

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PEPITO FLORES Y MARIANO, ACCUSED-APPELLANT.

G.R. Nos. 134488-89. January 25, 2002

Ponente: PUNO, J.

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PUNO, J.:

This is an appeal from the decision of the Regional Trial Court of xxx, Branch 6, in Criminal Case Nos. 15397-R and 15398-R, finding accused-appellant Pepito Flores guilty beyond reasonable doubt of two counts of rape committed against his daughter, complainant AAA.

In two separate Informations, which are similarly worded except for the date of the commission of the offense and age of the complainant, accused-appellant Pepito Flores was charged with rape, committed as follows:

"That sometime in the month of December, 1993, in the City of xxx, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, father of the complainant, did then and there willfully, unlawfully and feloniously and by means of force and intimidation have carnal knowledge of the complainant, AAA, then 18 years old, against her will and consent." [1]

The other offense was alleged to have been committed on November 6, 1997 when complainant was already 22 years of age. [2]

During the arraignment, accused-appellant entered a plea of not guilty, and hence, trial ensued.

The evidence shows that in December 1993, at about 9:00 in the morning, complainant AAA was sweeping the sala of their house at xxx. Accused-appellant, who was in their bedroom, called her and said "umakya ta agjua ta" (you come and let us do something). She could not understand him and ignored his call. Accused-appellant got a knife from the kitchen, approached complainant from behind and poked the knife at her neck. Then he asked her "ammon diay agkuata?" (do you know what we will do). Sensing he wanted to rape her, complainant began to cry as accused-appellant pulled her inside the bedroom. Once inside, accused-appellant ordered complainant to remove her shorts and underwear. Complainant pleaded with accused-appellant not to touch her because she is his only daughter. The plea even angered accused-appellant and he threatened to kill complainant's mother and siblings if she did not obey. Gripped by fear, complainant complied. Then accused-appellant forced her to lie on the bed. He placed the knife on the bed near the headboard. Then he lay on top of complainant, removed his shorts and inserted his penis into her vagina. Complainant felt an excruciating pain. She boxed accused-appellant while satisfying his lust. Thereafter, he ordered her to rise but she could not because her entire body was wracked with pain. Accused-appellant pointed the knife at her neck again and threatened to kill her mother and siblings if she reported the incident to anyone.

Complainant was impregnated but nobody noticed her pregnancy as her stomach was small and she always wore loose clothes. On September 18, 1994 she gave birth to a baby boy at the xxx General Hospital. While laboring in the hospital, complainant was threatened and ordered by the accused-appellant to tell their family that she was raped at xxx. Thus, complainant was compelled to lie to her mother, CCC, when the latter insisted in knowing the

paternity of her baby.

The ordeal of the complainant continued. She was again sexually abused by accused-appellant in February 1995, and every month thereafter. The last incident happened on November 6, 1997 at about 9:00 in the morning when complainant was at the house with her son, BBB. She was cleaning the house when accused-appellant suddenly poked a knife at her neck and tried to pull her inside the bedroom. She cried and pleaded with him to stop molesting her because she could no longer concentrate on her studies. Accused-appellant retorted that he was not concerned with her studies since he is not the one sending her to school. Complainant struggled in vain with accused-appellant as he tried to drag her into the room. Once inside, accused-appellant ordered her to remove her jogging pants and underwear. When complainant refused, accused-appellant again threatened to kill her mother and siblings. He held her on the shoulders and pushed her to the bed. Complainant resisted and boxed him several times on his side. Accused-appellant, however, took the knife and poked it at her neck. Complainant was forced to give in to his bestial desires. After her defloration, complainant felt so ashamed she wanted to kill accused-appellant for destroying her life.

On December 29, 1997, complainant finally found the courage to tell her mother, CCC, and eldest brother, DDD, that it was accused-appellant who raped her. This was after accused-appellant tried to molest her again on December 26, 1997 and mauled her when she refused. CCC brought complainant to the xxx General Hospital for examination. According to Dra. Elizabeth Batino who examined complainant, the latter had old healed lacerations at 1:00, 2:00, 9:00, 10:00 and 11:00 o'clock positions which are consistent with complainant's statement that she was repeatedly sexually abused from December 1993 to November 1997.[3] Thereafter, CCC and complainant proceeded to the xxx City Police Office where the latter executed a sworn statement.[4]

For his defense, accused-appellant relied on mere denial and alibi. He claims that he could not have raped complainant in December 1993 because at that time he was plying his jeepney to Trinidad everyday while complainant was studying. He denied having threatened to kill his wife and other children. Accused-appellant imputed that complainant had sexual relations with Gil delos Santos, a brother of his wife CCC. Allegedly, when complainant was still in high school, he and his wife caught Gil on top of complainant inside their bedroom. He boxed Gil while his wife CCC scolded him. He did not file charges against Gil because he waited for the decision of his wife and took into account the feelings of his in-laws. In December 1993, his eldest son DDD again caught Gil and complainant inside their bedroom. Accused-appellant did not again press charges against Gil allegedly because when his son told him about the incident, Gil had already left their house. Finally, accused-appellant testified that complainant and his wife filed the cases at bar against him because he did not accede to their request that he forgive his son, Reynaldo, with whom he had a long-standing quarrel.

On July 27, 1998, the trial court rendered a decision[5] finding accused-appellant guilty, the dispositive portion of which reads as follows:

"Wherefore, judgment is hereby rendered as follows:

1. In Criminal Case No. 15397-R, the Court finds the accused Pepito Flores guilty beyond reasonable doubt of the offense of Rape (committed on November 6, 1997) as charged in the Information defined and penalized under Article 266-B in relation to Article 266-A paragraph 1(a) Section 2 of Republic Act 8353 and hereby sentences him to suffer the penalty of Reclusion Perpetua; to indemnify the complainant AAA the sum of P50,000.00 as Moral Damages without subsidiary imprisonment in case of insolvency and to pay the costs.

The accused Pepito Flores being a detention prisoner is entitled to be credited 4/5 of his preventive imprisonment in the service of his sentence in accordance with Article 29 of the Revised Penal Code.

2. In Criminal Case No. 15398-R, the Court finds the accused Pepito Flores guilty beyond reasonable doubt of

the offense of Rape (committed in December 1993) as charged in the Information, defined and penalized under Article 335 paragraph No. (1) of the Revised Penal Code and hereby sentences him to suffer the penalty of Reclusion Perpetua; to indemnify the complainant AAA the sum of P50,000.00 as Moral Damages, without subsidiary imprisonment in case of insolvency; to recognize BBB, the son of AAA, as his natural son and to give him the reasonable amount of support of P1,000.00 a month, and to pay the costs.

The accused Pepito Flores being a detention prisoner is entitled to be credited 4/5 of his preventive imprisonment in the service of his sentence in accordance with Article 29 of the Revised Penal Code.

SO ORDERED."

In the present appeal, accused-appellant insists that his guilt was not proved beyond reasonable doubt. First, accused-appellant claims that complainant's confession to her mother at the hospital that she was raped at xxx by another person should be given full faith and credence. Second, complainant was twice caught engaging in sexual intercourse with Gil delos Santos, a brother of accused-appellant's wife, first by herein accused-appellant and then again by the eldest brother of complainant, DDD. Third, the failure of complainant to report the alleged rape incidents for four (4) years is not in accord with human experience as her life was not in danger. Finally, it is contended that the allegation in the Information that the offense was committed sometime in December 1993 is not sufficiently explicit and certain as to time as required by the Revised Rules on Criminal Procedure, and hence, accused-appellant was deprived of the opportunity to defend himself.

The issue of guilt of the accused-appellant hinges primarily on the credibility of the testimony of complainant AAA.

Well-settled is the rule that the trial judge is in a better position to assess the probity and trustworthiness of witnesses because he has the opportunity to observe directly their behavior and manner of testifying. In the case at bar, the trial court upheld the credibility of complainant with the following observations:

"x x x the court was impressed with her testimony which was so natural, coherent and touching as she recounted her torment and ordeal. The Court could see from her face the anguish and the pain and the shame and the embarrassment (sic) as she broke down and cried several times in the course of her testimony when she narrated the despicable acts of her father even as she said she cried everytime her father sexually assaulted her, pleading to him she was her (sic) only daughter her (sic) own flesh and blood to no avail." [6]

This Court has scrutinized the records of this case and we find no reason to doubt the direct and straightforward testimony of complainant on how she was ravished by her own father. Thus:

"Pros. Vergara

x x x x x x x x

Q

Who committed that rape against you on December 1993?

A

My father, sir.

Q

When you say your father, you are referring to the accused Pepito Flores whom you have pointed to and identified awhile ago?

A

Yes sir.

Q

Where did this rape happen?

A

In our house sir.

Q

What time was that in December 1993 when the incident happened inside your house in x x x, x x x?

A

9:00 o'clock in the morning sir.

Q

Were you alone in your house aside from your father?

A

Yes sir.

Q

So, it were (sic) only your father and yourself who were present in your house at x x x during that incident?

A

Yes sir.

Q

On that incident, what was the first act that your father did to you in that morning of the incident in x x x?

A

That time my father was in their room and I was in the sala sweeping and my father called me and said in Ilocano "Umayka ta agkua ta" or (you come and let us do something) and that time I cannot understand what he meant.

x x x x x x x x

Court

Alright. While you were sweeping in the sala and your father called for you saying to you that you will do something with him in his room, did you comply with his request that you go to him to his room?

A

No sir, I did not mind because I did not understand what he meant.

x x x x x x x x

Pros. Vergara

And when you did not mind him what did he do?

A

He went to the kitchen and got a knife.

Q

Who went to the kitchen and got a knife?

A

My father sir.

Q

And how about you, what did you do?

A

I continued sweeping the sala sir.

Q

And while you were continuing in your sweeping in the sala, what happened next?

A

He approached me sir.

Q

Did your father say anything when he got a knife in the kitchen?

A

No sir.

Q

How about at the moment he approached you with the knife, did he say anything to you?

A

He pointed the knife at my neck sir.

x x x x x x x x

Q

And how did he position his body towards you when he held your right arm with his right hand and he pointed the kitchen knife in (sic) your neck with his left hand?

A

He was behind me sir.

Q

Did your father say anything to you when he did that?

A

Yes sir.

Q

What was that?

A

That he intended to rape me sir.

Q

How did he tell you that?

A

He said 'do you know what we will do' (ammom diay agkuata)?

Q

And what was your reaction when he said that to you while he was holding your right arm and pointing the knife on your neck. What was your reaction?

A

I was trembling and I was crying.

Q

Why?

A

Of course he was pulling me in their room.

Q

Aside from holding you, pointing the knife on your neck and pulling you into their room what else did he do?

A

He ordered me to remove my underwear.

Q

What were you wearing at that time?

A

I was wearing shortpants sir.

Q

And aside from shortpants?

A

T-shirt sir.

Q

Did you have underwear at that time?

A

Yes sir.

Q

And when he said 'you remove your underwear' under that condition what did you do, if any?

A

I was pleading to him sir.

Q

How did you plead to him?

A

I was crying sir.

Q

What did you tell him if any?

A

I told him that 'don't touch me because I am your only daughter'.

Pros. Vergara

Madam witness, don't be ashamed and don't be afraid. You are in the courtroom.

Witness

Yes sir.

Q

Now, aside from your telling him that he would not do that to you because you are only his daughter what else did you tell him while you were crying and pleading to him, if any?

A

Only that I told him that he would not do that to me because I'm his only daughter.

Q

And aside from your pleading to him what else did you do if any?

A

No more sir.

Q

And how did your father react to your pleading to him?

A

He got angry sir.

Q

Did he say anything when he got angry?

A

Yes sir.

Q

What was that?

A

He said that if I will not obey him he will kill my mother and my siblings.

x x x x x x x x

Q

Now, when he said that, did he also tell you that he will kill you?

A

No sir. He said that he will only kill my mother and my siblings and he will spare me so that he could have me solely for himself.

Q

After he said that to you what happened next?

A

The knife was still pointing at my neck and he ordered me to remove my shortpants and underwear.

Q

When he ordered you to remove your shortpants and your underwear what did you do?

A

I was scared because the knife was pointing on my neck and I thought what he said about his threats to my mother.

Q

And what happened next when you thought about what your father said about his threats to your mother?

A

I have no more choice so I removed by shortpants and underwear.

Q

Why did you say you have no choice?

A

Because of his threats to my mother.

x x x x x x x x

Q

You said you had no choice because of the threats of your father against the life of your mother and so you

have to remove your shortpants and underwear. Did you actually remove your shortpants and underwear yourself?

A

Yes because he ordered me to remove them and because of his threats.

Q

What was your physical position at the time when your father ordered you to remove your shortpants and underwear?

A

He laid me down on the side of their bed.

x x x x x x x x

Q

How did he put you to lay down?

A

With his two hands he held my shoulder and he forced me to lay down.

Q

What about the knife on (sic) his left hand?

A

He put the knife at the bed near the headboard.

x x x x x x x x

Q

After your father was able to force you to lay down, what else did he do, if any?

A

He went on top of me.

x x x x x x x x

Q

How did your father put himself on top of you?

A

When he forced me to lay down, he went on top of me and he was trying to remove his pants.

Q

Was he able to remove his pants while he was on top of you?

A

Yes sir.

Q

Aside from removing his short pants, what else did he do?
(Witness is breaking down into tears)

Court

Witness, at this juncture, broke down into tears. Let her calm down first.

Witness

He inserted his penis into my vagina.

Pros. Vergara

Now, will you describe before this Honorable Court how your father insert (sic) his penis into your vagina. First, when he was able to remove his pants what was the next thing that your father did?

A

That's it. He went on top of me, insert (sic) his penis into my vagina and make (sic) a push and pull movement.

Q

When your father went on top of you in order to insert his penis into your vagina, what was the position of your legs?

A

It was spread wide open sir.

Q

Who spread your legs wide open?

A

He was the one sir.

Q

Your father?

A

Yes sir.

Q

How did he spread your legs wide open?

A

By the use of his feet sir.

Q

How about his hands?

A

His hands were holding my shoulder.

Q

And what were your hands doing on (sic) that moment, on (sic) that point?

A

I was boxing him sir.

Q

And what did your father do when you were boxing him?

A

None sir.

Q

He just continued putting himself on top of you?

A

Yes sir.

Q

With that position you were lying on your back and your legs were spread by your father wide open, how did you father insert his penis inside your vagina?

A

He used his left hand to insert his penis.

Q

And was he able to insert his penis into your vagina?

A

Yes sir.

Q

What did you feel during the first moment that his penis touched your vagina?

A

Of course I felt pain, sir.

Q

Why did you feel pain?

A

Because his penis was erected.

Q

And how did his body move the first moment he inserted his penis into your vagina?

A

The movement was push and pull and he kept on pumping.

Q

Was he able to penetrate his penis into your vagina?

A

Yes sir.

x x x x x x x x

Q

Now, you mentioned that the last incident of rape that your father committed to you was on November 6, 1997?

A

Yes sir.

Q

Where were you on that day of November 6, 1997?

A

I was at home sir.

Q

And so with your father?

A

Yes sir.

x x x x x x x x

Q

While you were cleaning your house that morning of November 6, 1997, what happened?

A

He went to get the same knife that he used before at the back of their cabinet.

x x x x x x x x

Q

Now, in that morning of November 6, 1997 inside your house at Outlook Drive when your father got again that knife, what did he do?

A

He again pointed the knife at my neck.

Q

And when he pointed the knife at your neck again what was your reaction?

A

I was scared.

Q

What did you do when you reacted that way when your father pointed the knife at your neck?

x x x x x x x x

A

I was crying to him and pleading and telling him 'don't do that again because I can no longer concentrate on my studies'.

Q

Aside from your father pointing the knife on your neck, what other things made you afraid and plead to him?

A

He again pulled me into his bed. (witness broke down into tears again)

x x x x x x x x

Court

Let us go back to this November 6, 1997 incident. What happened when he pulled you again to their bed with a knife on hand?

A

He again ordered me to remove my jogging pants and underwear.

x x x x x x x x

Pros. Vergara

After he ordered you to remove your jogging pants and your underwear, what did you do?

A

I was pleading to him not to molest me anymore.

Q

What was his reaction?

x x x x x x x x

A

He told me that he will make good his threats that he will kill my mother.

x x x x x x x x

Q

And what happened to your jogging pants and underwear?

A

I removed it sir.

Q

And after you removed your jogging pants and underwear, what else happened?

A

He laid me down.

x x x x x x x x

Q

What did you do when he held your shoulder with his hands in order to put you on the bed?

A

I boxed him sir.

Q

What part of his body did you box?

A

On his sides. (witness pointing to the left side of her body below the armpit)

x x x x x x x x

Q

While you were fighting back your father by means of boxing him several times on his body, what was he doing?

A

He just got the knife on the headboard and he pointed at my neck.

Q

Was he able to let you lay down?

A

Yes sir.

x x x x x x x x

Q

When your father was able to make you lay down, what did he do next?

A

Again he inserted his penis into my vagina.

Q

How did he do that?

A

By using his left hand.

x x x x x x x x

Q

When he was able to pull you on the bed with your pants and panty already removed, what did he do if any regarding his pants?

A

He inserted his penis into my vagina and he made a push and pull movement.

x x x x x x x x

Q

And while he was doing that, was he able to penetrate his penis into your vagina?

A

Yes sir."[7]

Notwithstanding her intense cross-examination, complainant's credibility was not significantly dented. Her testimony is consistent in all material points. It deserves full faith and credit. In addition, courts usually give greater weight to the testimony of a victim of sexual assault, particularly in cases of incestuous rape, because no woman would be willing to undergo a public trial and put up with the shame, humiliation and dishonor of exposing her own degradation were it not to condemn an injustice and to have the offender apprehended and punished.[8]

The late reporting by the complainant of the rape incidents does not erode her credibility. Complainant well explained that she did not immediately reveal the dastardly acts of her father to avoid embarrassment and more importantly, she was cowed by the threats that accused-appellant would kill her mother and brothers. These are not fears rooted on thin soil. Complainant revealed that accused-appellant once hit her brother on the feet with a rake when they had a quarrel, a fact admitted by the accused-appellant himself. Also, when complainant refused to surrender to the lust of accused-appellant in December 1997, the latter mauled her and her son. Again, this was admitted by accused-appellant although he averred that he did not really hit her hard.

To be sure, it is the defense of accused-appellant that is unworthy of belief. First, he claims that Gil delos Santos, the brother of his wife, had sexual relations with complainant and that Gil sired complainant's son. The charge was vehemently denied by complainant. She reasoned out that if this was true, her parents would have scolded her and she was not. Second, accused-appellant contends that he and his wife caught Gil and complainant in bed. According to him, he boxed Gil and his wife Adoracion ordered Gil to go home. Again, this was denied by CCC. It is puzzling that no charges were filed against CCC. Accused-appellant seized the excuse that he waited for the decision of his wife and that he did not want to offend his in-laws. It defies reason that accused-appellant would express more concern for the feelings of his in-laws than the interest of the complainant, his own flesh and blood. Third, he asserts that charges were filed against him because he refused the request of complainant and his wife that he forgive his son, Reynaldo, with whom he has been quarreling for a long time. This is too petty a reason to be repeatedly charged with the very serious crime of rape by a daughter. Incestuous rape is not an ordinary crime that can be easily manufactured because of its heavy psychological and social toll. On top of the humiliation of a trial and life-long stigmatization resulting from the charge, the victims and their families must deal with a crisis

that goes to the very core of familial integrity.[9]

The defense relies mainly on denial. When accused-appellant was confronted with the charge that he raped the complainant in December 1993 and November 6, 1997, his lame explanations were "I did not do anything like that," "that is not true," "I do not know anything about that." We have consistently ruled that, unless supported by clear and convincing evidence, a bare denial cannot prevail over the positive declarations of the victim who, in a simple and straightforward manner, convincingly identified the accused-appellant as the defiler of her chastity.[10]

Finally, accused-appellant contends that the allegation in the Information that the offense was committed sometime in December 1993 is defective as it deprived him of the opportunity to defend himself. We do not agree.

If the complaint against the accused-appellant was afflicted by the vice of vagueness, his remedy is to file a motion for bill of particulars. The record reveals that accused-appellant did not ask for a bill of particulars in accordance with section 10, Rule 116 of the Rules of Court.[11] The failure to move for specifications or the quashal of the information on any of the grounds provided for in the Rules of Court deprives accused of the right to object to evidence which could be lawfully introduced and admitted under an information of more or less general terms but which sufficiently charges the accused with a definite crime. It is too late in the day for accused-appellant to raise this issue now because objections as to matters of form and substance in the information can not be made for the first time on appeal.[12]

Besides, under section 6, Rule 110 of the Rules, the information need only state the approximate time of the commission of the offense. Its section 11 provides that the act may be alleged to have been committed at any time as near to the actual date at which the offense was committed as the information or complaint will permit. In the cases at bar, the averment that the offense was committed "sometime in the month of December 1993" is sufficient compliance with the rules. More importantly, section 11 likewise provides that it is not necessary to state in the information the precise time at which the offense was committed except when time is a material ingredient of the offense. Settled is the rule that the time of the commission of rape is not an element of the offense, as this crime is defined in Article 335 (now Articles 266-A, 266-B and 266-C) of the Revised Penal Code. The gravamen of the crime of rape is the fact of carnal knowledge under any of the circumstances enumerated in the law.[13]

The court a quo found accused-appellant guilty of qualified rape under the two Informations and imposed the penalty of reclusion perpetua for each count under the following ratiocination:

"4. The rape committed sometime in December 1993 charged in Criminal Case No. 15398-R is punishable under Article 335 of the Revised Penal Code. This is the applicable law on the incident.

Section 11 of Republic Act 7659 (Heinous Crime Law) which amended Art. 335 of the Revised Penal Code is not applicable x x x [since] Rep. Act 7659 took effect only on December 31, 1993. Thus Rep. Act 7659 does not apply as the incident was committed sometime in December 1993 not by the end of December 1993.

x x x x x x x x

Article 335 of the Revised Penal Code provides:

‘Art. 335. When and how rape is committed. -

x x x x x x x x

Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty

shall be reclusion perpetua to death.

x x x x x x x x.'

From the above provisions, the penalty imposable for the offense of rape committed by accused in December 1993 with the use of a deadly weapon (here a kitchen knife was used) is therefore reclusion perpetua to death.

There being no aggravating circumstance shown, then the penalty that may be imposed by the Court is Reclusion Perpetua.

The accused however must recognize the child BBB as his natural son as the offspring of the rape committed in December 1993 and give him a reasonable support in the amount of P1,000.00.

5. In respect to the offense of rape committed on November 6, 1997 charged in Criminal Case No. 15397-R, the law applicable is Republic Act 8353, the law expanding the definition of the crime of Rape and Reclassifying the same as a crime against persons.

x x x x x x x x

Under Rep. Act 8353, when the rape is committed with the use of a deadly weapon (like the use of a knife) the penalty shall be reclusion perpetua to death. Under the said law, the death penalty shall be imposed when the victim is under 18 years of age and the offender is a parent, ascendant, step parent, guardian related by consanguinity or affinity within the third civil degree or the common law spouse of the parent of the victim.

Thus, even if the offense of rape in November 6, 1997 was committed by the father of AAA, the penalty is not death as by that time she was no longer under 18 years of age but was already 22 years old.

Since the penalty provided by law is Reclusion Perpetua to Death, the Court has to impose the penalty of Reclusion Perpetua there being no aggravating circumstance shown."[14] (*italics supplied*)

It will be noted that the trial court appreciated the special circumstance of use of a deadly weapon which carries with it the imposable penalty of reclusion perpetua to death. It then held that since there was no aggravating circumstance, the imposable penalty is reclusion perpetua.

This is erroneous. Jurisprudence dictates that when the law specifies certain circumstances that will qualify an offense and attach to it a greater degree of penalty, such circumstances must be both alleged and proved to justify the imposition of the graver penalty.[15] In the cases at bar, the qualifying circumstance of use of a deadly weapon was not alleged in the information. Hence, it cannot be appreciated in the determination of the imposable penalty.

Perforce, accused-appellant can only be convicted of simple rape on both counts. For the rape committed in December 1993, it is Article 335 of the Revised Penal Code, before its amendment, which applies. With respect to the rape committed on November 6, 1997, Articles 266-A and 266-B of the Code, as amended, govern. Under both laws, simple rape is punishable by the single indivisible penalty of reclusion perpetua. Whence, this is the penalty that should be imposed regardless of the presence of the aggravating circumstance of relationship, even if it was alleged in the information and proved at the trial, pursuant to Article 63 of the RPC.[16]

The Court notes that while the trial court awarded moral damages, it did not award civil indemnity. In line with current jurisprudence, civil indemnity in the amount of P50,000.00 on each count should be awarded, or a total of P100,000.00, without need of proof other than the fact of the commission of the offense.[17] Exemplary damages in each case of rape, pegged at P25,000.00 in accord with controlling case law, must likewise be awarded "to deter other fathers with perverse tendencies and aberrant sexual behavior from preying upon and sexually abusing

their daughters." [18]

We affirm the order of the trial court for the accused-appellant to support the offspring of complainant in accordance with Article 345 of the Revised Penal Code and prevailing jurisprudence. [19]

WHEREFORE, the decision of the Regional Trial Court of Baguio City, Branch 6, in Criminal Case Nos. 15397-R and 15398-R, finding accused-appellant Pepito Flores guilty beyond reasonable doubt of rape, is hereby **AFFIRMED** with the **MODIFICATION** that accused-appellant is hereby ordered to pay the victim civil indemnity in the amount of P50,000.00, moral damages of P50,000.00, and exemplary damages of P25,000.00, for each count of rape, or a total of P250,000.00. Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

[1] Original Record, Crim. Case No. 15398-R, p. 1.

[2] Original Record, Crim. Case No. 15397-R, p. 1.

[3] Certification dated January 2, 1998 issued by Dra. Elizabeth J. Batino, Exhibit A; Original Record, Criminal Case No. 15398-R, p. 11.

[4] Exhibit B; Ibid., p. 9.

[5] Penned by Judge Ruben C. Ayson; Original Record, pp. 87-103.

[6] Original Record, Crim. Case No. 15397-R, p. 96.

[7] TSN, April 15, 1998, pp. 4-36.

[8] People vs. Renato Lalingjaman, G.R. No. 132714, September 6, 2001.

[9] People vs. Pablo Santos, *supra*.

[10] People vs. Mario Caldong y Llamas, G.R. No. 126019, March 1, 2001.

[11] "SEC. 10. Bill of particulars. - Accused may, at or before arraignment, move for a bill of particulars to enable him properly to plead and to prepare for trial. The motion shall specify the alleged defects and details desired."

[12] People vs. Jose Elpedes y Sunas, G.R. Nos. 137106-07, January 31, 2001.

[13] People vs. Gianan, 340 SCRA 477 (2000).

[14] Original Record, Crim. Case No. 15397-R, pp. 97-100.

[15] People vs. Tabanggay, 334 SCRA 575 (2000).

[16] "ART. 63. Rules for the application of indivisible penalties. - In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed. x x x"

[17] People vs. Domingo Dawisan, G.R. No. 122095, September 13, 2001.

[18] People vs. Rodrigo Galvez y Jerez, G.R. Nos. 136867-68, September 24, 2001.

[19] People vs. Roberto Bation, G.R. Nos. 134769-71, October 12, 2001.

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