

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUEL TAMANO Y PASIA, ACCUSED-APPELLANT.

G.R. No. 188855. December 08, 2010

Ponente: PEREZ, J.

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PEREZ, J.:

On appeal is the Decision[1] dated 19 February 2009 of the Court of Appeals in CA-G.R. CR-H.C. No. 01439, affirming with modification the Consolidated Decision[2] dated 18 March 2005 of the Regional Trial Court (RTC) of Batangas City, 4th Judicial Region, Branch 1, in Criminal Case Nos. 12409-12410, finding herein appellant Ruel Tamano y Pasia guilty beyond reasonable doubt of the crime of simple rape, committed against AAA,[3] thus, sentencing him to suffer the penalty of reclusion perpetua and ordering him to pay AAA the sum of P50,000.00 as civil indemnity. The appellate court further directed the appellant to pay AAA an additional amount of P50,000.00 as moral damages.

Appellant Ruel Tamano y Pasia and a certain Danny Alcanices stand charged with the crime of rape as defined and penalized under Articles 266-A and 266-B of the Revised Penal Code, as amended, in two separate Informations[4] both dated 2 July 2002 that read:

Criminal Case No. 12409

That sometime in the month of February to March 2002 at XXX Road, Brgy. XXX, XXX City, Philippines and within the jurisdiction of this Honorable Court, [appellant and Danny Alcanices], conspiring and confederating together, motivated by lust and lewd designs, did then and there willfully, unlawfully and feloniously have carnal knowledge to one AAA, 17-year old "mongoloid," a mental retardate or feeble-minded girl with a mental age of a child below 12 years of age.[5] [Emphasis supplied].

Criminal Case No. 12410

That sometime in the month of February to March 2002 at XXX Road, Brgy. XXX, XXX City, Philippines and within the jurisdiction of this Honorable Court, [appellant and Danny Alcanices], conspiring and confederating together, motivated by lust and lewd designs, did then and there willfully, unlawfully and feloniously have carnal knowledge to one AAA, 17-year old "mongoloid," a mental retardate or feeble-minded girl with a mental age of a child below 12 years of age.[6] [Emphasis supplied].

On arraignment, appellant and Danny Alcanices, both assisted by counsel de oficio, pleaded NOT GUILTY to the charges against them. Trial on the merits ensued thereafter.

The prosecution presented as witnesses the following: AAA, the private offended party; BBB, the mother of AAA; CCC, the cousin of AAA; Nimia Hermilla C. De Guzman (De Guzman), clinical psychologist at the National Center for Mental Health (NCMH) who examined and evaluated AAA's mental condition; and Dr. Larissa Yadao (Dr. Yadao), Medical Officer III at the Department of Obstetrics and Gynecology of the Batangas Regional Hospital who conducted a physical examination on AAA.

As culled from the records and testimonies of the aforesaid prosecution witnesses, the factual antecedents of this case are as follows:

AAA was only 17 years old at the time the rape incident happened. She has a Down syndrome, thus, considered a special child. Unlike other girls of her age, AAA could not do simple tasks on her own. She has to be assisted in taking a bath and in eating her food. She also stutters when she speaks. Despite her being a special child, AAA is attending school as she was enrolled by her mother, BBB, in a school near their place, which offered a special program for special children.[7]

AAA's condition as a special child did not spare her from being a victim of rape. In the fateful morning, sometime in February to March 2002, AAA was at the house of her uncle DDD, her mother's brother, which is merely adjacent to their own house. Both appellant and Danny Alcanices were also at the house of AAA's uncle for they were boarders therein. In the presence of Danny Alcanices, appellant suddenly kissed AAA and touched her breasts. Appellant likewise removed AAA's t-shirt and undergarments. When AAA was already naked, appellant sucked her breasts. Then, appellant went on top of AAA and ordered her to hold his penis but AAA refused. Appellant, thereafter, inserted his penis into AAA's vagina. AAA felt pain. While appellant was raping AAA, Danny Alcanices was still there watching them. After appellant had satisfied his bestial desire, Danny Alcanices took his turn in ravishing AAA also in the presence of appellant.[8] Danny Alcanices tied AAA's hands and forced her to lie down. He then kissed AAA on the lips, parted her legs, went on top of her and inserted his penis into AAA's vagina. AAA, once again, felt pain. After Danny Alcanices has fully satisfied his sexual desire, he gave AAA P100.00 to keep her from reporting the incident.[9]

AAA did not immediately tell anyone about her ordeal. Her behavior, however, changed a lot after such a harrowing experience in the hands of appellant and Danny Alcanices. Such sudden change in AAA's behavior became noticeable to her cousin, CCC.[10]

Between February and March 2002, CCC noticed that AAA began acting strangely. Prior to these months, AAA was still a very jolly person and would usually sit down on a bench to wait for CCC as the latter comes home from work. AAA would even go with CCC in attending church services. But, from February to March 2002, AAA suddenly became irritable and every time CCC would greet her, she would constantly respond that she is angry. AAA would even tell CCC, "Ako iisip, ako sasakit dibdib." [11]

Bothered by AAA's change of behavior, CCC began confronting AAA about it while they were inside her room, together with her sister. As CCC was changing her clothes, AAA began confiding to CCC's sister regarding her ordeal in the hands of appellant and Danny Alcanices. CCC then asked AAA a series of questions. In the course of their conversation, CCC confirmed that the red markings she saw on AAA's wrists in the last week of February 2002 until early part of March 2002 were the result of the tying of AAA's hands by Danny Alcanices at the time he was raping AAA. CCC also asked AAA why she did not shout to which AAA immediately replied that her mouth was covered. Later on, CCC then told AAA's sister everything AAA confessed to them.[12]

Eventually, BBB, AAA's mother, learned about the unfortunate incident that happened to AAA. She then remembered that it was in February or early March 2002 when AAA became sickly. It was also the time when AAA vomited, experienced stomach pains and had red markings on her wrists as if she was tied. There was even an instance when Danny Alcanices greeted AAA but she hid at the back of her cousin and uttered, "Ipa-pupulis ko `yan. Bibitay `yan, hayup `yan, walanghiya `yan." [13]

After BBB was told of her daughter's ordeal, she cried in pity for her daughter. Then, BBB and AAA immediately went to the police station and filed a Complaint against appellant and Danny Alcanices.[14]

The following day, or on 6 May 2002, AAA was subjected to medical examination at the Batangas Regional Hospital in Batangas City where she was attended to by Dr. Yadao.[15] After conducting medical examination, Dr. Yadao issued Medico-Legal Certification[16] dated 6 May 2002 exhibiting the following results:

PHYSICAL EXAMINATION:

No external physical injury seen at the time of examination.

INTERNAL EXAMINATION:

Normal external genitalia, nulliparous introitus with incomplete healed laceration at 3, 5, 7, 9, 10 o'clock position

PREGNANCY TEST:

NEGATIVE[17] [Emphasis supplied].

For purposes of determining AAA's mental age, she was brought to NCMH in Mandaluyong City where she was examined and evaluated by Clinical Psychologist De Guzman. De Guzman stated in her testimony that by merely looking at AAA she could easily recognize some signs and features of Down syndrome, i.e., the way she looks, the way she talks, smiles and enters the testing room. Thereafter, De Guzman interviewed AAA and administered several psychological tests on her, to wit:[18] Raven Progressive Matrices Test,[19] Good Enough Drawing Test,[20] Rorschach Drawing Test, Bender Visual Motor Gestalt Test[21] and Rorschach Psychological Diagnostic Test.[22] These series of tests administered to AAA yielded a result that AAA is suffering from Moderate Mental Retardation, which is a subnormal level of intelligence compared to other girls her age group. It also means that AAA's mental capacity is functioning below par from what is expected of her. AAA's scores on all these tests have been converted to a mental age of an 8-year old child.[23] De Guzman then issued a Psychological Report[24] dated 5 July 2002 embodying the detailed result of AAA's mental evaluation, thus:

TEST RESULTS AND EVALUATION:

Obtained numerical IQ of 36 classifies [AAA's] intellectual capacity under the Moderate Level of Mental Retardation with a mental age approximated to be 8 years old.

She has fair ideas of identifying simple things in her environment but understanding the correlation and importance of it towards social demands and activities in her everyday life cannot be discerned.

Thus, the role she is expected to perform at age 17 is not achieved. She is still playful and expects her caregivers and significant others to cater to her needs.

Immature traits prevail so that difficulties in relating with people around her are often encountered.

Needs guidance and supervision as well as a guardian who will safeguard and protect her.[25] [Emphasis supplied].

For its part, the defense presented the testimonies of appellant, Danny Alcanices, Nelita Lopez, Constancio Tolentino, Analiza Austria and Carina Mercado.

Appellant admitted that he knew AAA because she is the niece of the owner of the boarding house he previously rented. As such, AAA frequented the said boarding house to watch television or to do basic household chores, i.e., sweeping the floor and washing the dishes. In the months of February and March 2002 appellant was still staying in the said boarding house because his work was still within the Batangas area. Being in the sales/marketing department of WWI,[26] he has no fixed hours of work. Appellant usually reported for work at 8:00 a.m. and went home sometimes around 9:00 p.m. or 10:00 p.m. On 20 April 2002, however, appellant left the said boarding

house because his work assignment was transferred to Lucena. Appellant similarly admitted that AAA is mentally retarded.[27]

Nonetheless, appellant vehemently denied having raped AAA. He claimed that he does not know why he was being implicated in such a grievous offense. There was also no misunderstanding between him and the mother, as well as the cousin, of AAA. He just surmised that it is because AAA had a crush on him as she keeps on telling the people in the boarding house that he is her boyfriend. He came to know that he was charged with rape when he was apprehended on 3 August 2002.[28]

Danny Alcanices similarly admitted that he personally knew AAA because he once stayed in the boarding house owned by her mother. As such, he cares for AAA like his younger sister. He left AAA's mother's boarding house because the latter got angry with him when once he was drunk he told her "I love you." He then transferred to a nearby boarding house owned by AAA's uncle where appellant was also a boarder. When he was at the said boarding house, he often saw AAA entering appellant's room. He then advised AAA not to go there as it is improper for a girl to enter a man's room. AAA, however, did not heed his advice.[29]

Like appellant, Danny Alcanices strongly denied having raped AAA and avowed that the said accusation against him was not true. He maintained that he is a good man who only thinks of his family's welfare.[30] He does not know any reason why he was accused of raping AAA other than the fact that AAA's family was angry with him because of his rumored affair with the sister-in-law of AAA's cousin, CCC.[31]

Nelita Lopez's testimony relates only to the fact that Danny Alcanices became her boarder starting 26 February 2002 after he left the boarding house of AAA's uncle.[32]

Constancio Tolentino, a board mate of Danny Alcanices at the boarding house owned by AAA's uncle, testified that whenever he was at the boarding house, there was never an instance that he saw AAA inside Danny Alcanices' room. Besides, the rooms inside the boarding house have separate doors so the occupants cannot observe what is happening in each and every room thereat. Also, he did not stay there 24-hours a day, so he has no idea what was happening therein when he was away.[33]

Analiza Austria, together with her live-in partner, was also a board mate of appellant and Danny Alcanices at the boarding house of AAA's uncle. She stated that AAA is "mongoloid." There was an instance when AAA called her to enter appellant's room and told her that she was afraid of appellant because the latter had once removed her shorts and panty. AAA then demonstrated to her what the appellant did after removing her shorts and panty by tapping the forefinger on her leg up and down. She just ignored AAA's confession because she is aware of AAA's mental condition. Analiza Austria claimed that Danny Alcanices is a good person and at the time the rape incident happened, the latter no longer stayed at the boarding house of AAA's uncle. She, however, disclosed that the relatives of Danny Alcanices approached her to testify regarding this rape charged against him.[34]

The last witness offered by the defense is Carina Mercado, co-worker of Danny Alcanices at Alpha Hotel. She is the Personnel Head Assistant of Alpha Hotel and she keeps the records of the employees' attendance. She stated that she has a record of Danny Alcanices' attendance as employee of Alpha Hotel for the months of January until March 2002. She admitted, however, that she cannot monitor him every minute just to see whether he was indeed at the Alpha Hotel during the hours indicated in his daily time record.[35]

In a Consolidated Decision dated 18 March 2005, the trial court found AAA's testimony to be sufficiently conclusive, logical and probable to warrant the conviction of appellant and Danny Alcanices. Despite AAA's mental condition and limited communication skills, she was able to perceive what happened to her and effectively conveyed it in her own unique way. AAA's testimony passed the test of credibility for being clear and convincing.

In view of that, the trial court ultimately rejected the defense of denial proffered by appellant and Danny Alcanices.

The trial court nonetheless did not appreciate conspiracy in the commission of the crime charged. It noted from the testimony of AAA that although Danny Alcanices was present at the time appellant was raping AAA and vice-versa, there was no showing whatsoever that the two acted in concert and mutually aided one another in the fulfillment of the crime charged. Their acts were not connected and cooperative to indicate a closeness of personal association and concurrence of sentiments.[36] Therefore, their criminal liabilities can only be considered in the light of their individual participation and they should be punished separately. In the testimony of AAA, appellant was the first person who raped her, so appellant should be held responsible in Criminal Case No. 12409 while Danny Alcanices should be held responsible in Criminal Case No. 12410. The trial court thus decreed:

WHEREFORE, in the light of all the foregoing, the Court finds the Accused DANNY ALCANICES y Cueto guilty beyond reasonable doubt, as principal, of the crime of Rape in Criminal Case No. 12409[37] and [appellant] RUEL TAMANO y Pasia guilty beyond reasonable, as principal, of the crime of Rape in Criminal Case No. 124010[38] defined and penalized under the provisions of Articles 266-A and 266-B of the Revised Penal Code, and there being no aggravating nor mitigating circumstance appreciated, hereby sentences them to suffer the penalty of Reclusion Perpetua.

Further, [accused DANNY ALCANICES y Cueto] and [appellant RUEL TAMANO y Pasia] are ordered to pay the offended party the sum [of] FIFTY THOUSAND (P50,000.00) PESOS, each, as civil indemnity.

x x x x.[39] [Emphasis supplied].

Appellant and Danny Alcanices appealed their convictions to the Court of Appeals via Notice of Appeal. For failure, however, of Danny Alcanices to file an Appellant's Brief within the period provided for by Section 1(e),[40] Rule 50 of the 1997 Rules of Civil Procedure, his appeal was abandoned and consequently dismissed per Minute Resolution[41] dated 17 December 2008. Thus, only appellant's appeal was deliberated on for resolution.

In his brief, appellant's lone assignment of error was: the trial court gravely erred in finding [appellant] guilty of the crime charged despite the failure of the prosecution to establish his guilt beyond reasonable doubt.[42]

In its Decision dated 19 February 2009, the Court of Appeals affirmed with modification the trial court's Consolidated Decision dated 18 March 2005, and disposed of the case as follows:

WHEREFORE, premises considered, the present appeal is DENIED. The assailed [Consolidated] Decision dated [18 March 2005], rendered by the Regional Trial Court, Branch 1, Batangas City in Crim. Case Nos. 12409 and 12410 is hereby AFFIRMED with the MODIFICATION that appellant Ruel Tamano is further ordered to pay AAA the amount of P50,000.00 as moral damages, in addition to the amount of P50,000.00 civil indemnity awarded by the RTC.[43]

Disgruntled, appellant appealed the aforesaid Decision to this Court asserting that the prosecution miserably failed to overcome the presumption of innocence in his favor. He claims that AAA's story of defloration was merely concocted for she was only prodded by her mother and cousin to testify in court. Thus, the credibility of such testimony was highly questionable.

In the same way, appellant contends that even the result of the medico-legal examination of AAA cannot be relied upon as evidence that she was raped. For even the medico-legal officer herself who examined AAA revealed that the kind of hymenal lacerations sustained by AAA could have also been caused by riding a bicycle or a horse. Appellant, thus, holds that the prosecution failed to establish his guilt beyond reasonable doubt for the crime of rape.

Appellant's contentions fail to persuade us.

Noticeably, the arguments posited by the appellant hinged on the credibility of the prosecution witnesses' testimonies, more especially, of AAA.

In essence, the crime of rape involves two persons only and it is usually perpetrated in seclusion, thus, the credibility of the victim is crucial to the determination of the culpability of the accused.[44]

While it is true that the credibility of one who is a mental retardate may be difficult to determine, still, it can be ascertained by deducing from the manner she testifies in court as to the surrounding facts of the crime committed. For as long as her testimony is straightforward, candid and unflawed by inconsistencies or contradictions in its material points, and her demeanor is consistent with one who has been a victim of rape, bolsters her credibility with the verity born out of human nature and experience,[45] thus, must be given full faith and credit.

Moreover, mental retardation per se does not affect credibility. A mentally retarded may be a credible witness. The acceptance of her testimony depends on the quality of her perceptions and the manner she can make them known to the court.[46]

Parenthetically, this Court has repeatedly held that matters concerning the credibility of a witness are best addressed to the sound judgment of the trial court. Appellate courts will generally not interfere with the trial court's assessment in this regard, absent any indication or showing that the trial court has overlooked some material facts of substance or value, or gravely abused its discretion. The matter of assigning values to declarations at the witness stand is best and most competently performed or carried out by a trial judge who, unlike appellate magistrates, can weigh such testimony in light of accused's behavior, demeanor, conduct, and attitude at the trial.[47]

In the case at bench, it is beyond question that AAA is a mental retardate with a mental age of an eight-year-old-child. Such finding was amply supported by the Psychological Report[48] dated 5 July 2002 issued by Clinical Psychologist De Guzman of the NCMH. Even appellant admitted that AAA is mentally retarded.

Notwithstanding AAA's mental condition, this Court finds no cogent reason to deviate from the trial court's findings that her testimony is, indeed, logical, clear, convincing, credible and sufficient to hold appellant and Danny Alcanices guilty of the crime charged.

A perusal of the records reveals that AAA vividly described how she was ravished by the appellant, as well as by Danny Alcanices, sometime in February to March 2002. AAA categorically depicted how the appellant kissed and touched her breasts, removed her t-shirt and undergarments, sucked her breasts, went on top of her while instructing her to hold his penis which she refused, and inserted his penis into her vagina that caused her pain. While appellant was doing these atrocious acts on her, Danny Alcanices was simply watching them. Thereafter, Danny Alcanices took his turn in ravishing her also in the presence of appellant.[49] Danny Alcanices similarly kissed her on the lips, parted her legs, went on top of her and inserted his penis into her vagina.[50]

This Court noted that the aforesaid testimony of AAA was given without flourish and innuendo.[51] As aptly observed by the trial court:

x x x despite [AAA's] mental condition and limited communication skills, she was able to perceive what happened to her and effectively conveyed it in her own unique way. Her description on how she was molested, her telegraphic answer to questions as to how the raped occurred due to her limited vocabulary vividly portrayed that the words came from an innocent girl and point to an undeniable fact that she was not coached.[52] [Emphases supplied].

The records likewise revealed that AAA was in tears while positively identifying appellant and Danny Alcanices as her ravisher, as well as in recounting the circumstances surrounding her ordeal.[53] The crying of the victim during her testimony is evidence of the credibility of the rape charge with the verity born out of human nature and experience.[54] Moreover, the straightforward narration of AAA on how she was raped coupled by her categorical identification of appellant and Danny Alcanices as the malefactors sealed the case for the prosecution.[55]

In the same way, the lack of improper motive on the part of AAA even bolsters her credibility. Where there is no evidence to show any dubious or improper reason why a prosecution witness should testify falsely against the accused or falsely implicate him in a heinous crime, her testimony is worthy of full faith and credit.[56]

Appellant's claim that the possible reason why he was implicated in this grievous crime is because AAA had a crush on him, is simply unacceptable to this Court. Aside from being self-serving, it also lacks sufficient basis. Similarly, it is highly inconceivable that AAA in her condition as a mental retardate with a mental age of an eight-year-old-child would fabricate a charge of defloration, allow an examination of her private parts, and thereafter submit herself to a public trial or ridicule, if she had not, in fact, been a victim of rape and deeply motivated by a sincere desire to have the culprit apprehended and punished.[57] Plainly, only a woman seeking justice with truth as her weapon could have braved this calvary.[58]

This Court cannot also sustain appellant's allegation that AAA merely concocted the rape charge because she was prodded by her mother and cousin to testify against appellant. It is unthinkable that a mother would draw her daughter, a mental retardate at that, into a rape scam with all its attendant scandal and humiliation if the rape did not really happen. No mother in her right mind would possibly wish to stamp her child with the stigma that follows a despicable crime of rape.[59]

In his futile attempt to exonerate himself from the consequences of his bestial act, appellant attacks even the credibility of the result of AAA's medico-legal examination by holding that the medico-legal officer who examined AAA revealed that the kind of hymenal lacerations found on AAA's private part could have also been caused by riding a bicycle or a horse.

In the crime of rape, the testimony of the victim, and not the findings of the medico-legal officer, is the most important element to prove that the felony had been committed.[60] A medical examination is not indispensable in the prosecution of a rape victim. Insofar as the evidentiary weight of the medical examination is concerned, we have already ruled that a medical examination of the victim, as well as the medical certificate, is merely corroborative in character and is not an indispensable element for conviction in rape. What is important is that the testimony of private complainant about the incident is clear, unequivocal and credible,[61] and this we find here to be the case.

In contrast to the explicit declaration of AAA that appellant raped her, all that the appellant could muster is the defense of denial. As between a categorical testimony that rings of truth on one hand, and a bare denial on the other, the former is generally held to prevail. A mere denial, like alibi, is inherently a weak defense and constitutes self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.[62] As against the positive identification and credible testimony of AAA, mere denials of appellant cannot prevail to overcome conviction by the trial court.

With all the foregoing, this Court is convinced that the trial court and the appellate court correctly convicted the appellant for the crime of simple rape,[63] which is punishable by reclusion perpetua.[64]

This Court affirms the award of P50,000.00 as civil indemnity given by the lower courts to the victim. Civil

indemnity, which is actually in the nature of actual or compensatory damages, is mandatory upon the finding of the fact of rape.[65]

Moral damages in rape cases should be awarded without need of showing that the victim suffered trauma of mental, physical, and psychological sufferings constituting the basis thereof. These are too obvious to still require their recital at the trial by the victim, since we even assume and acknowledge such agony as a gauge of her credibility.[66] Thus, this Court finds the award of moral damages by the appellate court in the amount of P50,000.00 proper.

This Court also finds it proper to award exemplary damages in the amount of P30,000.00 as a measure to deter other individuals with aberrant sexual tendencies.[67]

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 01439 dated 19 February 2009 finding herein appellant guilty beyond reasonable doubt of the crime of simple rape is hereby AFFIRMED with MODIFICATION awarding AAA P30,000.00 as exemplary damages.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro,[*] Del Castillo, and Abad,**]JJ., concur.

[*] Per Special Order No. 916 dated 24 November 2010, Associate Justice Teresita J. Leonardo-De Castro is designated as Acting Working Chairperson.

[**] Per Special Order No. 917 dated 24 November 2010, Associate Justice Roberto A. Abad is designated as Additional Member.

[1] Penned by Associate Justice Juan Q. Enriquez, Jr., with Associate Justices Celia C. Librea-Leagogo and Normandie B. Pizarro, concurring. Rollo, pp. 2-13.

[2] Penned by Presiding Judge Florencio S. Arellano. CA rollo, pp. 83-92.

[3] This is pursuant to the ruling of this Court in *People of the Philippines v. Cabalquinto*, [G.R. No. 167693, 19 September 2006, 502 SCRA 419], wherein this Court resolved to withhold the real name of the victim-survivor and to use fictitious initials instead to represent her in its decisions. 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. The names of such victims, and of their immediate family members other than the accused, shall appear as "AAA," "BBB," "CCC," and so on. Addresses shall appear as "XXX" as in "No. XXX Street, XXX District, City of XXX."

The Supreme Court took note of the legal mandate on the utmost confidentiality of proceedings involving violence against women and children set forth in Sec. 29 of Republic Act No. 7610, otherwise known as Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act; Sec. 44 of Republic Act No. 9262, otherwise known as Anti-Violence Against Women and Their Children Act of 2004; and Sec. 40 of A.M. No. 04-10-11-SC, known as Rule on Violence Against Women and Their Children effective 15 November 2004.

[4] CA rollo, pp. 13-14.

[5] Records, Vol. 2, pp. 1-2.

[6] Records, Vol. 1, pp. 1-2.

[7] Testimony of AAA's mother, BBB. TSN, 29 August 2002, pp. 6-9.

- [8] Testimony of AAA. TSN, 5 September 2002, pp. 10-12.
- [9] Id. at 6-10.
- [10] Testimony of CCC. TSN, 29 August 2002, p. 5.
- [11] Id. at 5-7.
- [12] Id. at 7-8.
- [13] Testimony of BBB. TSN, 29 August 2002, pp. 14-15.
- [14] Id. at 16.
- [15] Id. at 17.
- [16] Records, Vol. I, p. 6.
- [17] Id.
- [18] Testimony of Nimia Hermilla De Guzman. TSN, 16 September 2002, pp. 6-7.
- [19] This test consists of sets of pictures which is abstract in nature. It is a non-verbal test in which the subject would just analyze the pictures and point to the correct answers that would fit the same (Id. at 8).
- [20] It is usually a Draw-A-Person-Test which doubles as an I.Q. Test (Id. at 9).
- [21] It measures how a person will react towards the environment, the intellectual capacity, maturity, visual motor coordination, the needs and the conflicts (Id. at 10).
- [22] It is an unstructural test and a very sensitive test that would illicit the conflicts, pre-occupations, needs and also the intellectual capacities of the subject. It would also indicate that the subject has a very limited perceptual and conceptual process (Id. at 9).
- [23] Id. at 8.
- [24] Records, Vol. II, pp. 100-101.
- [25] Id. at 101.
- [26] Nothing was mentioned in the Records/Rollo as to what "WWI" stands for.
- [27] Testimony of appellant. TSN, 30 September 2003, pp. 5-10 and 14-15.
- [28] Id. at 11-13.
- [29] Testimony of Danny Alcanices. TSN, 14 July 2003, pp. 6-8.
- [30] Id. at 8-9.
- [31] Id. at 9.
- [32] Testimony of Nelita Lopez. TSN, 8 April 2003, p. 5.
- [33] Testimony of Constancio Tolentino. TSN, 8 April 2003, pp. 15-20.
- [34] Testimony of Analiza Austria. TSN, 14 May 2003, pp. 6-14.
- [35] Testimony of Carina Mercado. TSN, 9 September 2003, pp. 5-10.

[36] CA rollo, pp. 90-91. See also *People v. Cortes*, G.R. No. 120920, 12 February 1998, 286 SCRA 295, 301.

[37] The prosecution failed to prove conspiracy, thus, the RTC separately convicted the appellant and Danny Alcanices. In the body of the RTC Decision dated 18 March 2005, it was Ruel Tamano y Pasia who was held guilty for rape in Criminal Case No. 12409 since he was the first person who raped AAA while Danny Alcanices was held guilty for rape in Criminal Case No. 12410 for having raped AAA just right after the appellant raped her.

[38] CA rollo, p. 91.

[39] *Id.* at 91-92.

[40] SECTION 1. Grounds for dismissal of appeal. - An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

x x x x

(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by these Rules.

[41] CA rollo, p. 133.

[42] *Id.* at 70.

[43] Rollo, p. 13.

[44] *People v. Macapal, Jr.*, 501 Phil. 675, 684 (2005).

[45] *Id.*

[46] *Id.* at 687.

[47] *People v. Sabiyon*, 437 Phil. 594, 615-616 (2002).

[48] Records, Vol. I, pp. 100-101.

[49] Testimony of AAA. TSN, 5 September 2002, pp. 10-12.

[50] Testimony of CCC. TSN, 29 August 2002, p. 5.

[51] *People v. Tormis*, G.R. No. 183456, 18 December 2008, 574 SCRA 903, 913.

[52] CA rollo, p. 89.

[53] Testimony of AAA. TSN, 5 September 2002, p. 5.

[54] *People v. Gonzales*, G.R. No. 141599, 29 June 2004, 433 SCRA 102, 114.

[55] *People v. Macapal, Jr.*, *supra* note 44 at 686.

[56] *People v. Ponsaran*, 426 Phil. 836, 849 (2002).

[57] *People v. Ligotan*, G.R. No. 119219, 30 September 1996, 262 SCRA 602, 609-610.

[58] *People v. Ayungon*, 411 Phil. 415, 427-428 (2001).

[59] *People v. Cula*, 385 Phil. 742, 754 (2000).

[60] *People v. Logmao*, 414 Phil. 378, 387 (2001).

[61] People v. Arivan, G.R. No. 176065, 22 April 2008, 552 SCRA 448, 469.

[62] People v. Alvero, 386 Phil. 181, 200 (2000).

[63] ART. 266-A. Rape: When and How Committed.-Rape is committed:

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

a) Through force, threat or intimidation. (Revised Penal Code).

[64] ART. 266-B. Penalties.-Rape under paragraph 1 of the next preceeding article shall be punished by reclusion perpetua. (Revised Penal Code).

[65] People v. Gragasin, G.R. No. 186496, 25 August 2009, 597 SCRA 214, 232-233.

[66] People v. Docena, 379 Phil. 903, 917-918 (2000).

[67] People v. Cadap, G.R. No. 190633, 5 July 2010.

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