

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DARWIN DAVID,
RICHARD GACER AND JOSELITO SUGALAN, ACCUSED, DARWIN
DAVID, APPELLANT.**

G.R. Nos. 121731-33. November 12, 2003

Ponente: CORONA, J.

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CORONA, J.:

Before us is an appeal from the decision,[1] dated February 6, 1995, of the Regional Trial Court of Makati City, Branch 136, in Criminal Case Nos. 91-4009 to 11, convicting herein appellant Darwin David and his co-accused Joselito V. Sugalan of the crime of rape as defined and penalized by Article 335 of the Revised Penal Code.

Except for the sequence in the enumeration of the names of the accused, the three separate informations for forcible abduction with rape filed against appellant Darwin David and his co-accused, Joselito Sugalan and Richard Gacer, were identically worded, as follows:

That on or about the 5[th] day of February 1991, and subsequent thereto, in the Municipality of Parañaque, Metro Manila, Philippines a place within the jurisdiction of this Honorable Court, the above- named accused, Darwin David y Diaz, conspiring and confederating with Richard Gacer, who is still at large, and one Joselito Sugalan and all of them mutually helping and aiding one another, with lewd and unchaste design, lured aforementioned victim AAA into attending a certain party at 15353, Wawa, Moonwalk, Parañaque, Metro Manila, when in fact, there was no such party and upon arrival thereat, the accused by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge with the complainant against her will and consent.

Contrary to law.

Of the three accused, only appellant Darwin David and Joselito Sugalan were arrested. Richard Gacer has remained at large.

Arraigned on September 13, 1991, appellant Darwin David and Joselito Sugalan pleaded not guilty to the charge.[2]

As culled from the evidence of the prosecution, the facts were as follows:

On February 5, 1991, 14-year-old AAA was in front of her employer's house in Moonwalk, Parañaque when Richard Gacer and a certain Ricky approached and invited her to attend a party later that night. They agreed to meet at a nearby vulcanizing shop. AAA knew Richard as he used to deliver bread in the neighborhood.

At about 9:00 p.m. that evening, AAA and her friend "Pogi" (the brother of Ricky) met with Richard and Ricky at the designated place. Thereafter, they proceeded to the house of Joselito Sugalan in Sto. Niño St., San Agustin Village, Parañaque. Upon reaching the place, AAA asked where the party was but no one answered her. She asked to go home but Richard and Joselito prevented her from leaving. Only brothers Ricky and "Pogi" were allowed to leave. AAA was then led to the "sala" (the victim referred to this portion of the house as the terrace),

after which Richard, Joselito and Darwin David, whom she saw for the first time, conferred with one another. A few minutes later, Joselito entered the sala and offered AAA a bottle of beer. When she refused to drink, Joselito poked a fan knife at her and forced her to consume most of its contents. After Joselito left, Richard came in and started to undress her. She tried to resist but by then she was starting to feel dizzy. Before losing consciousness, she felt that Richard was already on top of her. When she regained consciousness, she found herself naked and Richard was gone. Instead, she was alone with Darwin who poked a knife at her and forced her to sit down. Then he took his turn raping her. She saw blood oozing from her private part even before Darwin could insert his penis.

AAA could only cry in pain after having been ravished twice. After Darwin left, Joselito came in and asked her "masarap ba?" Then, he raped her too.

While the whole incident was taking place, Joselito's mother, grandmother, brother and cousin were in a room inside the house.

Subsequently, AAA heard Joselito arguing with Darwin as to who would take responsibility for their acts. The following day, Joselito told his mother that AAA would be staying with them. Joselito's mother asked her if she wanted to marry her son but AAA refused. Nevertheless, she stayed with the Sugalan family for about two months during which Joselito made her a sex slave. She complained about Joselito's physical abuses but Joselito's mother who was herself afraid of her son, advised her to endure her suffering. She was never allowed to go out alone. In one instance, she attempted to escape when she attended mass with the Sugalan family but Joselito's mother prevented her from doing so.

On April 5, 1991, AAA succeeded in fleeing from the Sugalan residence after Joselito physically maltreated and threatened to kill her. From Parañaque, she proceeded to her Auntie Fe in Malibay, Pasay City. She told her aunt that she came from work and that she met an accident in Baclaran. It took her more than a month before she could muster the courage to reveal what really happened, because of fear of the Sugalans. Accompanied by her aunt, she reported the incident to the police authorities and subjected herself to a medical examination.

The examination report on AAA, prepared by Dr. Roberto Simbalon, Jr., NBI medico-legal officer, showed the following: (1) there were no extra-genital injuries at the time of the examination; (2) a healed laceration was found compatible with the date of the first alleged rape and (3) there were signs of probable pregnancy. Dr. Simbalon concluded that, under normal circumstances, the healed laceration of the hymen was caused by sexual intercourse.

Darwin and Joselito denied the charges against them. Joselito, 20 years old and single, claimed that he met AAA on January 22, 1991 in a peryahan. She became his girlfriend and live-in partner from January 29, 1991 up to the first week of April 1991. They stayed in Parañaque with Joselito's mother, grandmother, brother and sister. He considered her as his wife and the rest of the family treated her very well. To prove his claim, he presented three pictures of AAA with handwritten notes indicating her birthday and a list of some of the clothes she left in their house.

Joselito alleged that in the evening of February 5, 1991, he and AAA slept in their room. Sometime in March, they had an argument because of her jealousy. He slapped her, prompting the latter to leave the house and file the present charge against him.

Joselito further said that he and his childhood friend, Darwin David, were members of a fraternity called "NAKAJEDU or NK" but denied having known their co-accused Richard Gacer.

Julietta Valdez, Joselito's mother, testified that her son and AAA lived together as husband and wife in her house since January 29, 1991 up to the first week of April 1991. She met AAA for the first time in the early morning of

January 30, 1991. Upon learning that AAA wanted to live with Joselito, she asked her if she wanted to marry him but the former replied that she was too young and that she was afraid of her aunt.

Darwin testified, in essence, that on February 5, 1991, he was with his girlfriend (now his wife) from 6:00 p.m. up to about 12:30 midnight. He came to know AAA only through his friend Joselito.

After a thorough evaluation of the evidence, the trial court convicted Darwin and Joselito of rape and sentenced them to reclusion perpetua. The dispositive portion of its decision read:

WHEREFORE, and in consideration of all the foregoing, the Court finds both accused, Joselito Sugalan and Darwin David, GUILTY BEYOND REASONABLE DOUBT of the crime of Rape and hereby sentences each of them to suffer an imprisonment of Reclusion Perpetua, and to jointly and severally indemnify the offended party of the (sic) sum of P50,000.00 as moral damages.

As regard the accused, Richard Gacer, who remains at large and had not been apprehended by the agents of the law since the filing of this case in Court, let the case as against said accused be archived within a period of ninety (90) days from today; thereafter, the same to be automatically calendared for trial. In the meantime, let an alias warrant of arrest be issued for his apprehension.

So ordered.

Hence, this appeal.

Meanwhile, Joselito Sugalan escaped from detention and has not been re-arrested ever since. Thus, in a resolution dated October 14, 1996, we dismissed the appeal of Joselito Sugalan considering that he was at large.

Appellant Darwin David raised a single assignment of error:

THE LOWER COURT ERRED IN GIVING FULL WEIGHT AND CREDIT TO THE TESTIMONY OF ALLEGED VICTIM AAA AND IN DISREGARDING THE DEFENSE OF ALIBI OF THE ACCUSED-APPELLANT ALTHOUGH THE EVIDENCE PRESENTED BY THE PROSECUTION IS WEAK AND NOT SUFFICIENT TO SUSTAIN CONVICTION BEYOND REASONABLE DOUBT.

In reviewing rape cases, the Court is guided by the following principles: (a) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (b) in view of the nature of the crime in which only two persons are involved, the testimony of the complainant must be scrutinized with extreme caution and (c) 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 of the defense.[3] The conviction or acquittal of an accused, therefore, depends almost entirely on the credibility of the victim's testimony since, by the intrinsic nature of this crime, it usually involves only two persons - the victim and the accused.[4]

In this regard, the rule is well-settled that the trial court's conclusions on the credibility of witnesses in rape cases are generally accorded great weight and respect, and at times even finality, unless there appear in the record certain facts or circumstances of weight and value which the lower court overlooked or misappreciated and which, if properly considered, would alter the result of the case.[5] The trial court is in a better position to assess the credibility of witnesses, considering its firsthand opportunity to observe their demeanor and manner of testifying during the trial.

After a careful review of the testimonies of the witnesses in this case, we find no reason to overturn the trial court's assessment of the victim's credibility. We find her account to be truthful and credible, having convincingly narrated in detail how the three accused took turns in sexually abusing her that fateful night. In the words of the trial court, "the offended party's story is so replete with details, picturing in a step-by-step fashion how the three

accused took turn(s) in ravishing her," thus:

FISCAL LANOT

Q

Who actually detained you in the balcony?

A

Darwin told me to go to the terrace, sir.

Q

What exactly did Darwin tell you or when he asked you to go to the terrace?

A

He said, "Sandali lang, may pag-uusapan lang kaming tatlo."

Q

And when you said "kaming tatlo" to whom was he referring?

A

Richard Gacer, Darwin David and Joselito Sugalan.

Q

After you were detained at the terrace, what happened next?

A

One of them entered the terrace and asked me to drink beer.

Q

And did you drink beer?

A

I did not want to drink beer, but they threatened me to drink beer that's why I drank the beer.

Q

Who threatened you?

A

Joselito Sugalan, sir.

Q

How were you threatened?

A

He poked a fan knife at me sir.

xxx xxx xxx

Q

When this Joselito Sugalan poked you a fan knife, what happened next?

A

I drank the beer, and after a while he left the terrace, and I felt dizzy and then Richard Gacer came to the terrace.

Q

And after that what happened next?

A

He told me to take off my clothes.

Q

Did you undress?

A

No, sir.

Q

When you refused to undress, what happened next?

A

He forced me, he pulled my jacket.

COURT

Who did that?

A

Richard Gacer, Your Honor.

Q

What else transpired?

A

At that time I was fighting, I was fighting against him but I was already dizzy, I fell asleep, sir.

FISCAL LANOT

For the record your Honor may I place that the witness is crying, or her tears is (sic) falling down from her eyes.

COURT

Alright place that on record.

FISCAL LANOT

And when you feel (sic) asleep, did you regain consciousness?

A

No sir, I did not regain consciousness.

COURT

When did you gain your consciousness?

A

When Darwin followed Richard, Your Honor.

FISCAL LANOT

When Darwin followed Richard, what did Darwin David do to you?

A

I did not know, I just felt pain, sir.

Q

Miss witness, this Richard Gacer you said that he pulled your jacket, and after he pulled your jacket, what else if anything did he do to you, before you loss (sic) consciousness?

A I did not know sir, I just felt that as if he was on top of me sir.

COURT

Who was on top of you?

A Richard Gacer, your Honor.

FISCAL LANOT

Were you wearing a party (sic) at that time.

A I did not know.

Q Why did you not know that?

A Because I feel asleep, because at that time I was already dizzy, sir.

Q What did Ricky do on top of you?

A I do not know, sir.

Q Miss witness you said that this Darwin David followed, what do you mean that he followed when you said he followed?

A After Richard abused me, Darwin followed him, sir.

Q Miss witness why do you say that you were abused by Richard Gacer and Darwin David?

A Because when Darwin asked me to sit down, I was naked, and at that time I was looking for my clothes but I did not find my clothes.

Q Did you feel anything when you saw yourself naked?

A Yes, sir.

Q What did you feel?

No answer

FISCAL LANOT

Your Honor, for the record, the witness is crying unceasingly.

COURT

Alright make that of record that she is crying unceasingly.

xxx xxx xxx

FISCAL LANOT

Now Miss witness you said you regained consciousness, and when you regain (sic) consciousness your clothes or you were naked and Darwin David was there, now Miss witness what did you feel, I was asking you then what did you feel on any part of your body?

ATTY. PUNSALAN

Your Honor may I object to that, on the ground that my compañero here is actually leading the witness Your Honor. The witness in fact, she has not felt any pain.

COURT

She felt pain, over-ruled.

A I felt pain in my vagina.

COURT

Now earlier you said you were abused by Richard followed by Darwin, in what way did they abused (sic) you?

A They forced me, Your Honor.

FISCAL LANOT

In the case of Darwin David, how did he force you in abusing you?

A He threatened me with the use of a fan knife, he was poking the fan knife at me.

COURT

What did he want to do?

A He wanted to do it to me.

FISCAL LANOT

May I ask that the word "pagsasamantala" be quoted. What do you mean by "pagsasamantala", you said "gagalawin", what do you mean by "gagalawin, what part or parts of your body was to be touched or "gagalawin."

A My vagina, sir.

xxx xxx xxx

FISCAL LANOT

Going back to my question to you Miss witness, you said that firstly this Richard Gacer abused you, now before he abused you, what did you observed (sic) on him.

COURT

You know abused is still a conclusion.

FISCAL LANOT

Was he naked or was he dressed up?

A Yes, sir, Richard Gacer was naked when he abused me.

Q You said that he was naked, what did you see on him, if anything, aside from the knife that was being poked at you?

A His penis sir.

Q And what did he do with his penis?

xxx xxx xxx

A He inserted his penis to my vagina, sir.

Q And how about Darwin David, you said he also poked a knife on you before you were abused, now, was he naked or was he dressed up?

A He was still dressed up.

Q What next did he do?

COURT

You can shorten that fiscal, she said that the other guy also abused her, you are bringing her again to the same line of

FISCAL LANOT

Now Miss witness, I was asking you what exactly did Darwin David do to you when you said after Richard abused you?

A When I was still lying (sic) he asked me to sit down and then he poked the fan knife at me and he was already taking off his clothes, he also inserted his penis into my vagina, sir.

Q When Darwin inserted his penis into your vagina, what did you feel if anything?

A I felt pain, sir.

xxx xxx xxx

FISCAL LANOT

Okay, Miss witness after Darwin inserted his penis into your vagina, what happened next, no, no., after he finished abusing you and after he finished inserting his penis into your vagina, what happened next?

A After Darwin David left, I cried because I was already feeling pain then I saw Joselito Sugalan there.

Q What did Joselito Sugalan do to you, if anything?

A He asked me "masarap ba?" but I did not answer him sir.

Q What else happened after that?

A He abused me too.

xxx xxx xxx

FISCAL

You said that Joselito Sugalan was there already and you said he asked you did you enjoy, what happened next after that?

A

He forcibly abused me again but I tried to fight back but I could not because he was strong, then because of that I fell to the ground then on the ground I continued fighting back and could not because he is (sic) strong and he succeeded to (sic) insert his penis into my vagina, sir.

Q When Joselito Sugalan succeeded inserting his penis into your vagina what did you feel?

A I still felt pain in my vagina.

xxx xxx xxx

FISCAL LANOT

After you were abused, you were raped by Joselito Sugalan, what happened next?

A He told me if I would continue to fight back he would stab me with the fan knife.

Q What happened next after that?

A After my head hit a stone on the floor, I stopped fighting back and I decided not to fight back because he might stab me.

Q After that what happened next?

A After he inserted his penis into my vagina, he left then he talked with Darwin David, they said Richard Gacer had already left.

Q Why did you say that Darwin David and Joselito Sugalan were talking?

A I heard sir.

Q Did you see them talking?

A No sir.

Q Where were they when you heard them talking?

A Outside sir.

Q What happened next after that?

A

One of them said who would answer for the thing that happened but I did not see who said that, I heard they decided that it was Joselito Sugalan who would answer for what happened.[6]

Appellant points out alleged inconsistencies in the victim's testimony which purportedly negated any guilt on his part for the crimes charged:

- The victim stated that when Richard Gacer and Ricky invited her to attend a party on February 5, 1991, appellant David was with them. However, in the later part of her testimony, she declared that it was only Richard and Ricky who accompanied her to Joselito's house.
- The victim stated in her direct testimony that she stayed in the house of Joselito for one (1) month. But later on she contradicted her former statement when she averred that she left the house of Joselito only on 5 April 1991 or about two (2) months from the date of the alleged rape.
- The victim testified that when Richard ordered her to undress and she refused, the latter pulled off her jacket, and while fighting him off, she felt dizzy and lost consciousness. However, in the later part of her testimony, she declared that she saw Richard naked and thereafter, the latter inserted his penis into her private part.

The above inconsistencies were minor and trivial, and did not affect the victim's credibility. In her testimony, she consistently declared that: (a) it was Richard and Ricky who invited her to the party and accompanied her to Joselito's house and (b) it was there at Joselito's house where she saw Darwin:

COURT

Who were your companions who were allowed to go?

A

Ricky and his brother.

Q

Where was Darwin David at that time?

A

He was at the house of Joselito Sugalan, sir.

xxx xxx xxx

Q

Miss witness, will you please tell the Honorable Court on that particular time of 9:45 in the evening of February 5, 1991, who were in the house of Joselito Sugalan?

A

Darwin, Joselito, Richard Gacer, mother of Joselito Sugalan, his grandmother, the brother of Joselito Sugalan and his cousin.

FISCAL LANOT

What happened next after you were not allowed to go home? Ah, you said you were detained?

A

Yes sir.

Q

Who actually detained you in the balcony?

A

Darwin told me to go to the terrace, sir.

Q

What exactly did Darwin tell you when you or when he asked you to go to the terrace?

A

He said, "Sandali lang, may pag-uusapan lang kaming tatlo."

Q

And when you said "kaming tatlo" to whom was he referring?

A

Richard Gacer, Darwin David and Joselito Sugalan.

Regarding her stay at the Sugalan residence, the victim immediately corrected herself by declaring that she stayed there for about two months, not just one month. At any rate, Joselito confirmed her stay with his family when he stated that he and the victim lived as husband and wife for two months.

The victim likewise categorically testified that she saw Richard naked and felt his organ in her private part before losing consciousness:

FISCAL LANOT

Going back to my question to you Miss Witness, you said that firstly this Richard Gacer abused you, now before he abused you, what did you observe on him?

COURT

You know abused is still a conclusion.

FISCAL

Was he naked or was he dressed up?

A Yes sir, Richard was naked when he abused me.

Q You said that he was naked, what did you see on him, if anything aside from the knife that was being poked at you?

A His penis sir.

Q And what did he do with his penis?

xxx xxx xxx

A He inserted his penis to my vagina, sir.[7]

In the case of *People vs. Arafiles*,^[8] we ruled that protracted examination of a young girl, not accustomed to a public trial, can produce contradictions which are insufficient to destroy her credibility. On the contrary, they may in fact serve as badges of truth, indicating that the witness was unrehearsed.

Appellant contends that the absence of extra-genital injuries on the victim was contrary to her testimony that she had been constantly subjected to physical brutality from February 5, 1991 until her escape on April 5, 1991.

We do not agree. The absence of any extra-genital injuries on AAA was explained by the fact that Dr. Simbalon physically examined her only on June 14, 1991 or more than four months after she was raped. Moreover, while there were no extra-genital injuries on the victim, Dr. Simbalon nonetheless found a healed laceration in her

vagina and signs of probable pregnancy.[9] These circumstances were consistent with her allegation that she was raped on February 5, 1991.

Appellant likewise disputes the presence of drugs in the beer that was given to the victim, arguing that the record did not support this fact. Our ruling in *People vs. Del Rosario*[10] squarely applies:

True, there was no test conducted to determine the presence of any sedative or drug in the drinks given to the victims which caused them to lose momentary control of their faculties. But this is of little consequence as the same is not an indispensable element in a prosecution of rape. Under the circumstances, it suffices that the victim was found to have been unconscious at the time the offender had carnal knowledge of her. (underlining ours)

Appellant insists that he cannot be held guilty of rape because there was no real struggle or determined effort on the part of the victim to resist. She did not even shout for help or create any disturbance which could have roused the other occupants of the house.

We are not persuaded. Rape is perpetrated when the accused has carnal knowledge of the victim through the use of force or intimidation.[11] AAA testified that before she was sexually abused, the three accused brandished a knife at her and threatened to kill her if she did not give in to their lustful desires. The act of holding a knife, by itself, is strongly suggestive of force or at least intimidation, and threatening the victim with a knife is sufficient to bring her to submission.[12] As stated in the case of *People vs. Paranzo*: [13]

The Court has repeatedly held that rape is committed when intimidation is used on the victim and the latter submitted against her will because of fear for her life or personal safety. It is not necessary that the force or intimidation employed be so great or of such character as could not be resisted because all that is required is that it be sufficient to consummate the purpose that the accused had in mind.

The failure of the victim to shout for help or resist the sexual advances of the rapists was not tantamount to consent. Physical resistance need not be established in rape when threats and intimidation are employed, and the victim submits herself to her attackers because of fear. Besides, physical resistance is not the sole test to determine whether a woman involuntarily succumbed to the lust of an accused.[14] Rape victims show no uniform reaction. Some may offer strong resistance while others may be too intimidated to offer any resistance at all.[15] Here, the victim categorically testified that she was cowed into submission because appellant pointed a knife at her and threatened to kill her. Moreover, she was too helpless to resist the molestation as she was dizzy and weak because of the beer she was forced to drink.

Finally, appellant questions AAA's credibility for reporting the incident only after more than a month from the time she arrived at her aunt's place, when she could no longer hide her pregnancy.

The Court has consistently held that delay in reporting rape because of threats of physical violence should not be taken against the victim. A rape victim is oftentimes controlled by fear rather than reason. It is through fear, springing from the initial rape, that the perpetrator hopes to build up a feeling of extreme psychological terror which will, he hopes, numb his victim to silence and submission.[16] The present case of AAA is no exception. She was physically abused and constantly threatened with death by Joselito. A girl merely 14 years old when she was sexually assaulted could not be expected to act like an adult with the courage and intelligence to disregard a threat to her life. We note that the only reason for the victim's prolonged stay in the Sugalan residence was the continued presence of Joselito's relatives who were watching her and preventing her from leaving.

Appellant's defense of alibi cannot prevail over AAA's unwavering positive identification of him as one of her abusers and tormentors. He failed to establish the impossibility of his presence at the scene of the crime. He merely claimed that, at the time of the alleged rape, he was with his girlfriend (Glenda Mendoza, now his wife) in

her house until midnight. While Glenda executed an affidavit, nothing was mentioned therein to corroborate appellant's declaration that they were together at the time the rape of AAA took place. For his alibi to prosper, appellant must prove not only that he was not at the scene of the crime but that it was physically impossible for him to be there.[17] It was not physically impossible for the appellant to be at the crime scene considering that his house was within walking distance from that of Joselito.

Likewise, the defense failed to show any ill motive on the part of the victim to falsely implicate appellant in a very serious case. As we have said in a number of cases, no woman will concoct a story of defloration, allow an examination of her private part and expose herself to the stigma and humiliation of a public trial if she is not motivated by an earnest desire to seek justice against the one who defiled her.[18]

The trial court failed to rule on the issue of conspiracy. We have consistently held that conspiracy need not be established by direct proof of an agreement by the parties to commit the crime. The conduct of the malefactors before, during or after the commission of the crime is sufficient to prove conspiracy.[19] In the present case, the following concerted acts of the appellant and his co-conspirators revealed their common criminal intent: (a) Joselito's house served as the hideout where the accused raped the victim; (b) Richard was designated to lure AAA to Joselito's place; (c) Joselito forced AAA to drink a drug-laced bottle of beer purposely to weaken her resistance to the rape; (d) appellant and his co-accused conferred with one another, before and after raping AAA, to decide on what to do with her and (e) there appeared to be a pre-arranged order among the accused in raping the victim - first Richard, then Darwin and finally Joselito. These acts were indicative of a concerted design to accomplish a common purpose -- to ravish and defile the victim.

Appellant Darwin David and his co-accused, Joselito Sugalan, should be held responsible not only for their own unlawful acts but also for the act of their co-accused Richard Gacer. In a conspiracy, the act of one is the act of all. Hence, appellant should be held guilty of three counts of rape.[20]

Under our penal law, whenever rape is committed by two or more persons, the penalty shall be reclusion perpetua to death, a penalty composed of two indivisible penalties. There being no mitigating or aggravating circumstances in the commission of the crime, the lesser penalty of reclusion perpetua should be imposed on the appellant.[21]

The trial court awarded only P50,000 as moral damages in favor of the victim. Moral damages are separate and distinct from the civil indemnity awarded to rape victims. Hence, in accordance with prevailing jurisprudence, the amount of P50,000 should likewise be awarded to the victim as civil indemnity in addition to the P50,000 already awarded as moral damages. [22]

WHEREFORE, the appealed decision dated February 6, 1995 of the Regional Trial Court of Makati, Branch 136 in Criminal Case Nos. 91-4009 to 11 is hereby MODIFIED as to the penalty and award of damages. The appellant is sentenced to reclusion perpetua for each count of rape and ordered to pay the victim P50,000 as civil indemnity and P50,000 as moral damages for each count of rape or a total of P300,000. Costs against appellant.

SO ORDERED.

Puno, (Chairman), Panganiban, Sandoval-Gutierrez, and Carpio Morales, JJ., concur.

[1] Penned by Judge Jose R. Bautista. Rollo, pp. 24-43.

[2] Original Records, p. 116.

[3] *People vs. Barcelona*, 325 SCRA 168, 175 [2000].

[4] People vs. Ramos, 345 SCRA 685, 692 [2000].

[5] People vs. Bali-balita, 340 SCRA 450, 467 [2000].

[6] TSN, August 9, 1991, pp. 7-18.

[7] TSN, August 9, 1991, pp. 11-12.

[8] 325 SCRA 181, 192 [2000].

[9] TSN, February 17, 1993, p. 5.

[10] 282 SCRA 178, 185 [1997].

[11] Article 335 of the Revised Penal Code, as amended.

[12] People vs. Reynaldo, 291 SCRA 701, 713-714 [1998].

[13] 317 SCRA 367, 384 [1999].

[14] People vs. Mostrales, 294 SCRA 701, 710 [1998].

[15] People vs. Buendia, 314 SCRA 655, 666 [1999].

[16] People vs. de Leon, 332 SCRA 37, 47 [2000].

[17] Id. , pp. 46.

[18] People vs. Talo, 344 SCRA 294, 311 [2000].

[19] People vs. Barro, Sr., 338 SCRA 312, 324 [2000].

[20] People vs. Dado, 244 SCRA 655, 667 [1995].

[21] Art. 63 in relation to Article 335.

[22] People vs. Reyes, 315 SCRA 563, 578 [1999].

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