

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JERRY C. PALOTES, ACCUSED-APPELLANT.

*G.R. No. 209786. July 06, 2015*

Ponente: LEONARDO-DE CASTRO, J.

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### LEONARDO-DE CASTRO, J.:

The Court decides the appeal filed by the accused-appellant Jerry C. Palotes from the Decision[1] dated June 28, 2013 of the Court of Appeals in CA-G.R. CEB-CR.-H.C. No. 01301, which affirmed with modification the Decision[2] dated February 10, 2011 of the Regional Trial Court (RTC) of Cebu City, Branch 14, in Criminal Case No. CBU-78851. The trial court adjudged the accused-appellant guilty of one count of rape.

On January 5, 2007, the prosecution charged the accused-appellant of committing rape against AAA[3] in the following manner:

That on or about July, 2005 and for sometime prior and subsequent thereto, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, did then and there willfully and unlawfully have carnal knowledge with one [AAA], a 14-year old MINOR with the mental abilities of an 8 to 9-year old child, without the consent and against the will of the latter and knowing the mental disability of said minor at the time of the commission of the crime.[4]

The accused-appellant pleaded not guilty upon his arraignment.[5] During trial, the prosecution presented the testimonies of the following witnesses: (1) AAA,[6] the private complainant; (2) BBB,[7] the mother of AAA; (3) Dr. Naomi N. Poca,[8] the medico-legal officer who examined AAA; and (4) Rosemarie C. Gonato,[9] a psychologist who examined AAA. The defense, on the other hand, presented the testimonies of (1) the accused-appellant Jerry Palotes;[10] (2) Rose Bistes,[11] a friend of the accused-appellant's common-law wife; and (3) Marina Abella,[12] the owner of the house rented by the accused-appellant. Thereafter, Loren J. Borines,[13] a forensic chemist from the National Bureau of Investigation (NBI), testified on the results of the court ordered Deoxyribonucleic acid (DNA) test that she conducted.

### The Prosecution's Version of Events

As summarized in the Brief for the Appellee[14] filed before the Court of Appeals, the prosecution's pertinent factual allegations are as follows:

The fourteen (14) years old minor victim, AAA, also known as ["ZZZ,"] lives with her mother BBB and her father CCC in YYY, Cebu City. AAA has the mental abilities of an 8-9 years old child. She is an illiterate and no longer goes to school.

Sometime prior to July 2005, AAA was asked by her neighbor, Dimple, to buy a diaper. While AAA was on her way back to her neighbor's house, she was pulled by appellant Jerry Palotes inside the latter's house. Appellant then held AAA, laid her down, removed her short pants and underwear. He then lowered down his brief up to his knees, kissed AAA's lips and neck and inserted his penis into AAA's vagina. When AAA felt pain, appellant stopped and told her to go home. Upon reaching home, she did not tell her mother about what

happened because she was scared.

The second time that the appellant had sexual intercourse with AAA was when her friend called her to take care of her niece while Jerry was also inside the same house. Appellant then invited the minor victim to enter the house, pulled her inside and closed the door. He held AAA's hands, laid her down, removed her short pants and underwear, kissed her lips and neck and inserted his penis and pushed it inside AAA's vagina despite her pleas not to continue. When appellant kept on pushing his penis inside [her] vagina, AAA felt that her vagina was wet. Appellant Palotes took off his shirt and wiped her vagina with it. He advised AAA not to tell anyone about what happened and the latter went home.

The third time that appellant had sexual intercourse with AAA was when he was washing clothes in front of the minor victim's house. They had a chat, with appellant telling AAA that she was beautiful. She just smiled. He then rushed washing his clothes and told AAA to get inside the house while he hang dry his clothes. When AAA was inside the house, the appellant followed her and removed her short pants and panty. He then inserted his penis inside AAA's vagina just like what he did last time. He then told AAA not to tell anyone and it would be between the two of them. Afterwards, AAA went home.[15] (Citations omitted.)

As regards the subsequent events and the medical examinations conducted on AAA, the prosecution stated that:

On September 23, 2005, AAA was brought by her mother, BBB, to her grandmother in [XXX], Cebu. Her grandmother noticed that AAA did not have her monthly period. BBB and the grandmother brought AAA to a Health Center in [XXX] where it was known that AAA was already pregnant for five (5) months. When BBB tried to ask AAA who impregnated her, AAA would just keep her silence and say nothing.

They then brought AAA to the Pink Room of VSMMC for medical examination where it was confirmed that AAA was indeed pregnant. AAA finally told her mother that it was Jerry Palotes whom she had sexual intercourse [with] but she cannot recall when it happened. BBB identified appellant Jerry Palotes as their neighbor who lives in front of their house. She then asked the appellant but he strongly denied it. AAA gave birth last April 5, 2006.

Dr. Naomi Poca, a resident physician at the Women and Children Protection Center of the Vicente Sotto Memorial Hospital in Cebu City, brought the medical records of the minor victim particularly the medical chart which includes the Medical Certificate, Intake Form, and Medico- Legal Certificate. She interviewed the victim and her mother and together with Dr. Amadora, the OB gynecologist connected with the Center, conducted a physical examination on AAA. The medical report stated that AAA suffered a complete transection at 6 o'clock position extending to the fossa navicularis and her ano-genital examination findings are definite for blunt or penetrative trauma to the hymen. Dr. Poca noted that the transection indicates that blunt forces were applied to the hymen of the vagina and the blunt penetrating trauma applied to the hymen caused its laceration.

Dr. Rosemarie Gonato, a psychiatrist, conducted a psychological evaluation on AAA. She confirmed that AAA's mental age is equivalent to 6 to 7 years of age and places her functioning within the mild mental retardation [range].[16] (Citations omitted.)

The prosecution presented the following documentary evidence: (1) Exhibit A- the Affidavit[17] of AAA; (2) Exhibit B the Affidavit[18] of BBB; (3) Exhibit B-1 - the Birth Certificate[19] of AAA; (4) Exhibit C the Medico-Legal Certificate[20] of AAA; (5) Exhibit C-1 - the results of the Anogenital Examination[21] on AAA; (6) Exhibit C-2 the Interview Sheet[22] reflecting the interview of AAA conducted at the Vicente Sotto Memorial Hospital; and (7) Exhibit D - the Psychological Evaluation Report[23] on AAA.

#### The Defense's Evidence

The defense countered the prosecution's statement of facts with the testimonies of its own witnesses which were

condensed in the Brief for the Accused-Appellant[24] filed before the Court of Appeals, thusly:

To refute the allegations of the prosecution, the defense presented the accused Jerry C. Palotes, Marina Abella and Rose Bistes.

Accused Jerry C. Palotes strongly denied the allegations against him and alleged that when this case was initially filed at the Office of the Barangay [YYY], [AAA] could not identify or remember who sexually abused her. She was merely prodded by her relatives to point him as the perpetrator in their desperate effort to get financial support for the child. He surmised that since the complainant gave birth to the child in April 2006, he could not have been the father of the child since he was always not in his rented house. Moreover, since he has a live-in partner, there was no opportunity for him to do the alleged act aside from the fact that he does not have any sexual desire on her because he treated her as a younger sister considering her mental condition and her being a child of tender age. Further, he heard from among the neighbors that the complainant would usually go with other people and was even seen sleeping together with a certain Junjun, a balut vendor. There are also rumors that a certain Berto, a taxi driver, who frequently visited the place, was also seen together with complainant. Since complainant is very susceptible to suggestion, she merely adopted the suggestion by some of her relatives including her mother that he [the accused] should be pointed out as the one who fathered her new born child. Furthermore, on two occasions, [he] was approached by the mother of the complainant telling him that she would not pursue the filing of the case if he promise[d] to shoulder the hospital expenses when the complainant would give birth as well as the expenses for food, milk and other needs of the child.

Marina Abella testified that she is the owner of the house rented by the accused. She also lives within said vicinity and she can attest to the fact that accused is not usually at the rented house as he was busy in his work as a janitor. She also attests to the fact that she saw [AAA] in the company of several people; children, men, women and even strangers. The charge against accused was merely a product of prodding by some of the relatives of the complainant for the purpose of getting support from accused.

Rose Bistes testified that she is one of the neighbors of the accused. She can attest to the fact that accused is known to be good in their place.[25] (Citations omitted.)

The defense also submitted in evidence the following documents: (1) Exhibit 1 - the Counter-Affidavit[26] of the accused-appellant; (2) Exhibit 2 the Affidavit[27] of Rose Bistes; and (3) Exhibit 3 - the Affidavit[28] of Marina Abella.

During trial, the defense requested for the conduct of a DNA test in order to prove that the accused-appellant was not the father of AAA's child.[29] The RTC granted this request in an Order[30] dated May 21, 2009. On May 6, 2010, Loren J. Borines, the NBI forensic chemist who conducted the DNA testing, testified that she analyzed the buccal swabs and blood samples taken from the accused-appellant, AAA and DDD, AAA's child. The results of her examination were contained in a report designated as DNA Case No. DNA-09-32, wherein she concluded that "there is a 99.9995% Probability of Paternity that [the accused-appellant] is the biological father of [DDD]."[31]

The prosecution marked as its Exhibits E and E-1, respectively, the report of Borines entitled DNA Case No. DNA-09-32 and the visual aid[32] she displayed when she testified in court.[33]

The Decision of the RTC

The RTC convicted the accused-appellant of one count of rape in its Decision dated February 10, 2011. The dispositive portion thereof provides:

WHEREFORE, in view of the foregoing premises, judgment is rendered finding accused, GERRY C. PALOTES, GUILTY as principal beyond reasonable doubt of RAPE pursuant to Article 266-A of the Revised Penal Code, as amended, by R.A. 8353 and sentences him to an indivisible penalty of reclusion perpetua under the first paragraph of Article 266-B.

He is also ordered to pay the minor through h[er] parents the amount of FIFTY THOUSAND (Php50,000.00[]), for and as civil damages.

Costs de oficio.[34]

The trial court ruled that the testimonies of the prosecution witnesses established the fact that AAA was not only a 14-year old minor but she had the mental abilities of an eight to nine-year old child. According to the RTC, the accused-appellant himself admitted that he treated AAA as a younger sister given her mental condition and her being a child of tender age. Likewise, Marina Abella, a witness for the defense, acknowledged that AAA was mentally deficient.

The RTC ascribed greater weight to the testimony of AAA. The trial court noted that the same was replete with specifics on how the accused- appellant sexually abused AAA and she alone could have supplied such details. The RTC further observed that AAA's testimony was given in a straightforward manner. If there were inconsistencies therein, the trial court deemed the same inconsequential given AAA's mental condition. As regards the corroborative testimonies of the defense witnesses Marina Abella and Rose Bistes, the trial court concluded that the same were hearsay evidence. Given that so many persons allegedly talked to said witnesses, not one of them testified for the defense. The RTC added that the insistence of the accused-appellant that he be subjected to a DNA test together with AAA and DDD, and the positive result of said test, had no bearing on the outcome of the case since paternity is not an element of rape.

#### The Judgment of the Court of Appeals

On appeal,[35] the Court of Appeals affirmed the conviction of the accused-appellant for one count of rape in this wise:

WHEREFORE, the appeal is DENIED for lack of merit. Accordingly, the February 10, 2011 Decision of the Regional Trial Court, Branch 14 of Cebu City is AFFIRMED subject to the MODIFICATION that the accused-appellant JERRY PALOTES is ORDERED to pay AAA, [through] her parents, the amount of Fifty Thousand Pesos (Php50,000.00) as civil indemnity plus interest of 6% per annum reckoned from the finality of this judgment until full payment thereof.[36]

The Court of Appeals found that despite AAA's mental condition, she clearly identified the accused-appellant as the perpetrator of the rape and the father of her child. The appellate court posited that AAA's testimony was complete with specifics on how the accused-appellant sexually abused her. Her categorical, and consistent identification of the accused-appellant was devoid of any showing of ill motive and the same, therefore, prevailed over the latter's defenses of alibi and denial. The Court of Appeals also ruled as credible and consistent the sworn statement of AAA dated April 27, 2006, wherein she made a candid and straightforward narration of how the accused-appellant raped her. To the appellate court, AAA's mental retardation per se did not affect her credibility and the inconsistencies in AAA's testimony on collateral and minor matters were not enough to discredit the same. Moreover, AAA's assertion that the accused-appellant had sexual intercourse with her was substantially corroborated by the medical findings on her vaginal injuries.

#### The Ruling of the Court

In his appeal[37] before this Court, the accused-appellant reiterated his argument that the trial court erred in convicting him of the crime charged despite the fact that the prosecution failed to prove his guilt beyond reasonable doubt. The accused-appellant admitted that he knew of AAA's mental handicap and he claimed that other people merely prompted AAA to execute her sworn statement. The accused-appellant further alleged that the testimony of AAA was unclear and inconsistent, thus falling short of the required credibility to be the basis of

the accused-appellant's conviction. As the evidence of the prosecution failed to establish his guilt beyond reasonable doubt, he argued that his acquittal must follow.

The Court finds no merit in the accused-appellant's appeal.

Article 266-A of the Revised Penal Code defines the crime of rape by sexual intercourse as follows:

ART. 266-A. Rape, When and How Committed. - 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 is otherwise unconscious;

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

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.

Thus, for a charge of rape to prosper under the above provision, the prosecution must prove that: (1) the offender had carnal knowledge of a woman; and (2) he accomplished such act through force, threat, or intimidation, or when she was deprived of reason or otherwise unconscious, or when she was under twelve years of age or was demented.

The element of carnal knowledge in this case was adequately established by the testimony of AAA. Before the trial court, AAA stated that a neighbor asked her to buy diapers. After buying the diapers, she was on her way to her neighbor's house when she encountered the accused-appellant. The latter made AAA get inside his house and made her lie on the floor. The accused-appellant removed his shorts and underwear and that of AAA's. He lay beside AAA and started kissing her lips and neck. He then inserted his penis into AAA's vagina and she felt pain. Afterwards, AAA went home. AAA did not tell her mother about the incident because she was afraid of the accused-appellant. AAA also positively identified the accused-appellant in open court and she denied that her mother merely forced her to wrongly accuse him.[38]

The RTC found worthy of credence the above testimony of AAA and her positive and consistent identification of the accused-appellant as the perpetrator of the crime. The Court of Appeals similarly held AAA to be a credible witness when it affirmed the accused-appellant's conviction. After reviewing the testimony of AAA, as well as the records of this case, the Court finds no reason to deviate from the factual findings of the lower courts. Verily, we see no justification to disturb the lower courts' appreciation of the credibility of AAA's testimony. As discussed in *Dizon v. People*[39]:

Jurisprudence instructs that when the credibility of a witness is of primordial consideration, as in this case, the findings of the trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded respect if not conclusive effect. This is because the trial court has had the unique opportunity to observe the demeanor of a witness and was in the best position to discern whether they were telling the truth. When the trial court's findings have been affirmed by the appellate court, as in the present case, said findings are generally binding upon this Court. (Citation omitted.)

Furthermore, the testimony of AAA that she suffered sexual abuse was bolstered by the Medico-Legal Certificate (Exhibit C) issued by Dr. Naomi N. Poca, a physician at the Vicente Sotto Memorial Hospital in Cebu City, which revealed that AAA was in a non-virginal state and was in fact pregnant. Dr. Poca concluded that: "[a]nogenital examination findings are definite for blunt or penetrative trauma to the hymen. Pregnancy, uterine, 20-24 weeks

age of gestation by fundal height." [40]

To disprove the charge against him, the accused-appellant denied AAA's accusations and interposed an alibi. In his counter-affidavit that was made part of his testimony, the accused-appellant claimed that at the time when the alleged sexual abuse occurred in July 2005, he was busy looking for a job so he was not always in his rented house in YYY, Cebu City. Moreover, the accused-appellant alleged that he had a live-in partner such that there was no opportunity for him to commit the crime charged. Said refutations, however, ring hollow.

Denial and alibi are inherently weak defenses; unless supported by clear and convincing evidence, the same cannot prevail over the positive declaration of the victim. [41] In the case of an alibi, the requirements of time and place should be strictly complied with by the defense, meaning that the accused must not only show that he was somewhere else but that it was physically impossible for him to have been at the scene of the crime at the time it was committed. [42]

The accused-appellant in the instant case utterly failed to substantiate his allegations. In his cross-examination, he stated that in July 2005, he was indeed the neighbor of AAA in YYY, Cebu City. At that time, he said he was busy looking for work but only within the city. Furthermore, he would return to his house in YYY everyday after his job hunting. [43] Clearly, the alibi of the accused-appellant is at most unspecific and vague as to his exact whereabouts and the fact that he goes back everyday to his house the locus criminis in this case does little in proving the requisite physical impossibility of his presence therein when the crime was committed.

Other than his own flimsy testimony, he presented the testimonies of defense witnesses Rose Bistes and Marina Abella. [44] However, said testimonies were insufficient to validate the accused-appellant's averments.

Rose Bistes merely stated that the accused-appellant could not have committed the crime charged because he was known in their locality to be a good person, [45] but she admitted in her cross-examination that her knowledge of the case was only derived from what a certain Fe Berdin told her. [46] Marina Abella, on the other hand, stated that the accused-appellant could not have raped AAA because he was "not usually at [his] rented house as he was busy in his work as [a] janitor" and that she saw AAA in the company of other male persons anyone of whom could have fathered AAA's child. [47] On cross-examination, however, Marina Abella said that she could not even remember the month and year when the accused-appellant was busy working as a janitor, nor could she recall the time when AAA was supposedly raped by the accused-appellant. [48] Clearly, the testimonies of the above witnesses hardly provide any concrete corroboration of the accused-appellant's allegations.

Set against the credible testimony of AAA and her positive identification of the accused-appellant as her abuser, the latter's self-serving denial and alibi cannot absolve him of the crime charged.

Carnal knowledge of a woman who is mentally deficient constitutes rape under Article 266-A, paragraph 1(b) of the Revised Penal Code, as amended, as such a woman is automatically considered incapable of giving consent to a sexual act. We held in *People v. Caoile* [49] that "the phrase deprived of reason under paragraph 1(b) has been interpreted to include those suffering from mental abnormality, deficiency, or retardation." Accordingly, what needs to be proven are the facts of sexual congress between the accused and the victim, and the mental retardation of the latter. [50]

That AAA was mentally deficient - thus, deprived of reason - when the accused-appellant succeeded in having sexual intercourse with her was clearly established in this case. Dr. Rosemarie Gonato, a psychologist at the Vicente Sotto Memorial Hospital, testified that she conducted a psychological evaluation of AAA. The results thereof indicated that "[AAA's] mental age [was] equivalent to a child [of] 6 to 7 years of age and x x x her functioning [was] within the mild mental retardation." [51] Dr. Gonato also issued a Psychological Evaluation

Report, which was marked in evidence by the prosecution. Moreover, as found by the trial court, the accused-appellant himself admitted that he knew of AAA's mental deficiency[52] and defense witness Marina Abella likewise attested that AAA had a mental problem.[53] Therefore, the Court sustains the conviction of the accused-appellant of the crime charged.

Incidentally, the Court notes that the prosecution filed only one information for rape against the accused-appellant yet in the statement of facts set out in the Brief for the Appellee filed before the Court of Appeals, the prosecution related three instances of rape committed by the accused-appellant against AAA. Nonetheless, we agree with the lower courts that the accused should be penalized for only one count of rape. This is so as AAA testified to only one count of rape, without any mention at all of any other instance of sexual abuse. No other evidence was presented to substantiate the alleged second and third incidents of rape. Settled is the rule that every charge of rape is separate and distinct crime so that each of them should be proven beyond reasonable doubt.[54]

#### The Proper Penalty

The accused-appellant's knowledge of AAA's mental deficiency at the time he committed the rape qualifies the crime and makes it punishable by death in accordance with Article 266-B of the Revised Penal Code, as amended. Said provision pertinently provides:

ART. 266-B. Penalties. - x x x.

x x x x x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

x x x x x x x x

10) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

Since the accused-appellant's knowledge of AAA's mental condition was specifically alleged in the information, proven by the evidence of the prosecution and admitted by the accused-appellant during trial, said qualifying circumstance is applicable. Thus, the proper imposable penalty in this case is death. However, in accordance with Section 2 of Republic Act No. 9346,[55] the penalty of reclusion perpetua shall instead be imposed.

As to the accused-appellant's civil liability, the trial court ordered him to pay AAA the amount of 50,000.00 as "civil damages." The Court of Appeals, thereafter, modified the same by awarding 50,000.00 as civil indemnity plus interest of 6% per annum reckoned from the finality of judgment until full payment thereof.

Following our recent ruling in *People v. Cataytay*,[56] which is akin to the present case involving the crime of qualified rape punishable by death but reduced to reclusion perpetua, the Court increases the amounts of indemnity and damages to be imposed against the accused-appellant as follows: P100,000.00 as civil indemnity; P100,000.00 as moral damages; and P100,000.00 as exemplary damages. Additionally, we impose 6% interest per annum from finality of judgment until fully paid.

WHEREFORE, the appeal is DENIED. The Decision dated June 28, 2013 of the Court of Appeals in CA-G.R. CEB-CR.-H.C. No. 01301 is hereby AFFIRMED with the MODIFICATION that the amounts of indemnity and damages are increased as follows: P100,000.00 as civil indemnity; P100,000.00 as moral damages; and P100,000.00 as exemplary damages. All amounts are also subject to interest at the rate of 6% per annum from the date of finality of this judgment until fully paid.

**SO ORDERED.**

Sereno, C.J. (Chairperson), Bersamin, Perez, and Perlas-Bernabe, JJ., concur.

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[1] Rollo, pp. 4-17; penned by Executive Justice Pampio A. Abarintos with Associate Justices Gabriel T. Ingles and Marilyn B. Lagura-Yap, concurring.

[2] Records, pp. 120-127; penned by Presiding Judge Raphael B. Yrastorza, Sr.

[3] The real names of the private complainant and those of her immediate family members are withheld in accordance with Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act); Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004); and A.M. No. 04-10-11-SC effective November 15, 2004 (Rule on Violence Against Women and Their Children). See *People v. Cabalquinto*, 533 Phil. 703 (2006).

Thus, the private offended party shall be referred to as AAA, and her nickname shall be ZZZ. The initials BBB shall refer to the mother of the private offended party, whereas CCC shall stand for the name of the father of the private offended party. The initials DDD shall refer to the child of AAA. The initials YYY shall denote the specific place where the crime was allegedly committed, and the initials XXX shall stand for the place where AAA subsequently resided after the crime charged was allegedly committed.

[4] Records, p. 1.

[5] *Id.* at 34.

[6] TSN, April 18, 2008.

[7] TSN, February 5, 2009.

[8] TSN, April 30, 2009.

[9] TSN, May 7, 2009.

[10] TSN, May 21, 2009.

[11] TSN, June 11, 2009.

[12] TSN, June 25, 2009.

[13] TSN, May 6, 2010.

[14] CA rollo, pp. 47-61.

[15] *Id.* at 51-53.

[16] *Id.* at 53-55.

[17] Records, pp. 8-10.

[18] *Id.* at 11-12.

[19] *Id.* at 13.

[20] *Id.* at 14.

[21] *Id.* at 82.

[22] Id. at 84-85.

[23] Id. at 92-94.

[24] CA rollo, pp. 18-29.

[25] Id. at 23-25.

[26] Records, pp. 21-23.

[27] Id. at 24-25.

[28] Id. at 26-27.

[29] TSN, May 21, 2009, p. 6.

[30] Records, p. 98.

[31] Id. at 108.

[32] Id. at 114-117.

[33] Although properly identified and marked, Exhibits E and E-1 did not appear to have been formally offered as evidence by either party.

[34] Records, p. 127.

[35] Id. at 129.

[36] Rollo, pp. 16-17.

[37] Id. at 98-99.

[38] TSN, April 18, 2008, pp. 4-9.

[39] 616 Phil. 498, 512 (2009).

[40] Records, p. 14.

[41] *People v. Sulima*, 598 Phil. 238, 253-254 (2009).

[42] *People v. Pili*, 351 Phil. 1046, 1068-1069 (1998).

[43] TSN, May 21, 2009, pp. 4-6.

[44] Rose Bistes and Marina Abella executed their respective Affidavits dated July 4, 2006 (Records, pp. 24-27) and the same were made part of their direct testimonies (TSN, June 11, 2009, p. 4; TSN, June 25, 2009, p. 4).

[45] Records, p. 24.

[46] TSN, June 11, 2009, p. 7.

[47] Records, p. 26.

[48] TSN, June 25, 2009, pp. 4-5.

[49] G.R. No. 203041, June 5, 2013, 697 SCRA 638, 649.

[50] *People v. Castillo*, 641 Phil. 570, 583 (2010).

[51] Records, p. 93.

[52] Id. at 21-22.

[53] Id. at 26.

[54] *People v. Tabio*, 568 Phil. 144, 155-156 (2008).

[55] Republic Act No. 9346 is entitled An Act Prohibiting the Imposition of Death Penalty in the Philippines. The law took effect on June 30, 2006. Section 2 thereof relevantly states:

SEC. 2. In lieu of the death penalty, the following shall be imposed:

a. the penalty of reclusion perpetua, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code[.]

[56] G.R. No. 196315, October 22, 2014, citing *People v. Lumaho*, G.R. No. 208716, September 24, 2014, 736 SCRA 542, 555-556.

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