the need for pleading or proof of the basis thereof as has heretofore been the practice. Indeed, the conventional requirement of *allegata et probata* in civil procedure and for essentially civil cases should be dispensed with in criminal prosecutions for rape with the civil aspect included therein, since no appropriate pleadings are filed wherein such allegations can be made. (Emphasis supplied)

Corollarily, the fact that complainant has suffered the trauma of mental, physical and psychological sufferings which constitute the bases for moral damages are too obvious to still require the recital thereof at the trial by the victim, since the Court itself even assumes and acknowledges such agony on her part as a gauge of her credibility. What exists by necessary implication as being ineludibly present in the case need not go through superfluity of still being proven through a testimonial charade. (Emphasis supplied) [95]

AAA is also entitled to exemplary damages of P30,000.00, pursuant to the present jurisprudence.

WHEREFORE, the appeal is DENIED. The Decision of the Court of Appeals in CA-G.R. CR-HC No. 00271 is hereby AFFIRMED with MODIFICATION. Accused Felipe Mirandilla, Jr., is found guilty beyond reasonable doubt of the special complex crime of kidnapping and serious illegal detention with rape under the last paragraph of Article 267 of the Revised Penal Code, as amended, by R.A. No. 7659, and is sentenced to suffer the penalty of reclusion perpetua, without eligibility for parole, and to pay the offended party AAA, the amounts of P75,000.00 as civil indemnity *ex delicto*, P75,000.00 as moral damages, and P30,000.00 as exemplary damages.

SO ORDERED.

Carpio, (Chairperson), Leonardo-De Castro,[*] Brion, and Peralta,**] JJ., concur.

[*] Per Special Order No. 1006 dated 10 June 2011.

[**] Per Special Order No. 1040 dated 6 July 2011.

[1] Penned by Associate Justice Agustin S. Dizon, and Justices Amelita G. Tolentino and Lucenito N. Tagle, concurring. CA rollo, pp. 169-201

[2] Consistent with *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006, 502 SCRA 419, the real name of the rape victim is withheld and, instead, fictitious initials are used. Also, the victim's personal circumstances and any other information tending to establish or compromise the identity, as well as those of the victim's immediate family or household members, are not disclosed.

[3] TSN, 16 November 2001, pp. 5-6.

[4] TSN, 23 July 2001, p. 9 and TSN, 19 July 2002, p. 25.

- [5] TSN, 16 November 2001, pp. 12-13.
- [6] Id. at 20.
- [7] Id. at 24.
- [8] Id. at 25.
- [9] TSN, 19 April 2002, p. 8.
- [10] Id. at 15-17.
- [11] TSN, 19 July 2002, p. 22; CA Decision, CA rollo, p. 7.
- [12] Id. at 25-26.
- [13] TSN, 28 August 2003, p. 11.
- [14] Id. at 12.
- [15] TSN, 21 January 2004, p. 6.
- [16] Id.
- [17] Id. at 13.
- [18] Id. at 15 and TSN, 26 January 2004, p. 7.
- [19] Id.
- [20] TSN, 17 March 2004, pp. 4 and 6.
- [21] TSN, 26 January 2004, p. 35.
- [22] Id. at 31-32.
- [23] Id. at 33.
- [24] Id. at 29.
- [25] Id. at 32.
- [26] RTC Decision, penned by Judge Pedro Soriao, CA rollo, p. 56.
- [27] CA Decision, CA rollo, p. 30.
- [28] Id.
- [29] Id.
- [30] *People v. Hernani*, G.R. No. 122113, 27 November 2000, 346 SCRA 73, 84.
- [31] See concurring opinion of Associate Justice Conchita Carpio Morales in *Lejano v. People*, G.R. No. 176389, 14 December 2010 citing 37 N.J. Eq. 130, 132.
- [32] Id.
- [33] RTC Decision, CA rollo, p. 55.
- [34] Id.

[35] Id.

[36] Id.

[37] Id.

[38] Soriano v. People, G.R. No. 148123, 30 June 2008, 556 SCRA 595, 611.

[39] People v. Vallador, 327 Phil. 303, 311 (1996).

[40] G.R. No. 173876, 27 June 2008, 556 SCRA 300.

[41] Id. at 312.

[42] People v. Nogpo, G.R. No. 184791, 16 April 2009, 585 SCRA 725, 743.

[43] People v. Jimenez, G.R. No. 128364, 4 February 1999, 302 SCRA 607, 617.

[44] People v. Novio, G.R. No. 139332, 20 June 2003, 404 SCRA 462, 474.

[45] People v. Ayuda, G.R. No. 128882, 2 October 2003, 412 SCRA 538.

[46] C.J.S. 32-A, § 1016, p. 626.

[47] People v. Nogpo, supra note 42 at 742.

[48] Id.

[49] C.J.S. 32-A, § 1016, p. 626.

[50] FRANCISCO, Basic Evidence, 1999 (2[nd] ed.), p. 354.

[51] TSN, 24 November 2003, p. 7.

[52] Id. at 17.

[53] Id. at 18.

[54] TSN, 21 January 2004, p. 5.

[55] TSN, 25 March 2004, pp. 9-11.

[56] TSN, 21 January 2004, p. 13; 26 January 2004, pp. 16 and 31.

[57] TSN, 26 January 2004, pp. 28-32.

[58] AGPALO, Hand Book on Evidence, p. 454-455 (2003).

[59] Id.

[60] Id.

[61] Id.

[62] Id.

[63] Id. at 461, citing People v. Pacpac, 248 SCRA 77 (1995), People v. Dasig, 93 Phil. 618 (1953).

[64] People v. Madsali, G.R. No. 179570, 4 February 2010, 611 SCRA 596, 613-614 citing Edgar Esqueda v. People, G.R. No. 170222, 18 June 2009, 589 SCRA 489.

[65] 1 Phil. 83 (1902).

[66] *Lontoc v. People*, 74 Phil 513, 519 (1943).

[67] RTC Decision, CA rollo, p. 94.

[68] *Id.* at 99.

[69] *People v. Baldogo*, G.R. No. 128106-07, 24 January 2004, 396 SCRA 31, 57, citing, *Groizard*, *ElCodigo Penal de 1870*, Tomo V. pp. 639-640, cited in *People v. Marasigan, et al.*, 55 O.G. 8297 (1959).

[70] AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL CODE, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES

[71] 466 Phil. 324 (2004).

[72] *Id.*

[73] BOADO, NOTES AND CASES ON THE REVISED PENAL CODE, pp. 529-530 (2001).

[74] G.R. No. 141125, 28 February 2002, 378 SCRA 266.

[75] *Id.* at 278.

[76] Approved on 24 June 2006.

[77] Sec 2, R.A. No. 9346.

[78] Sec 3, R.A. No. 9346.

[79] *People v. Tagud, Sr.*, G.R. No. 140733, 30 January 2002. 375 SCRA 291, 309-310; *People v. Nogpo*, *supra* note 42 at 749.

[80] G.R. No. 127569, 30 July 1998, 293 SCRA 411.

[81] *Id.* at 429 citing *People v. Victor*, G.R. No. 127903, July 8, 1998.

[82] REVISED PENAL CODE, Articles 104-107.

[83] CIVIL CODE, Articles 2194-2215.

[84] G.R. No. 127903, 9 July 1998, 292 SCRA 186.

[85] *Id.* at 200-201.

[86] *Id.* at 201.

[87] An Act Prohibiting the Imposition of Death Penalty, approved on June 24, 2006.

[88] *Supra* note 84.

[89] G.R. No. 170236, 31 August 2006, 500 SCRA 704.

[90] *Id.* at 719.

[91] G.R. No. 169077, 31 August 2006, 500 SCRA 659.

[92] *Id.* at 676.

[93] Civil Code, Art. 2219. Moral damages may be recovered in the following and analogous cases: xxx

(3) Seduction, abduction, rape, or other lascivious acts; x x x.

[94] Supra note 79.

[95] Id. at 430-431.

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