PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ISIDRO FLORES Y LAGUA, ACCUSED-APPELLANT.

G.R. No. 188315. August 25, 2010

Ponente: PEREZ, J.

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PEREZ, J.:

On appeal is the 29 January 2009 Decision[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 00726 finding appellant Isidro Flores y Lagua guilty beyond reasonable doubt of two (2) counts of rape.

In 181 Informations, which are similarly worded except for the dates of the commission of the crime and the age of the complainant, filed before the Regional Trial Court (RTC) of Makati City, Branch 140, docketed as Criminal Cases Nos. 03-081 to 03-261, appellant was accused of raping AAA,[2] allegedly committed as follows:

> That in or about and sometime during the month of _____, in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, being the adopting father of complainant who was then _____ years of age, did then and there willfully, unlawfully and feloniously had carnal knowledge with [AAA] by means of force and intimidation and against the will of the complainant.[3]

Upon arraignment, appellant pleaded not guilty. During the pre-trial conference, the parties stipulated on the following facts:

> - AAA is below fifteen (15) years of age;
>
> - Appellant is the guardian of AAA; and
>
> - 3. AAA has been under the care and custody of appellant and his wife since AAA was one and a half years old.[4]

Thereafter, trial on the merits ensued.

The following facts are undisputed:

AAA lived with her adoptive mother, BBB,[5] since she was just a few months old.[6] BBB is married to appellant, who was working abroad for six (6) years. Appellant came home in 1997 and lived with AAA and BBB. BBB was working as a restaurant supervisor from 4:00 p.m. to 2:00 a.m. for six (6) days a week.

Five (5) witnesses testified for the prosecution. They are the victim herself, Marvin Suello (Marvin), PO1 Evangeline Babor (PO1 Babor), P/Sr Insp. Paul Ed Ortiz (P/Sr Insp. Ortiz), and Maximo Duran (Duran).

The prosecution's version of the facts follows--

In February 1999 at around 9:30 p.m., AAA, then 11 years old, was sleeping inside the house when she felt and saw appellant touch her thighs. AAA could see appellant's face as there was a light coming from the altar. AAA was naturally surprised and she asked appellant why the latter did such a thing. Appellant did not answer but told

her not to mention the incident to anybody. AAA then saw appellant went back to his bed and touch his private part. AAA immediately went back to sleep.

The following day, at around the same time, and while BBB was at work, appellant again touched AAA from her legs up to her breast. AAA tried to resist but appellant threatened that he will kill her and BBB.

Two (2) weeks after the incident, AAA was already asleep when she suddenly woke up and saw appellant holding a knife. While pointing the knife at AAA's neck, appellant removed his shorts, as well as AAA's pajamas. He slowly parted AAA's legs and inserted his penis into AAA's vagina. Meanwhile, AAA struggled and hit appellant's shoulders. Appellant was able to penetrate her twice before he got out of the house. Two (2) days after, appellant again raped her by inserting his organ into AAA's vagina. AAA recounted that appellant raped her at least three (3) times a week at around the same time until 15 October 2002, when she was 14 years old. After the last rape incident, AAA did not go home after school and instead went to the house of her friend, Marvin.[7]

On 16 October 2002, Marvin watched television with AAA from 5:00 p.m. to 8:00 p.m. Afterwards, AAA refused to go home. She told Marvin that appellant would spank her for going home late. Marvin asked AAA if there were other things that appellant might have done to her, aside from spanking. At that point, AAA finally cried and divulged that she has been raped by appellant. Marvin told AAA to file a complaint.[8]

AAA stayed at her mother's friend's house and came back on 18 October 2002. She, together with Marvin, went to Kagawad Ramon Espena to seek assistance. Marvin went with the Barangay Tanod in apprehending appellant, who at that time, was trying to escape.[9]

PO1 Babor was the duty investigator at the Women's and Children Desk of Makati Police Station on 18 October 2002. She took down the statements of AAA and her friend, Marvin. She then referred AAA to the PNP Crime Laboratory to undergo medico-legal examination.[10]

P/Sr. Insp. Ortiz confirmed that she conducted the medico-legal examination on AAA. Results of the examination, as indicated in the medico-legal report, show that the "hymen is with presence of deep healed laceration at 1 o'clock and shallow healed laceration at 2 o'clock positions at the time of examination." Said report concluded that AAA is in a "non-virgin state physically."[11] P/Sr. Insp. Ortiz opined that the lacerations could have been caused by any solid object, like the penis inserted at the genitalia.[12]

Duran and another Bantay Bayan member were at the barangay outpost at 2:10 p.m. on 18 October 2002 when they were summoned by Barangay Kagawad Ramon Espena. Acting on the complaint of AAA, they were directed to proceed to the house of appellant to invite him for questioning. Duran saw appellant about to board a jeep. They stopped the jeep and asked appellant to alight therefrom and invited him to the Bantay Bayan outpost. Appellant voluntarily went with them. Appellant was then brought to the police station.[13]

Only appellant testified in his defense. While appellant admitted that he was a strict father to AAA in that he would scold and spank her whenever the latter would ran away, he denied raping AAA.[14] He alleged that AAA has the propensity to make up stories and was even once caught stealing money from her grandmother. Appellant recalled that on 16 October 2002, AAA asked permission to go out to buy a "project." She never came home.[15]

On 27 August 2004, the RTC rendered judgment finding appellant guilty beyond reasonable doubt of 181 counts of rape. The dispositive portion of the Decision reads:

> WHEREFORE, premises considered, judgment is hereby rendered in Criminal Cases Nos. 03-081 to 03-261, finding accused ISIDRO FLORES y LAGUA, GUILTY BEYOND REASONABLE DOUBT of ONE HUNDRED AND EIGHTY-ONE (181) counts of RAPE penalized by RA 8353, Chapter 3, Article 266-A, par. 1(a) in relation to Article 266-B par. 1. Taking into account the minority of [AAA], adopted daughter of the

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> accused, at the time of rape, and the fact the offender is the adoptive father of the minor complainant, accused, is hereby sentenced to suffer the penalty of DEATH for each count of rape, and to pay [AAA] the amount of ONE HUNDRED FIFTY THOUSAND PESOS (PHP 150,000.00) for moral damages and FIFTY THOUSAND PESOS (PHP 50,000.00) for exemplary damages for each count of rape.[16]

The trial court found that force and intimidation attended the commission of the crime of rape through the testimony of the victim, which the trial court deemed "straightforward, consistent and credible." The trial court also established that appellant is the adoptive father of AAA since 1989 and that AAA was then a minor, as proven by the birth certificate, testimonies of witnesses, and admission made by AAA.[17] Finally, the trial court dismissed appellant's defense of denial as self-serving and which cannot prevail over AAA's positive testimony.[18]

Upon denial of appellant's motion for reconsideration, the case was initially elevated to the Court of Appeals for its review pursuant to People v. Mateo.[19] However, the Court of Appeals dismissed the case in 23 August 2005 for failure of appellant to file his appellant's brief.[20] When the case was brought before us on automatic review, we set aside the Resolution of the Court of Appeals and remanded it back for appropriate action and disposition on the ground that review by the Court of Appeals of the trial court's judgment imposing the death penalty is automatic and mandatory.[21]

On 29 January 2009, the Court of Appeals affirmed the finding that AAA was raped by appellant, but it did so only on two (2) counts.

The fallo of the Decision reads:

> IN LIGHT OF ALL THE FOREGOING, the decision is hereby rendered as follows:
>
> - Accused-appellant Isidro Flores y Lagua in Criminal Cases Nos. 03-082 to 03-260, inclusive, is found not guilty on the ground of reasonable doubt and is hereby acquitted;
>
> - Accused-appellant Isidro Flores y Lagua in Criminal Cases Nos. 03-081 and 03-261 is hereby found guilty beyond reasonable doubt of two (2) counts of rape and is sentenced to suffer the penalty of reclusion perpetua for each count without eligibility for parole and to pay the victim AAA (to be identified through the Information in this case), the amount of P75,000.00 as civil indemnity, P75,000.00 as moral damages and P25,000.00 as exemplary damages for each count.[22]

The appellate court found that the guilt of appellant on the first and last incidents of rape in Criminal Cases Nos. 03-081 and 03-261, respectively, was proven by the prosecution beyond reasonable doubt.[23] With respect to the other incidents, according to the appellate court, the testimony of AAA was merely based on general allegations that she was raped on the average of three (3) times a week from February 1999 to 15 October 2002. Therefore, the appellate court concluded that her statement is inadequate and insufficient to prove the other charges of rape.[24]

On 17 February 2009, appellant filed a Notice of Appeal of the Court of Appeals' Decision. In a Resolution dated 26 October 2009, this Court required the parties to simultaneously submit their respective Supplemental Briefs. Appellant and the Office of the Solicitor General (OSG) both filed their Manifestations stating that they will no longer file any Supplemental Briefs, but instead, they will merely adopt their Appellant's and Appellee's Briefs, respectively.[25]

Appellant harps on the failure of AAA to actively defend herself or resist the alleged assaults. Moreover, considering that the relatives of AAA live only meters away from her and the frequency of the alleged molestation, appellant proffers that it was impossible for them not to notice the abuses. Appellant also questions

the appreciation of the circumstances of minority and relationship as basis for the imposition of the death penalty. He contends that an adopting parent is not included within the purview of qualifying relationships under Article 266-B of the Revised Penal Code. Assuming arguendo that an adopting parent may be construed as similar to a parent, appellant argues that the term "adopting parent" must be given a definite and technical meaning in that the process of adoption must first be undertaken and a judicial decree to that matter must have been issued.[26]

The OSG, on the other hand, avers that the positive and categorical testimony of AAA that appellant sexually abused her, in tandem with the medico-legal report, are more than sufficient to establish appellant's guilt beyond reasonable doubt. Moreover, appellant failed to impute any ill motive on the part of AAA to falsely accuse him of rape.[27]

The OSG insists that AAA's failure to report promptly the previous incidents of rape does not dent her credibility. Appellant's exercise of moral ascendancy over AAA and that fact that she was under physical threat during those times, could have instilled fear on AAA from reporting said incidents.[28]

The OSG moved for modification of the penalty from death to reclusion perpetua without eligibility for parole in light of Republic Act No. 9346.[29]

After an extensive review of the records, we find no cogent reason to overturn the decision of the Court of Appeals.

Appellant was charged with 181 counts of rape, all of which were committed within the span of three (3) years or from February 1999 until 15 October 2002. We are in full accord with the acquittal of appellant in the 179 counts of rape. Stated otherwise, we agree with appellant's conviction for two (2) counts of rape.

In rape cases, "the victim's credibility becomes the single most important issue. For when a woman says she was raped, she says in effect all that is necessary to show that rape was committed; thus, if her testimony meets the test of credibility, the accused may be convicted on the basis thereof."[30]

Both the trial court and the appellate court found AAA's testimony credible. The RTC considered it "straightforward and consistent on material points," while the Court of Appeals described it as "spontaneous, forthright, clear and free-from-serious contradictions." Well-entrenched is the legal precept that when the "culpability or innocence of an accused hinges on the issue of the credibility of witnesses, the findings of fact of the Court of Appeals affirming those of the trial court, when duly supported by sufficient and convincing evidence, must be accorded the highest respect, even finality, by this Court and are not to be disturbed on appeal."[31] We see no reason in this case to depart from the principle. Moreover, we give due deference to the trial court's assessment of AAA's credibility, having had the opportunity to witnesses firsthand and note her demeanor, conduct, and attitude under grilling examination.[32]

Worthy of reiteration is the doctrine that "when the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true. When a girl, especially a minor, says that she has been defiled, she says in effect all that is necessary to show that rape was inflicted on her."[33]

Out of the 181 counts of rape charged against appellant, the prosecution was only able to prove two counts. Applying the ruling in People v. Garcia,[34] the Court of Appeals correctly declared, thus:

> As to the other counts of rape (Criminal Cases Nos. 03-082 to 03-260) imputed against accused-appellant, We find him not guilty beyond reasonable doubt as the testimony of AAA was merely based on general allegations that she was raped by the accused-appellant on the average of three (3) times a week from February 1999 to 15

> October 2002. AAA's bare statement is evidently inadequate and insufficient to prove the other charges of rape as each and every charge of rape is a separate and distinct crime and that each of them must be proven beyond reasonable doubt. On that score alone, the indefinite testimonial evidence that the victim was raped three times a week is decidedly inadequate and grossly insufficient to establish the guilt of accused-appellant therefore with the required quantum of evidence.[35]

As regards to the first incident of rape in 1999, AAA recounted how appellant forced her to have sexual intercourse with him, thus:

> Q:
>
> What happened after two (2) weeks?
>
> A:
>
> I was sleeping when somebody went on top of my head.
>
> Q:
>
> Tell us about what time was this when this happened, when you said you noticed somebody climbing up your bed?
>
> A:
>
> 9:30 in the evening.
>
> Q:
>
> At that time again, where was your [BBB]?
>
> A:
>
> At work, sir.
>
> Q:
>
> What happened after you noticed somebody climbing up your bed?
>
> A:
>
> I woke up and I saw him holding a bread knife.
>
> x x x x
>
> Q:
>
> Did you know who was this person who climbed your bed and who was holding a knife?
>
> A:
>
> Yes, sir.
>
> Q:
>
> Who was that person?
>
> A:
>
> "Papa"

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Q:

When you said "Papa," you are referring to the accused?

A:

Yes, sir.

Q:

What happened next?

A:

"Tinusok nya yong kutsilyo sa leeg ko" and he removed his shorts.

Q:

At that time, what were you then wearing?

A:

Pajama, sir.

Q:

What if any did the accused do to what you were wearing then?

A:

He undressed me.

Q:

Which one did he remove?

A:

My pajama.

Q:

What about your upper garments?

A:

He did not remove.

Q:

After you said the accused remove his shorts and removed your pajama, what happened?

A:

He slowly parted my legs.

Q:

And then?

A:

He inserted his penis into my vagina.

Q:

What were you doing, were you resisting when he was doing that?

A:

I was resisting but my strength is no match to him. He was strong.

Q:

What sort of resistance were you putting up that time?

A:

"Hinampas ko po siya sa braso."

Q:

What was his response to your act of hitting his arms?

A:

"Wag daw po akong papalag at bubutasin nya ang leeg ko."[36]

Under Article 266-A(d) of the Revised Penal Code, rape is committed by a man having carnal knowledge of a woman who is below 12 years of age. At that time of the commission of the first incident of rape, AAA was only 11 years old, as evidenced by her birth certificate.[37]

As regards the final incident of rape in 15 October 2002, AAA narrated:

Q:

You said this happened always, approximately three (3) times a week, until when?

A:

The last time was in October 15, 2002.

Q:

This last incident, describe to us where did it happen again?

A:

In our house.

Q:

At about what time?

A:

9:30 in the evening.

Q:

Narrate to us how did this incident happen?

A:

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> The same. He went to my bed, holding a bread knife, pointing it to me and he removed my shorts and he also undressed himself.
>
> Q:
>
> Then?
>
> A:
>
> And he inserted his sexual organ into my vagina and after the incident, he left the house.[38]

Since AAA was already 13 years old at the time of the commission of the last incident of rape, the applicable rule is Article 266-A(a) which states that rape is committed by a man having carnal knowledge of a woman through force, threat, or intimidation.

AAA's testimony that she was defiled by appellant was corroborated by the medical findings of the medico-legal expert. The presence of deep healed and shallow healed laceration only confirms AAA's claim of rape.

In both rape incidents, the trial court applied Article 266-B of the Revised Penal Code in imposing the penalty of death, which was later modified by the Court of Appeals to reclusion perpetua pursuant to Republic Act No. 9346. Article 266-B provides:

> The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:
>
> "l) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;
>
> x x x x

The Court of Appeals appreciated the qualifying circumstances of minority and relationship in imposing the penalty of reclusion perpetua. It relied on the established fact that AAA was still a minor when she was raped and on the stipulated fact that appellant is her guardian. One of the instances wherein the crime of rape may be qualified is when the victim is a minor AND the accused is her guardian. At this point, we cannot subscribe to this interpretation and hence, we hold that the Court of Appeals erred in considering the qualifying circumstance of relationship.

Indeed, it was stipulated during the pre-trial conference that appellant is the guardian of AAA. However, we cannot simply invoke this admission to consider guardianship as a qualifying circumstance in the crime of rape. "Circumstances that qualify a crime and increase its penalty to death cannot be subject of stipulation. The accused cannot be condemned to suffer the extreme penalty of death on the basis of stipulations or admissions. This strict rule is warranted by the gravity and irreversibility of capital punishment. To justify the death penalty, the prosecution must specifically allege in the information and prove during the trial the qualifying circumstances of minority of the victim and her relationship to the offender."[39]

Jurisprudence dictates that the guardian must be a person who has legal relationship with his ward. The theory that a guardian must be legally appointed was first enunciated in the early case of People v. De la Cruz.[40] The issue in said case was whether the aunt of a rape victim could file a criminal complaint on behalf of her niece, when the victim's father was still living and residing in the Philippines. The Solicitor-General contended that the aunt was the legal guardian of the victim, thus, was competent to sign the information. The Court rejected this contention and ruled as follow:

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> Article 344 of the Revised Penal Code, paragraph 3, is as follows:
>
> "Tampoco puede procederse por causa de estupro, rapto, violacion o abusos deshonestos, sino en virtud de denuncia de la parte agraviada, o de sus padres, o abuelos o tutor, ni despues de haberse otorgado al ofensor, perdon expreso por dichas partes, segun los casos." Without passing at this time on the question whether the tutor (legal guardian) may file a complaint in the temporary absence of the parents or grandparents of the offended party, it suffices to say that we cannot accept the view of the Government that an aunt who has the temporary custody of a minor in the absence of her father occupies the position of a tutor (legal guardian). The word "tutor" (guardian) appearing in article 344, supra, must be given the same meaning as in section 551 of the Code of Civil Procedure, that is to say, a guardian legally appointed in accordance with the provisions of Chapter XXVII of the Code of Civil Procedure.[41]

Garcia was more direct in addressing the issue of when the accused will be considered a "guardian" as a qualifying circumstance in the crime of rape. In said case, appellant therein raped a 12-year-old girl. The victim was left to the care of appellant, who is the live-in partner of the victim's aunt. The issue of whether appellant is considered a guardian in the contemplation of the amendment to the law on rape such that, the victim being a minor, he should be punished with the higher penalty of death for the nine (9) crimes of rape was answered in the negative by the Court. The underlying reason behind its ruling was explained in this discourse:

> In the law on rape, the role of a guardian is provided for in Article 344 of the Revised Penal Code, specifically as one who, aside from the offended party, her parents or grandparents, is authorized to file the sworn written complaint to commence the prosecution for that crime. In People vs. De la Cruz,it was held that the guardian referred to in the law is either a legal or judicial guardian as understood in the rules on civil procedure.
>
> x x x x
>
> It would not be logical to say that the word "guardian" in the third paragraph of Article 344 which is mentioned together with parents and grandparents of the offended party would have a concept different from the "guardian" in the recent amendments of Article 335 where he is also mentioned in the company of parents and ascendants of the victim. In Article 344, the inclusion of the guardian is only to invest him with the power to sign a sworn written complaint to initiate the prosecution of four crimes against chastity, while his inclusion in the enumeration of the offenders in Article 335 is to authorize the imposition of the death penalty on him. With much more reason, therefore, should the restrictive concept announced in De la Cruz, that is, that he be a legal or judicial guardian, be required in the latter article.
>
> The Court notes from the transcripts of the proceedings in Congress on this particular pointthat the formulators were not definitive on the concept of "guardian" as it now appears in the attendant circumstances added to the original provisions of Article 335 of the Code. They took note of the status of a guardian as contemplated in the law on rape but, apparently on pragmatic considerations to be determined by the courts on an ad hoc basis, they agreed to just state "guardian" without the qualification that he should be a legal or judicial guardian. It was assumed, however, that he should at the very least be a de facto guardian. Indeed, they must have been aware of jurisprudence that the guardian envisaged in Article 335 of the Code, even after its amendment by Republic Act No. 4111, would either be a natural guardian, sometimes referred to as a legal or statutory guardian, or a judicial guardian appointed by the court over the person of the ward.
>
> They did agree, however, that the additional attendant circumstances introduced by Republic Act No. 7659 should be considered as special qualifying circumstances specifically applicable to the crime of rape and, accordingly, cannot be offset by mitigating circumstances. The obvious ratiocination is that, just like the effect of the attendant circumstances therefore added by Republic Act No. 4111, although the crime is still denominated as rape such circumstances have changed the nature of simple rape by producing a qualified form thereof punishable by the higher penalty of death.

> x x x x
>
> The law requires a legal or judicial guardian since it is the consanguineous relation or the solemnity of judicial appointment which impresses upon the guardian the lofty purpose of his office and normally deters him from violating its objectives. Such considerations do not obtain in appellant's case or, for that matter, any person similarly circumstanced as a mere custodian of a ward or another's property. The fiduciary powers granted to a real guardian warrant the exacting sanctions should he betray the trust.
>
> In results, therefore, that appellant cannot be considered as the guardian falling within the ambit of the amendatory provision introduced by Republic Act No. 7659. He would not fall either in the category of the "common-law spouse of the parent of the victim" in the same enumeration, since his liaison is with respect to the aunt of [AAA]. Since both logic and fact conjointly demonstrate that he is actually only a custodian, that is, a mere caretaker of the children over whom he exercises a limited degree of authority for a temporary period, we cannot impose the death penalty contemplated for a real guardian under the amendments introduced by Republic Act No. 7659, since he does not fit into that category.[42]

People v. De la Cuesta[43] adhered to Garcia when it ruled that the mere fact that the mother asked the accused to look after her child while she was away did not constitute the relationship of guardian-ward as contemplated by law.[44]

Garcia was further applied by analogy in People v. Delantar[45] where it was held that the "guardian" envisioned in Section 31(c) of Republic Act No. 7610 is a person who has a legal relationship with a ward. In said case, accused was charged for violation of Section 5, Article III of Republic Act No. 7610 when he pimped an 11 year old child to at least two clients. The Court held that the prosecution failed to establish filiation albeit it considered accused as a de facto guardian. However, this was not sufficient to justify the imposition of the higher penalty pursuant to the ruling in Garcia. In addition, the Court construed the term "guardian" in this manner:

> Further, according to the maxim noscitur a sociis, the correct construction of a word or phrase susceptible of various meanings may be made clear and specific by considering the company of words in which it is found or with which it is associated.[87] Section 31(c) of R.A. No. 7610 contains a listing of the circumstances of relationship between the perpetrator and the victim which will justify the imposition of the maximum penalty, namely when the perpetrator is an "ascendant, parent, guardian, stepparent or collateral relative within the second degree of consanguinity or affinity." It should be noted that the words with which "guardian" is associated in the provision all denote a legal relationship. From this description we may safely deduce that the guardian envisioned by law is a person who has a legal relationship with a ward. This relationship may be established either by being the ward's biological parent (natural guardian) or by adoption (legal guardian). Appellant is neither AAA's biological parent nor is he AAA's adoptive father. Clearly, appellant is not the "guardian" contemplated by law.[46]

Be that as it may, this qualifying circumstance of being a guardian was not even mentioned in the Informations. What was clearly stated was that appellant was the "adopting father" of AAA, which the prosecution nonetheless failed to establish.

For failure of the prosecution to prove the qualifying circumstance of relationship, appellant could only be convicted for two (2) counts of simple rape, and not qualified rape.

We likewise reduce the Court of Appeals' award of civil indemnity from P75,000.00 to P50,000.00 and moral damages from P75,000.00 to P50,000.00 in line with current jurisprudence.[47] The award of exemplary damages in the amount of P25,000.00 should be increased to P30,000.00 pursuant to People v. Guillermo.[48] While no aggravating circumstance attended the commission of rapes, it was established during trial that appellant used a deadly weapon to perpetrate the crime. Hence, the award of exemplary damages is proper.

WHEREFORE, the decision dated 29 January 2009 convicting Isidro Flores y Lagua of the crime of rape in Criminal Cases Nos. 03-081 and 03-261 is hereby AFFIRMED with the MODIFICATION in that he is held guilty beyond reasonable doubt of two counts of simple rape only and sentenced to suffer the penalty of reclusion perpetua for each count. He is also ordered, for each count of rape, to pay the victim civil indemnity in the amount of P50,000.00, moral damages in the amount of P50,000.00, and exemplary damages in the amount of P30,000.00.

SO ORDERED.

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

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[1] Penned by Associate Justice Pampio A. Abarintos with Associate Justices Mario L. Guariña III and Sesinando E. Villon, concurring. Rollo, pp. 2-24.

[2] The victim's real name is withheld to protect her privacy, pursuant to Republic Act No. 9262 or the Anti-Violence Against Women and Their Children Act of 2000 and People v. Cabalquinto, G.R. No. 167693, 19 September 2006, 502 SCRA 419, 425-426.

[3] Records, pp. 1-341

[4] Id. at 362.

[5] Likewise, the personal circumstances of the victims-survivors or any other information tending to establish or compromise their identities, as well as those of their immediate family or household members, shall not be disclosed per Cabalquinto.

[6] TSN, 2 April 2003, p. 5.

[7] TSN, 24 April 2003, pp. 2-11.

[8] TSN, 26 February 2003, pp. 6-7.

[9] Id. at 5-8.

[10] TSN, 4 June 2003, pp. 4-6.

[11] Records, p. 350.

[12] TSN, 4 June 2003, p. 24.

[13] TSN, 5 June 2003, pp. 5-7.

[14] TSN, 3 July 2003, pp. 7-8.

[15] TSN, 17 July 2003, pp. 3-14.

[16] CA rollo, p. 26.

[17] Id. at 25.

[18] Id. at 26.

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

[20] CA rollo, p. 31.

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[21] Id. at 40.

[22] Rollo, p. 23.

[23] Id. at 18.

[24] Id. at 21.

[25] Id. at 36-37 and 39-40.

[26] CA rollo, pp. 80-85.

[27] Id. at 125-128.

[28] Id. at 128-129.

[29] Id. at 133-134.

[30] People v. Paculba, G.R. No. 183453, 9 March 2010 citing People v. Mingming, G.R. No. 174195, 10 December 2008, 573 SCRA 509, 532; People v. Capareda, 473 Phil. 301, 330 (2004); People v. Galido, G.R. Nos. 148689-92, 30 March 2004, 426 SCRA 502, 516.

[31] People v. Guillera, G.R. No. 175829, 20 March 2009, 582 SCRA 160, 168 citing Siccuan v. People, G.R. No. 133709, 28 April 2005, 457 SCRA 458, 463-464.

[32] People v. Malate, G.R. No. 185724, 5 June 2009, 588 SCRA 816, 825 citing People v. Bantiling, 420 Phil. 849, 862-863 (2001).

[33] People v. Cadap, G.R. No. 190633, 5 July 2010 citing Llave v. People, G.R. No. 166040, 26 April 2006, 488 SCRA 376, 400; People v. Corpuz, G.R. No. 168101, 13 February 2006, 482 SCRA 435, 448; People v. Bidoc, G.R. No. 169430, 21 October 2006, 506 SCRA 481, 495.

[34] 346 Phil. 475 (1997).

[35] Rollo, p. 21.

[36] TSN, 24 April 2003, pp. 5-8.

[37] Records, p. 351.

[38] Id. at 11.

[39] People v. Dalipe, G.R. No. 187154, 23 April 2010 citing People v. Ibarrientos, G.R. Nos. 148063-64, 17 June 2004, 432 SCRA 424, 440.

[40] 59 Phil. 531 (1934).

[41] Id. at 532.

[42] People v. Garcia, supra note 34 at 500-503.

[43] 363 Phil. 425 (1999).

[44] Id. at 433.

[45] G.R. No. 169143, 2 February 2007, 514 SCRA 115.

[46] Id. at 139-140.

[47] People v. Ofemiano, G.R. No. 187155, 1 February 2010; People v. Pabol, G.R. No. 187084, 12 October 2009, 603 SCRA 522, 532; People v. Gragasin, G.R. No. 186496, 25 August 2009, 597 SCRA 214, 233; People v. Arcosiba, G.R. No. 181081, 4 September 2009, 598 SCRA 517, 536.

[48] G.R. No. 177138, 26 January 2010.

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