PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLLY DE GUZMAN, ACCUSED-APPELLANT.

G.R. No. 188352. September 01, 2010

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review of the February 26, 2009 Decision[1] of the Court of Appeals, (CA) in CA-G.R. CR. H.C. No. 03068, affirming in toto the October 24, 2007 Decision[2] of the Regional Trial Court, Branch 89, Quezon City (RTC) in Criminal Case No. Q-06-143828. The RTC convicted accused Rolly De Guzman for the crime of rape and sentenced him to suffer the penalty of reclusion perpetua and to pay the victim, AAA,[3] the amount of P50,000.00 as indemnity and P50,000.00 as moral damages, with costs.

The Information against the accused reads:

> That on or about the 29[th] day of October 2006, in Quezon City, Philippines, the said accused, with lewd design, by means of force, violence and intimidation, made upon the person of AAA, a minor, 13 years of age, did then and there willfully, unlawfully and feloniously commit the crime of rape against the person of said AAA, by then and there forcibly bringing her inside a bedroom of a construction site and had carnal knowledge against her will, which acts debases, degrades, demeans the intrinsic worth and dignity of said AAA, as a human being, to the damage and prejudice of the said offended party, in violation of said law.
>
> CONTRARY TO LAW.[4]

During the trial of the case, the prosecution relied mainly on the testimony of AAA and the documentary evidence consisting of her Sinumpaang Salaysay,[5] Certificate of Live Birth and the Initial Medico-Legal Report showing the results of the examination conducted on her by the Philippine National Police Crime Laboratory. For the defense, only the accused took the witness stand.

It appears from the records that at the time of the incident, AAA was a minor having been born on October 23, 1994. She and the accused knew each other as neighbors in Pingkian, Quezon City, where he worked in a construction site near her residence. The accused used to buy ice from her house and so they usually saw each other thrice a week.

The thrust of the prosecution evidence was succinctly recited in the Appellee's Brief[6] submitted to the CA, as follows:

> On October 29, 2006 at 7:00 0'clock in the evening, while AAA was outside their house at 28-B Himlayan Road, Pasong Tamo, Quezon City, appellant neighbor Rolly de Guzman and Joel Sabado invited AAA to the construction site where appellant was working. AAA refused to go with them but she was suddenly pushed by Joel Sabado inside the gate of the construction site.
>
> Because of fear, AAA did not shout. Joel instructed AAA to go upstairs and threatened her harm if she would not comply. Thus, she did as told. Appellant went upstairs ahead of her.

> Upon reaching the second floor, Joel pushed her inside the room while appellant switched off the light. Appellant then grabbed her hand and forcibly took off her pedal pusher and panty. He undressed and put himself on top of her.
>
> AAA struggled and told appellant not to continue his sexual advances. She pushed him, causing him to fall on the floor. She closed her legs to prevent appellant's sexual abuses but the latter managed to insert his penis in her private part.
>
> After consummating the act, appellant instructed AAA to go to her classmate. She obeyed and did not go home that night. The following morning, AAA called her parents over the phone and reported the sexual abuse committed by appellant. Her parents fetched her and reported the incident to the barangay office.
>
> On the same day, AAA was investigated at the Police Station 3 and the Medico-Legal Officer who examined AAA prepared a Medico-Legal Report, which disclosed the following:
>
> GENERAL AND EXTRA-GENITAL:
>
> AAA physical built is medium. Her mental status is coherent. Breast is conical in shape with pinkish brown areola and nipples. Her abdomen is soft/flat. Physical injuries: 1. Abrasion, (R) costal region, measures 1 x 1 cm. 11 cm from AML. 2. Abrasion, (L) costal region, measures 2 x 2 cm, 10 cm from AML.
>
> GENITAL:
>
> AAA pubic hair is moderate. Labia Majora is coaptated. Labia Minora is dark brown. Hymen is with deep healed laceration at 3:00 o'clock position and shallow healed laceration at 9:00 o'clock position. Her external vagina orifice has strong resistance to the examining index finger. Vaginal canal is narrow. Cervix is not applicable as well as peri-urethral and vaginal smears.
>
> CONCLUSION:
>
> Medical evaluation shows clear evidence of blunt penetrating trauma to the hymen.

The accused denied the charges. He claimed that on the evening of the alleged incident, he was in the barracks at the construction site with some of his co-workers. At around 8:00 o'clock, the parents of AAA, accompanied by a barangay tanod, arrived. They were looking for her as she was then missing. When asked, the accused replied that he did not know her whereabouts.[7] He conceded that even before she identified him as her assailant, no ill-feelings existed between him and AAA or her parents.

Confronted with two conflicting versions, the trial court narrowed down the issues into one of credibility of the parties. In deciding the case, it was guided by a string of decisions enunciating the principle that a testimony of a child-victim is given full weight and credence, considering that when a woman, especially a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed.[8] The positive identification of the accused as corroborated by the result of the medical examination sufficiently established that indeed, sexual congress between the accused and AAA took place against her will. The trial court refused to accord significance to the defense of denial and found it to be devoid of credence and unworthy of belief.

On October 24, 2007, the trial court rendered its decision finding accused guilty of the crime of rape, defined and penalized under Articles 266-A and 266-B of the Revised Penal Code (RPC).[9] The fallo of the decision reads:

> WHEREFORE, premises considered, judgment is rendered finding accused Rolly de Guzman y Apostol guilty beyond reasonable doubt of the crime of rape defined and penalized under Art. 266-A, RPC, RA 8353, 1997. Accordingly, he is sentenced to suffer the penalty of reclusion perpetua. Being a detention prisoner, he is credited in full of the period of his preventive imprisonment.

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> Further, accused Rolly de Guzman y Apostol is ordered to pay complainant AAA the following:
>
> 1) The sum of Fifty Thousand (P50,000.00) Pesos, Philippine Currency as indemnity; and
>
> 2) The sum of Fifty Thousand (P50,000.00) as and by way of moral damages.
>
> With costs de officio.
>
> SO ORDERED.[10]

Not in conformity, the accused protested his conviction and elevated the case before the CA anchoring his prayer on the following assigned errors:

> I
>
> THE COURT A QUO GRAVELY ERRED IN GIVING UNDUE CREDENCE TO THE TESTIMONY OF THE PRIVATE COMPLAINANT
>
> II
>
> THE COURT OF A QUO GRAVELY ERRED IN CONVICTING THE APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT
>
> III
>
> ASSUMING ARGUENDO THAT THE APPELLANT RAPED THE PRIVATE COMPLAINANT, THE COURT A QUO GRAVELY ERRED IN IMPOSING THE PENALTY OF RECLUSION PERPETUA.[11]

Essentially, the accused faulted the trial court for giving weight to the victim's testimony which he claimed to have contained numerous inconsistencies and improbabilities enough to create doubt in his favor. He cited the following contradictions which allegedly tainted AAA's credibility: 1] that she initially stated that when he inserted his penis into her vagina, she pushed him, but later she testified that she shoved him first before the penetration; and 2] that she initially wiggled her buttocks before intercourse but later she said that he succeeded in inserting his penis into her vagina even if her legs were closed together.

The accused urged the CA not to believe AAA because of the implausibility of her story. He pointed out that she claimed that she was forced by the accused to go to the construction site by mere dagger looks which could not have seriously intimidated and precluded her from fleeing. If she indeed suffered from sexual abuse, she could have reported her experience to her parents the moment she had the chance but, instead, she went over to her classmate's house and spent the night there. Finally, she could have shouted to catch the attention of neighbors within the vicinity or she could have escaped considering that there was no showing that the premises were enclosed.

Anent the corroborating evidence presented by the prosecution, the accused pointed out that the medico-legal report which indicated healed lacerations in her private part was clearly in conflict with the information stating that the rape incident occurred on October 29, 2006. When she was examined on October 30, 2006, or the day after the supposed rape incident took place, the hymenal lacerations could not have healed yet.

In its February 26, 2009 Decision, the CA rejected these arguments and found no reversible error in the trial court's verdict. Thus, it affirmed the RTC decision in toto.

According to the appellate court, respect is due the findings of the trial court because it is in the best position to determine the truth or falsity of testimonies given in trial. Based on the trial judge's unique opportunity to observe the conduct and demeanor of witnesses, the question of credibility is, therefore, best settled by the trial court.

Further, in its own review of the records and transcripts of the case, the CA agreed that all the elements of the crime were established by the prosecution:

> In this case, although the trial court failed to discuss the element of lack of informed consent of the child whether due to the presence of the required circumstances, the records show that it was present and that all the elements of the crime of rape were attendant in this case. x x x It was clear that she was physically forced, albeit not to the fullest extent, to go to where appellant was. Although minimal force was exerted by the appellant to prevail over AAA, there was still force that would make the act fall under the crime of rape.[12]

Apparently aggrieved by the CA decision, the accused comes before this Court. On July 29, 2009, the parties were notified that they may file their respective supplemental briefs. Both the Public Attorney's Office (PAO) and the Office of the Solicitor General (OSG) manifested[13] their intention not to do so, since all issues had already been addressed in their previous briefs.

In essence, the accused decries his conviction and urges a reversal of the decision. He contends that on the basis of glaring inconsistencies and "factual points which were apparently contrary to human experience"[14] found in AAA's testimony, it was impossible for him to have committed the offense charged. The OSG, on the other hand, maintains that positive identification of the accused prevails over empty refutation and a weak alibi. Mere denial without any strong evidence to support it, can scarcely overcome the positive declaration by the child-victim of the identity of the appellant and his involvement in the crime attributed to him.[15]

After going over the evidentiary records, the Court finds the appeal devoid of merit. Contrary to the contentions raised, the RTC and the CA rendered the assailed decisions in accordance with law and jurisprudence.

The crime of rape is usually committed under a cloak of privacy that only parties directly involved therein can attest to what actually transpired. Expectedly, their testimonies present a complete divergence of factual assertions. During trial, the prosecution and defense clash tooth-and-nail, with the aim to destroy the other's version. The credibility of witnesses with their respective testimonies then becomes the core issue to be resolved by the trial court. In doing so, it is behooved to exercise strict scrutiny and keen observation of witnesses, utilizing its position "to detect a guilty blush, a slight hesitation, a fearful glance, and an anguished cry."[16] The recent case of People v. Felipe Ayade,[17] thus elucidates:

> By the distinctive nature of rape cases, conviction usually rests solely on the basis of the testimony of the victim, provided that such testimony is credible, natural, convincing, and consistent with human nature and the normal course of things. Accordingly, the Court has consistently adhered to the following guiding principles in the review of similar cases, to wit: (1) an accusation for rape can be made with facility; while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that, in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant must be scrutinized with extreme caution; and (3) the evidence for the prosecution must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the evidence for the defense.
>
> Complementing the foregoing principles is the rule that the credibility of the victim is always the single most important issue in prosecution for rape; that in passing upon the credibility of witnesses, the highest degree of respect must be afforded to the findings of the trial court.

Apparently mindful of the above principle, the CA correctly adopted the findings of the trial court with respect to AAA's credibility and the sincerity of her story. Indeed, "the manner of assigning values to declarations of witnesses on the witness stand is best and most competently performed by the trial judge who has the opportunity to assess their credibility. In essence, when the question arises as to which of the conflicting versions of the prosecution and the defense is worthy of belief, the assessment of the trial court is generally given the highest

degree of respect, if not finality,"[18] unless it had overlooked or disregarded material facts and circumstances which when considered would have affected the result of the case or warrant a departure from its findings.

In this case, there is no indication that the trial court neglected, misappreciated, or misapplied significant facts or circumstances which would have justified a different outcome. This Court, therefore, follows suit and declines to disturb the facts already established.

AAA was able to clearly convey her story during trial. In tears, she narrated the details of the assault and pointed to the accused as the violator. Her account was characterized by unequivocal assertions. Not just once, she showed emotional distress as she recalled the harrowing experience that she had suffered at such an early age. Both the trial and appellate courts properly applied the long-standing rule in rape cases that testimonies of victims which are given in a categorical, straightforward, spontaneous, and frank manner are considered worthy of belief, "for no woman would concoct a story of defloration, allow an examination of her private parts and thereafter allow herself to be perverted in a public trial if she was not motivated solely by the desire to have the culprit apprehended and punished."[19] In the absence of ill-motive, "the victim's tale of defloration, simple, candid, straightforward and unflawed by any material inconsistency"[20] is entitled to full faith and credence. This Court cannot lay more emphasis on the fact that these rules find extra significance in a case involving a young and hapless girl, whose innocence was viscously preyed on for lust.

A pertinent portion of AAA's testimony[21] reads:

> ACP TRESVALLES: (to the witness)
>
> Q:
>
> Miss Witness, you said in your last direct-examination that the accused Rolly de Guzman asked you to go with him to the construction site, is that correct?
>
> A:
>
> Yes, sir.
>
> Q:
>
> How far is the construction site from your house?
>
> A:
>
> One house away, sir.
>
> x x x x
>
> Q:
>
> By the way who were his companions?
>
> A:
>
> Joel Sabado, Rommel, the brother of the foreman and the nephew of our neighbor, sir.
>
> Q:
>
> Were you able to reach the construction site?
>
> A:
>
> Yes, sir.

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Q:

Who were the person (sic) there, if any, when you reach (sic) that construction site?

A:

He was alone, sir.

Q:

What happened after you reached the construction site?

A:

Something happened that should not happen to me, sir.

COURT

Make it on record that the witness start (sic) crying.

ACP TRESVALLES: (to the witness)

Q:

What is this thing that happened?

COURT

Make it on record that the witness continue crying (sic) and find it hard (sic) to immediately answer the question because she was crying.

WITNESS:

He put off the light.

ACP TRESVALLES

Q:

After the accused put off the light, what happened?

A:

He forcibly took off my pedal pusher, sir.

Q:

What happened after he took your pedal pusher?

A:

He brought me inside the room and put himself on top of me, sir.

Q:

When you said he put himself on top of you, what do you mean by the same?

A:

He inserted his private part inside my vagina, sir.

COURT (to the witness)

Q:

What did you do when he was doing those things?

A:

I pushed him, Your Honor.

ACP TRESVALLES (to the witness)

Q:

Was he successful when you pushed the accused?

A:

Yes, sir.

Q:

You said that the accused inserted his private part to your private part. What did you feel when that happened?

A:

It was painful, sir.

COURT (to the witness)

Q:

By the way, at what particular time did you push him?

A:

I pushed him before he was able to insert his penis, Your Honor.

Q:

What happened when you pushed him?

A:

Nalaglag po sya sa higaan, Your Honor.

ACP TRESVALLES (to the witness)

Q:

What happened after that?

A:

I told him not to continue, sir.

Q:

What was his reaction?

A:

He told me that it is only for a while (sic) sir.

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Q:

And what happened next?

A:

He continued to do what he wanted to do, sir.

Q:

Where was your panty at that time?

A:

When he took off my pedal pusher, it was included, sir.

(underscoring supplied)

Following the CA argument, this Court also finds no badge of untruthfulness in AAA's allegations that she was sexually violated by the accused. The transcript shows that the testimony of the victim has all the earmarks of truth and candid innocence typical of child-rape victims. In other words, she was able to, in simple yet positive language, give details that can only come from a child who has been sexually abused.[22]

This Court has no doubt that the accused had carnal knowledge of AAA. His attempt to discredit her testimony because of the medico-legal findings of healed lacerations in her labia the day after the rape incident is far from convincing. This Court considers lacerations, whether healed or fresh, the best physical evidence of forcible defloration. When such physician's finding of penetration, as in this case, is corroborated by the victim's testimony, there is sufficient reason to conclude that the essential requisite of carnal knowledge exists.[23] Suffice it to state, this Court cannot ignore the fact that along with the positive identification of her offender, AAA was found to have experienced blunt penetrating trauma to the hymen.

The healed lacerations in the hymen of the victim do not negate the possibility of rape. Provided that there is proof of entry of the male organ into the labia of the female organ, findings of healed hymenal laceration, a fortiori, become irrelevant. Although the examining physician who issued the medico-legal report did not appear in court for its identification during trial, conviction of the accused would still be the end-result. Medical examination or medical report is not indispensable to prove the commission of rape, for it is merely corroborative. Hence, conviction can stand based only on the credible testimony of the victim.

Although force, threat and intimidation may not have been exerted to the fullest extent, the attendance of these circumstances still categorizes the act as rape. Besides, any degree of force or intimidation that compels the victim's submission to the offender, suffices. In this light, AAA's lack of strong physical resistance does not characterize the ugly incident as a consented one. Accused cannot escape liability by questioning why his victim did not struggle to resist the sexual abuse or shout to call the attention of others. The Court cannot permit this lack of attempt to shift the blame on the victim. Fear, in lieu of force or violence, is subjective and its presence cannot be tested by any hard-and-fast rule but must instead be viewed in the light of the perception and judgment of the victim at the time of the crime. Different people react differently to a given stimulus or type of situation, and there is no standard form of behavioral response that can be expected from those who are confronted with a strange, startling or frightening experience.[24] Jurisprudence recognizes the wide variation of behavioral reactions to sexual assault. The failure of a rape victim to shout, fight back, or escape from the scoundrel is not tantamount to consent or approval because the law imposes no obligation to exhibit defiance or to present proof of struggle. In People v. Wilson Dreu,[25] this Court wrote:

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> X x x the test is whether the threat or intimidation produces a reasonable fear in the mind of the victim that if she resists or does not yield to the desires of the accused, the threat would be carried out. Where resistance would be futile, offering none at all does not amount to consent to the sexual assault. It is not necessary that the victim should have resisted unto death or sustained physical injuries in the hands of the rapist. It is enough if the intercourse takes place against her will or if she yields because of genuine apprehension of harm to her if she did not do so. Indeed, the law does not impose upon a rape victim the burden of proving resistance.

Without a doubt, the narration of AAA prevails over the bare denial and weak alibi of the accused. Self-serving statements cannot be accorded greater evidentiary weight than the declaration of a credible witness on affirmative matters. Time-tested is the rule that between the positive assertion of prosecution witnesses and the negative averment of an accused, the former undisputedly deserves more credence and is entitled to greater evidentiary value.[26]

In this case, the accused offered nothing in support of his denial. Despite having listed the names of several persons as his potential witnesses during pre-trial, no one came forward to prove his innocence or seal his alibi. Not a soul took the witness stand for his cause, rendering his denial devoid of substance and evidentiary weight.

Even his defense of alibi does not hold water. He testified that on the evening of the incident, he slept and stayed inside the barracks of the construction site located ten (10) meters away from AAA's house. It is well-settled in this jurisdiction that in order to warrant an acquittal by virtue of an alibi, the same must foreclose the possibility that the accused committed the deed. Alibi is an inherently weak defense viewed with suspicion because it is not difficult to fabricate. For the defense of alibi to prosper, the accused must establish two elements - (1) he was not at the locus delicti at the time the offense was committed; and (2) it was physically impossible for him to be at the scene at the time of its commission.[27] The accused failed in this regard. Not only did the alibi of the accused complement AAA's story as to the location of the crime scene and his companion, but it further highlighted his facility to commit the crime.

We now come to the alleged inconsistencies in AAA's testimony. As the court a quo did, this Court holds that the said inconsistencies are too minor and inconsequential to bewail:

> Q:
>
> On October 29, 2006, at around 8:00 o'clock in the evening, where were you?
>
> A:
>
> Because I was selling flowers together with my aunt, I came home at night and ate supper, then my mother asked me to buy sugar.
>
> Q:
>
> Were you able to buy sugar?
>
> A:
>
> No, sir.
>
> Q:
>
> By the way, in what place where you asked by your mother to buy sugar?
>
> A:
>
> In front of our house, sir.

COURT:

I thought you were going to buy ice, according to your testimony, now sugar already?

A:

Ano po kasi nagkamali po yong nag-aano ng ano ko po.

COURT:

And why did you not invite their attention?

A:

Ngayon ko lang po nakita nang ibigay na po sa akin. Umalis na po kami ng Mama ko dahil mayroon po kaming lakad.

COURT:

When did you sign this?

A:

October 30.

COURT:

At the time you signed this, did you read this?

A:

Yes, your Honor.

COURT:

So, you have seen that your statement here was to buy ice.

A:

Yes, your Honor.

COURT:

So, you have seen your statement here: "Inutusan po ako ng nanay kong bumili ng yelo sa tindahan," so nakita mo ito dahil binasa mo, why did you not ask the investigating fiscal to change this?

A:

Because the one who typed my Salaysay Your Honor is no longer available so it was never corrected.

COURT:

And why did you not come back and have it corrected? Bumalik ka ba doon para ipaayos mo iyan?

A:

Hindi po. Bumalik po ako sabi raw pirmahan ko daw po iyon sa side po.

COURT:

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> Bakit hindi mo sinabi na mali yong yelo, asukal ang bibilhin mo?
>
> A:
>
> Eh, wala naman po si Ma'm Joyce po doon.
>
> COURT:
>
> Bakit hindi mo sinabi doon sa taong nagpaprima sa iyo?
>
> A:
>
> Hindi po nila naano iyon ma'm eh. Basta pirmahan ko na lang daw po.[28]

The variance in AAA's Salaysay and her oral testimony during direct examination was patently borne out of a young mind's casual indifference to legal documents and its implications. Again, AAA was a mere 12-year-old lass who, in the eyes of the law, was not mature enough to exercise diligence and meticulousness in the conduct of the complaint she filed. Surely, this Court cannot fault her for her puerile approach to legal matters. More importantly, this inconsistency does not relate to the facts constitutive of the crime charged. The accused cannot be allowed to take advantage of this lapse. The circumstances of the rape incident are definitely not altered by whatever it was that her mother asked her to buy on that fateful night. For acquittal to lie, the discrepancies should touch on significant facts which are crucial to the guilt or innocence of an accused.[29]

On the whole, the credibility of AAA remains intact. The effect of the courtroom atmosphere and rigorous questioning took its toll on her as she faced questions that need categorical answers only to be harped on by the defense in a play of semantics. In asking if she wiggled her buttocks during the incident, the defense wanted to elicit from her if she facilitated the entry. Of course, she replied in the negative. The Court finds the suggestion of consented congress and sexual satisfaction on her part preposterous, if not repulsive. Not even a grain of proof tends to suggest her promiscuity, contrary to what the accused wants this Court to believe. In the same vein, the position of her legs during the encounter does not, in any way, detract from her solid assertion that accused forced his penis into her vagina. These and the other alleged minor glitches in her testimony do not impair her truthfulness. The test is whether the testimonies agree on essential facts and whether the respective versions corroborate and substantially coincide with each other so as to make a consistent and coherent whole.[30] The prosecution undoubtedly passed the test. Notably, the inconsistencies even strengthened her credibility, because they eliminate doubts that she had been coached or rehearsed. In People v. Ireneo Perez,[31] this Court ruled:

> Minor lapses are to be expected when a person is recounting details of a traumatic experience too painful to recall. The rape victim was testifying in open court, in the presence of strangers, on an extremely intimate matter, which, more often than not, is talked about in hushed tones. Under such circumstances, it is not surprising that her narration was less than letter-perfect. Moreover, the inconsistency may be attributed to the well-known fact that a courtroom atmosphere can affect the accuracy of testimony and the manner in which a witness answers questions. [Emphasis supplied]

On a final note, aside from the award of P50,000.00 as indemnity ex-delicto and P50,000.00 as moral damages, the accused should also pay the amount of P30,000.00 as exemplary damages. The award of exemplary damages is proper not only to deter outrageous conduct,[32] but also in view of the aggravating circumstance of minority which was alleged in the information and proved during the trial.

WHEREFORE, the February 26, 2009 Decision of the Court of Appeals, in CA-G.R. CR. H.C. No. 03068, is hereby AFFIRMED WITH MODIFICATION. In addition to the award of P50,000.00 as indemnity ex-delicto and P50,000.00 as moral damages, the accused is hereby ordered to pay the amount of P30,000.00 as exemplary damages.

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SO ORDERED.

Carpio, (Chairperson), Nachura, Bersamin,[*] and Mendoza, JJ., concur.

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[*] Designated as additional member in lieu of Justice Diosdado M. Peralta per Special Order No. 882 dated August 31, 2010.

[1] Rollo, p. 2. Penned by Associate Justice Andres B. Reyes, Jr. with Associate Justice Jose C. Reyes, Jr. and Associate Justice Normandie B. Pizzaro, concurring.

[2] Records, pp. 54-61. Penned by Judge Elsa I. De Guzman.

[3]Pursuant to Republic Acts 7160 and 9262 and People v. Cabalquinto (G.R. No. 167693, September 19, 2006, 502 SCRA 419), the identity and real name of the private complainant are kept undisclosed.

[4] Records, p. 1.

[5] Id. at 4-5.

[6] CA rollo, Counterstatement of Facts, Appellee's Brief, pp. 87-88.

[7] TSN, August 16, 2007, p. 3.

[8] People v. Anacito Dimanawa, G.R. No. 184600, March 9, 2010.

[9] Art. 266-A 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;

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

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

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

2. 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.

Art. 266-B Penalties- Rape under paragraph 1 of Art. 266-A shall be punished by reclusion perpetua.

[10] Records, RTC Decision, pp. 60-61.

[11] CA rollo, Brief for the Appellant, p. 44.

[12] Id., Decision, pp. 112-113.

[13] Rollo, Manifestation dated September 23 and 24, 2009, respectively, pp. 32 and 40.

[14]CA rollo, Brief for the Appellant, p. 50.

[15] Id., Brief for the Appellee, p. 94.

[16] People v. Edgardo Estrada, G.R. No. 178318, January 15, 2010.

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[17] G.R. No. 188561, January 15, 2010, citing People v. Lilio U. Achas, GR. No. 185712, August 4, 2009, 595 SCRA 341.

[18] People v. Dante Gragasin, G.R. No. 186496, August 25, 2009, 597 SCRA 214, 226.

[19] Supra note 16.

[20] Supra.

[21] TSN, May 23, 2007, pp. 3-8.

[22] People v. Iñego Las Piñas, Jr., 427 Phil. 633 (2002).

[23] People v. Anthony Rante, G.R. No. 184809, March 29, 2010.

[24] People v. Federico Lustre, 386 Phil. 390, 397 (2000).

[25][389 Phil. 429 (2000), citing People v. Fraga, 386 Phil. 884 (2000).]

[26] People v. Marianito Monteron, 428 Phil. 401 (2002).

[27] Supra note 23.

[28] TSN, May 15, 2007, pp. 7-10.

[29] People v. Alberto Garcia, 402 Phil. 75 (2001).

[30]Merencillo v. People, G.R. Nos. 142369-70, April 13, 2007, 521 SCRA 31, 43.

[31] 337 Phil. 244 (1997).

[32] People v. Llanas, Jr., G.R. No. 190616, June 29, 2010.

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