

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SEVERIANO OGAN, ACCUSED-APPELLANT.

G.R. No. 186461. July 05, 2010

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

This is an appeal from the January 30, 2008 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 02199 entitled *People of the Philippines v. Severiano T. Ogan*, which affirmed with modification the Decision of the Regional Trial Court (RTC), Branch 35 in Bontoc, Mountain Province in Criminal Case Nos. 1256 and 1257, both for rape. Accused-appellant Severiano T. Ogan (Ogan) was sentenced to reclusion perpetua for each rape.

Following *People v. Cabalquinto*,^[1] the Court withholds the real names of the offended parties and their immediate family members as well as such other personal circumstances or information tending to establish their identities.

The Facts

Two Informations charged Ogan with rape as follows:

Criminal Case No. 1256

That on or about November 22, 1998, in the afternoon thereof, at Kayan East, Tadian, Mountain Province, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design tell and direct one [AAA] who is seven (7) years of age to enter his house and once inside the kitchen the above-named accused by means of force and intimidation did then and there willfully, unlawfully and feloniously have carnal knowledge of one [AAA] without the consent of [AAA] and against her will, to the damage and prejudice of the victim.

That the accused is a member of the Philippine National Police.

CONTRARY TO LAW.^[2]

Criminal Case No. 1257

That on or about November 21, 1998, in the afternoon thereof, at Kayan East, Tadian, Mountain Province, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd design tell and with force and intimidation, pull and drag into his house his niece [BBB] and once inside the kitchen did then and there willfully, unlawfully and feloniously have carnal knowledge of [BBB], a minor who is nine (9) years of age, without the consent of and against her will, to the damage and prejudice of the victim.

That the accused is a member of the Philippine National Police.

CONTRARY TO LAW.^[3]

Both cases were jointly heard and during his arraignment, Ogan pleaded not guilty to both charges.

Version of the Prosecution

At the trial, the prosecution presented the following witnesses: AAA, a playmate of BBB; AAA's mother, CCC; BBB, the niece of Ogan; her mother DDD; Dr. Rhodora Ambas; and SPO1 Rosita Calisog.

The prosecution showed that around noon on November 21, 1998, BBB, then nine years old, went looking for her brother Lyndon at the house of her uncle, Ogan, located in Barangay Kayan East, Tadian, Mountain Province. She was invited inside by Ogan and taken to the kitchen. There, Ogan took off his pants and removed that of BBB. He brought out his penis, masturbated it, then inserted it into BBB's vagina, causing her pain. BBB then felt in her vagina a sticky mucus-like substance which came out of the accused's sex organ. Afterward, Ogan gave BBB PhP 10 and threatened her not to tell anyone of the incident. BBB then went home.[4]

The next day, BBB and AAA, then 7 years old, went to Ogan's house to play with his daughter Agnes. Agnes was not around. However, Ogan, who was alone in the house at the time, ordered the girls to take a bath and wash their vaginas. The two complied, after which Ogan ordered them to go to the kitchen. Ogan followed them, brought out his penis and rubbed it with oil, then knelt in front of AAA and BBB and viewed their sexual organs purportedly to determine which was bigger. As BBB went into the living room to watch television, Ogan laid AAA on a bench, spread her legs apart, then licked and fingered her genitals. He thereafter succeeded in inserting his penis in her vagina. After the sexual act, Ogan washed his penis, hands and mouth, then gave the girls PhP 10, and they left.[5]

Sometime in the late November 1998, CCC, the mother of AAA, overheard her daughters AAA and EEE talking about something Ogan did to AAA. When asked by CCC about the incident, AAA revealed details of the rape incident. Alarmed, CCC conferred with DDD, BBB's mother. Together, the two mothers then brought their daughters to the police station on December 6, 1998, where SPO1 Rosita Calisog made a report and took their sworn statements.[6]

Following their complaint against Ogan, the parties went to Dr. Rhodora Ambas to have a physical examination conducted.[7] Her examination of BBB showed positive hymenal lacerations at 7 o'clock and 11 o'clock positions. AAA, on the other hand, showed positive hymenal lacerations at 3 o'clock position.[8]

Before his arrest, Ogan and his wife Catalina approached the mothers of AAA and BBB on several occasions. The couple sought for an amicable settlement of the cases.[9]

Also presented during trial was testimony as to the age of AAA. Her mother, CCC, testified that she was born on January 29, 1991 and was seven (7) years old at the time of the rape on November 22, 1998. The prosecution also presented AAA's certificate of live birth during CCC's direct examination.[10] As to the age of BBB, her mother, DDD, testified that BBB was born on November 1, 1989 and was nine (9) years old at the time of the rape on November 21, 1998. Her certificate of live birth confirming her birth date was likewise presented.[11]

Version of the Defense

The evidence for the defense consisted merely of the testimonies of Ogan, his wife Catalina and their daughter Agnes.

Ogan is a police officer assigned with the PNP in Tadian, Mountain Province. He is married to Catalina, a public school teacher stationed in Barangay Pandayan, Tadian, and Agnes is their daughter. The family owns a house in Kayan East, Tadian, where the couple and their children go home to on weekends. On weekdays, Ogan stays in Tadian Poblacion, while his wife and children stay in Pandayan, Tadian.

The defense stated that on November 20, 1998, a Friday, Ogan and his family attended the funeral of one

Supervisor Astudillo in Kayan East, Tadian. The next day, November 21, 1998, Ogan reported for duty at 8 in the morning at the PNP station in Tadian, Mountain Province but returned to Kayan East two hours later. He and his wife and all their children stayed at home the rest of the day. In the afternoon, AAA and BBB arrived at their house and played with Agnes. At 12:30 p.m. on November 22, 1998, Ogan accompanied his family to Tadian Poblacion. There, his wife and children proceeded to Pandayan while Ogan remained behind and went to his quarters.[12] In gist, Ogan presented the defense of alibi.

On cross-examination, Ogan admitted that he signed a "promissory note" before the barangay lupon of Kayan, upon the insistence of his wife. The note contained a promise for him to "change his [character] and not to repeat the same offense." [13]

The Ruling of the Trial Court

On December 2, 2003, in a joint judgment, the RTC pronounced Ogan guilty of the crimes of rape in Criminal Case No. 1256 and acts of lasciviousness in Criminal Case No. 1257. The dispositive portion of the RTC Decision[14] reads:

WHEREFORE, Judgment is hereby rendered sentencing Severiano Ogan, thus:

- To suffer imprisonment ranging from six (6) months of *arresto mayor* as minimum, to four (4) years and two (2) months of *prision correccional* as maximum in Crim. Case 1257;
- To suffer the penalty of *reclusion perpetua* in Crim. Case 1256;
- To pay the offended party [AAA] in Crim. Case 1257 P25,000.00 as indemnity and P20,000.00 as damages; and
- To pay the victim [BBB] in Crim. Case 1256 P75,000.00 as indemnity and P25,000.00 as damages.

With the accessory penalties appurtenant thereto.

SO ORDERED.

The trial court found the testimonies of AAA and BBB credible. However, it did not appreciate the circumstance of relation as to BBB as it was not proved that BBB is a niece of accused-appellant. As to the defense of alibi, it ruled that the testimonies of Ogan and his wife and daughter were self-serving. The fact that Ogan tried to settle the cases against him were also considered by the court in convicting him.

On October 17, 2005, this Court ordered the transfer of Ogan's appeal to the Court of Appeals in conformity with *People v. Mateo*. [15]

The Ruling of the Court of Appeals

On appeal, accused-appellant pointed out that based on the testimonies of the victims, he merely rubbed his penis on the sexual organs of the young girls. No act of penetration or any acts that would fall under the definition of rape occurred. Thus, the defense maintained that only acts of lasciviousness were committed against AAA in Criminal Case No. 1256 when he rubbed his penis until he ejaculated. AAA also allegedly made a lot of inconsistencies that should have been considered by the lower court.

The People, represented by the Office of the Solicitor General (OSG), argued in its Brief that with respect to Criminal Case No. 1257 where Ogan was convicted only of acts of lasciviousness, the mere touching by the male's organ on the labia or pudendum of a woman's private part is sufficient to consummate rape. A modification of the trial court's judgment was thus recommended. The OSG was of the view that accused-appellant should be

convicted of rape on two counts; hence, he should suffer the penalty of reclusion perpetua for both counts. It was also recommended that the accused-appellant pay civil indemnity of PhP 75,000 and moral damages of PhP 50,000.

On the basis of the clear and categorical testimonies of AAA and BBB, the CA appreciated two counts of rape. It found that the prosecution successfully established all the elements in the crime of rape. The defense of alibi was not given credence by the appellate court as it was self-serving and unsubstantiated by clear and convincing proof. Thus, the CA affirmed in toto the Decision in Criminal Case No. 1256 but modified the Decision in Criminal Case No. 1257, as it found accused-appellant likewise guilty of raping BBB.

The fallo of the CA Decision[16] reads:

WHEREFORE, the Judgment of the trial court in Criminal Case No. 1256 is affirmed without modification. Insofar as Criminal Case No. 1257 is concerned, appellant is found guilty of rape instead of acts of lasciviousness. He is sentenced to suffer the penalty of reclusion perpetua. The civil indemnity for [BBB] to be paid by the appellant is increased to P75,000.00 and the damages awarded by the trial court is increased to P25,000.00.

SO ORDERED.

On February 8, 2008, Ogan filed his Notice of Appeal of the appellate court's decision.

On April 15, 2009, the Court required the parties to submit supplemental briefs if they so desired. The parties similarly manifested to adopt the arguments contained in their respective briefs earlier filed with the Court.

The Issues

I

Whether the Court of Appeals gravely erred in finding accused-appellant guilty beyond reasonable doubt of the crime charged

II

Whether accused-appellant should be convicted only for acts of lasciviousness

Our Ruling

We deny this appeal.

According to the defense, BBB categorically stated that Ogan only rubbed his penis on AAA's vagina. He likewise did the same with BBB. There is, therefore, no act committed that could be defined as rape. What were committed against AAA and BBB, the defense claims, were only acts of lasciviousness.

To further his cause, Ogan points to the inconsistencies in the testimony of AAA, arguing that it is unbelievable that AAA would feel pain from Ogan's insertion of his finger but not from his penis. Moreover, the testimony of the examining doctor shows that the hymenal lacerations found in both AAA and BBB were more than a month old but the rapes were allegedly committed only two weeks before the medical examination.

The OSG, on the other hand, argues that the testimony of a rape victim, especially one who accuses a close relative, should be given greater weight. It opined that the inconsistencies raised by the defense are immaterial, because they do not relate to the principal event.

The OSG also dubs as weak the defense of alibi presented by Ogan, especially since his identity was sufficiently and positively established by eyewitnesses.

Criminal Case No. 1256

Rape Established

Republic Act No. 8353 (RA 8353) or The Anti-Rape Law of 1997 expanded the definition of rape to include other forms of sexual assault on a person.[17] Article 266-A of the Revised Penal Code (RPC) was amended to include the second paragraph defining how rape is committed:

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

a) Through force, threat, or intimidation;

The records show that the prosecution has established the elements of rape in AAA's testimony. The relevant portion of AAA's testimony is reproduced below:

Q

Madam witness do you know Severiano Ogan?

A

Yes, Ma'am.

Q

How do you know him?

A

He is my uncle.[18]

x x x x

Q

While he was kneeling down what did he do with your vagina?

A

He spread apart the labia of our vagina [to] see who has a bigger vagina.

Q

Did he put his finger in your vagina?

A

Yes, Ma'am.

Q

And what did he do, if that is your finger did he insert his finger in your vagina?

A

(Witness showing her forefinger)

Q

What was the feeling madam witness?

A

I felt pain.[19]

x x x x

Q

[When] you were lying on the floor what did he do with your legs?

A

He spread apart my legs, and inserted his penis into my vagina.

Q

What was your feeling at that time when he was inserting his penis into your vagina?

A

[It] felt somewhat painful.[20]

Based on AAA's testimony, accused-appellant clearly raped her. AAA convincingly described how she was raped, first, by sexual assault, and then, by penile penetration. It is thus erroneous for the defense to insist that only acts of lasciviousness were committed against AAA. As the appellate court observed, AAA gave explicit testimony of how accused-appellant used his penis to penetrate her sexual organ.

Statutory Rape Committed

Paragraph (d) of Art. 266-A states that statutory rape is committed:

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. (emphasis supplied)

As provided for in the Revised Penal Code, sexual intercourse with a girl below 12 years old is statutory rape. The two elements of statutory rape are: (1) that the accused had carnal knowledge of a woman; and (2) that the woman was below 12 years of age. Sexual congress with a girl under 12 years old is always rape.[21] The crime of statutory rape carries the penalty of reclusion perpetua unless attended by the qualifying circumstances defined under Article 266-B.[22]

Since the age of AAA (seven years old) was alleged and duly proved, Ogan must be convicted of statutory rape.

We likewise affirm the ruling of the trial court that the prosecution failed to prove that accused-appellant took advantage of his position as a police officer for purposes of convicting him of qualified rape, since his victims were not under police custody.[23] Both AAA and BBB were categorical in saying that they were at Ogan's house as visitors of his daughter.

Medical Findings Consistent with Testimony

The Court finds, contrary to Ogan's assertion, that the medical findings do not discredit the prosecution's main evidence. We must take exception to the misleading claim of Ogan that the lacerations of the complainants were more than a month old though the rapes were allegedly committed only two weeks before the medical examination. BBB was raped on November 21, 1998, while AAA was raped the next day. After the medical examination on December 7, 1998, Dr. Ambas, who examined the victims, said that the lacerations were approximately more than a month old. Her findings on how old the lacerations were are only estimates and should

not serve to acquit Ogan. More so, the records reveal the following:

Cross-examination of Dr. Rhodora Ambas:

Q

These lacerations that you saw that time were fresh or [healed]?

A

Healed lacerations.

Q

These kinds of lacerations on the two minors that you examined, how long will it take these lacerations to heal?

A

About 3 weeks sir.[24]

The examining physician's findings on record clearly do not imply that the rapes were committed before the dates Ogan was accused of raping AAA and BBB. Besides, there is no gainsaying that medical evidence is merely corroborative, and is even dispensable, in proving the crime of rape.[25] A freshly broken hymen is not required for a rape conviction.[26]

Alibi Weak

Denial is inherently a weak defense as it is negative and self-serving. Corollarily, alibi is the weakest of all defenses, for it is easy to contrive and difficult to prove.[27] The trial court noted that Ogan's alibi was self-serving and corroborated only by his wife and child, who understandably cannot be expected to be disinterested witnesses. They appeared to be closing ranks to hide a serious offense committed by a family member.[28] For the defense of alibi to prosper, it must be sufficiently convincing as to preclude any doubt on the physical impossibility of the presence of the accused at the locus criminis or its immediate vicinity at the time of the incident.[29] Thus, he was not able to show that it was physically impossible for him to have been at his own residence at the time the rape incidents occurred. For one, the funeral of Astudillo happened on November 20, 1998 or a day before the first rape incident happened, and the funeral was in the same village as Ogan's residence. For another, the presence of his wife and children at their house on November 21 and 22, 1998 was only attested to by his wife and daughter. So it was not physically impossible for him to have been at his own home at the time of the rape incident.

Far from supporting accused-appellant's claim of innocence, the records show that the evidence for the defense raised more questions on his assertions. The most obvious contradiction, which Ogan did not deny, is why a supposedly innocent man would sign a "promissory note" in favor of the victims and vow not to repeat "the offense." It is unbelievable that a grown man, a police officer at that, would attempt to settle a criminal complaint if he were innocent.

Criminal Case No. 1257

There is no merit as well to accused-appellant's argument as to BBB. We thus affirm the appellate court's conviction of Ogan of rape in Criminal Case No. 1257 instead of acts of lasciviousness.

Inconsistencies in Testimony of BBB

Ogan asserts that it is beyond belief that BBB would feel pain from sexual assault through the use of fingers but not when it came to penile penetration. Such a claim is both immaterial and baseless. The elements of the crime of rape were firmly established by the prosecution witnesses; pain is not one of those elements. For reference, the direct testimony of BBB is quoted below:

Atty. Carantes

Q

Your father said that you will go and find your brother Lyndon; where did you go and find Lyndon?

A

I went to look for him and found him at Gagawa.

Q

Where is Gagawa?

A

In Kayan, ma'am.

Q

You stated earlier that you went to the house of Severiano Ogan; can you narrate to us what happened in the house of Mr. Severiano Ogan?

A

Because my father told me to go and look for Lyndon.

Q

When your father told you to look for Lyndon, you proceeded to the house of Severiano Ogan?

A

Yes, ma'am.

Q

Did you see Severiano Ogan in his house?

A

Yes, ma'am.

Q

So what happened when you saw him in his house?

A

I saw him in his house.

Q

When you saw him in his house, did he say anything to you?

A

Yes, ma'am.

Q

What did he say to you?

A

He told me: "Do not go away."

Q

What did you say?

A

I did not leave.

Q

What else happened?

A

He removed his pants and he removed my pants and then he raped me.

Q

How did he rape you?

A

Because he brought out his penis and he "dinama na sak-en," he placed his penis inside my vagina.

Fiscal Dominguez:

Your Honor "dama" in Kayan means rape.

Atty. Carantes

Q

You stated he placed his penis inside your vagina, what happened after that?

A

Sperm came out from him, ma'am.

Q

Can you describe how the sperm [looked] like?

A

It looks like mucous, ma'am.

Q

How did you know that?

A

Because it looks like mucous.

Q

After that, Madam Witness, what else happened?

A

And then afterwards he gave me P10.00

Q

Did he say anything when he gave that P10.00?

A

Yes, ma'am.

Q

What did he say?

A

He said: "Do not tell anybody of what happened now otherwise I will shoot your father."

Q

After he said these, what else happened?

A

I went to Gagawa.[30]

x x x x

Fiscal Dominguez

May we ask additional questions.

COURT

Proceed.

Fiscal Dominguez

Q

Madam Witness, what did you feel when this Severiano Ogan inserted his penis into your vagina?

A

I felt pain.[31]

In ruling against Ogan's argument, the appellate court correctly turned to jurisprudence that holds that even the slightest penetration of the female organ constitutes carnal knowledge.[32] Where penetration is not fully established, as accused-appellant insists, we have held that consummated rape can still be based on the victim's testimony that she felt pain in the attempt at penetration.[33] People v. Briosio[34] explains that the Court looks for other details in the evidence presented to be convinced that there was a penetration of the labia of the pudendum of the victim. In the instant case, BBB's testimony that she felt pain while Ogan inserted his penis into

her sexual organ is corroborated by the medical findings of hymenal lacerations. We are thus convinced that Ogan did not merely commit acts of lasciviousness but was able to consummate the rape of BBB. The totality of the evidence points only to this conclusion.

We present an important observation on courts and counsel acting on cases involving children. The problem encountered by the trial court in eliciting a clear and concise testimony from the child witnesses could have been avoided by asking questions that were appropriately-phrased for a child their age.

This case was decided by the trial court in 2002, when the Rule on Examination of a Child Witness was already effective. The Rule provides:

SEC. 19. Mode of questioning.-- The court shall exercise control over the questioning of children so as to (1) facilitate the ascertainment of the truth, (2) ensure that questions are stated in a form appropriate to the developmental level of the child, (3) protect children from harassment or undue embarrassment, and (4) avoid waste of time.

The court may allow the child witness to testify in a narrative form.

To borrow from the Rule, courts must exercise control to ensure that questions are stated in a form appropriate to the developmental level of the child. Even calling her simply by her name rather than "Madame Witness" would have made BBB more responsive and comfortable on the witness stand. Had the Rule been followed, BBB would have been able to have an easier time communicating with the court and the lawyers during the trial. There would have been no confusion as to the details of her ordeal.

Penalty Imposed

It bears noting that both the trial and appellate courts did not specify what kind of damages was being awarded apart from civil indemnity.[35] In awarding damages, the trial court should state the factual bases of the award of these damages.[36] Thus, in rape cases, damages may refer to moral and exemplary, and these must be specified as these have different bases.[37]

In Criminal Case No. 1256, accused-appellant was sentenced to reclusion perpetua, and pay civil indemnity of PhP 75,000 and pay damages of PhP 25,000.

The award of civil indemnity to the rape victim is mandatory upon the finding that rape took place. The imposable indemnity is PhP 75,000 if the death penalty is imposed, and PhP 50,000 if the penalty is reclusion perpetua.[38] In Criminal Case No. 1256, the crime committed is simple rape under Article 266-A of the Revised Penal Code when the offended party is under 12 years old, and the imposable penalty is reclusion perpetua. We thus modify the award of PhP 75,000 to PhP 50,000 as civil indemnity

Moral damages, on the other hand, are awarded to rape victims without need of proof other than the fact of rape under the assumption that the victim suffered moral injuries from the experience she underwent. This award is separate and distinct from the awarded civil indemnity and is currently set at PhP 50,000.[39]

Exemplary damages are also in order. As we held in *People v. Pascual*,[40] this is not the first time that a child has been snatched from the cradle of innocence by some beast to sate its deviant sexual appetite. Ogan should thus also be made to pay exemplary damages to somehow abate this distressing trend. Current jurisprudence pegs this award at PhP 30,000.[41]

In Criminal Case No. 1257, the appellate court modified accused-appellant's penalty to reclusion perpetua, and increased civil indemnity to PhP 75,000. PhP 25,000 in damages was also awarded. The award of civil indemnity and damages must be modified to conform to prevailing jurisprudence. Since we find that accused-appellant only

committed simple rape under Art. 266-A of the Code when the offended party is under 12 years old, he must pay the corresponding damages of PhP 50,000 as civil indemnity, PhP 50,000 as moral damages, and PhP 30,000 as exemplary damages.

WHEREFORE, the appeal is DENIED. The Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 02199 finding accused-appellant guilty of rape is AFFIRMED with the MODIFICATION that in Criminal Case Nos. 1256 and 1257, accused-appellant is ordered to pay each victim PhP 50,000 as civil indemnity, PhP 50,000 as moral damages, and PhP 30,000 as exemplary damages.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and Perez, JJ., concur.

[1] G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[2] Rollo, p.4.

[3] Id.

[4] CA rollo, p. 30.

[5] Id. at 31.

[6] Id.

[7] Id.

[8] Id.

[9] Id.

[10] TSN, October 26, 1999, p. 3.

[11] TSN, October 27, 1999, p. 2.

[12] Rollo, p. 7

[13] CA rollo, p.33.

[14] Id. at 37. Penned by Acting Judge Artemio B. Marrero.

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

[16] Penned by Associate Justice Sixto C. Marella, Jr., with Associate Justices Mario L. Guariña and Japar B. Dimaampao, concurring.

[17] People v. Dulay, G.R. Nos. 144344-68, July 23, 2002, 385 SCRA 155, 162-153.

[18] TSN, June 30, 1999, pp. 2-3.

[19] Id. at 5-6.

[20] Id. at 7.

[21] People v. Perez, G.R. No. 182924, December 24, 2008, 575 SCRA 653.

[22] People v. Mingming, G.R. No. 174195, December 10, 2008, 573 SCRA 509.

[23] Article 266-B of the Revised Penal Code reads:

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

2) When the victim is under the custody of the police or military authorities or any law enforcement or penal institution.

[24] TSN, August 17, 2000.

[25] *People v. Cabudbod*, G.R. No. 176348, April 16, 2009.

[26] *People v. Ortoa*, G.R. No. 174484, February 23, 2009; citing *People v. Operario*, G.R. No. 146590, July 17, 2003, 406 SCRA 564, 572; *People v. Basite*, G.R. No. 150382, October 2, 2003, 412 SCRA 558, 565.

[27] *People v. An*, G.R. No. 169870, August 4, 2009.

[28] *People v. Wasit*, G.R. No. 182454, July 23, 2009.

[29] *People v. Sulima*, G.R. No. 183702, February 10, 2009.

[30] TSN, June 29, 1999, pp. 5-7.

[31] TSN, June 29, 1999, pp. 9-10.

[32] *People v. Campuhan*, G.R. No. 129433, March 30, 2000, 329 SCRA 270, 282.

[33] *People v. Briosio*, G.R. No. 182517, March 13, 2009.

[34] *Id.*

[35] CA rollo, p. 37.

[36] *Santiago v. Court of Appeals*, G.R. No. 127440, January 26, 2007, 513 SCRA 69.

[37] *People v. Belga*, G.R. No. 129769, January 19, 2001, 349 SCRA 678:

Jurisprudence has elucidated that the award authorized by the criminal law as civil indemnity *ex delicto* for the offended party, in the amount authorized by the prevailing judicial policy and aside from other proven actual damages, is itself equivalent to actual or compensatory damages in civil law. For that matter, the civil liability *ex delicto* provided by the Revised Penal Code, that is, restitution, reparation and indemnification, all correspond to actual or compensatory damages in the Civil Code, since the other damages provided therein are moral, nominal, temperate or moderate, liquidated, and exemplary or corrective damages which have altogether different concepts and fundaments.

[38] *People v. Valenzuela*, G.R. No. 182057, February 6, 2009, 578 SCRA 157.

[39] *Id.*

[40] G.R. No. 171089, October 17, 2008, 569 SCRA 534, 543; citing *People v. Domingo*, G.R. No. 177744, November 23, 2007, 538 SCRA 733, 738-739.

[41] *People v. Araojo*, G.R. No. 185203, September 17, 2009.

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