

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EUGENIO MANGOMPIT, JR., ACCUSED-APPELLANT.

*G.R. Nos. 139962-66. March 07, 2001*

Ponente: GONZAGA-REYES, J.

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### GONZAGA-REYES, J.:

This is an automatic review of the decision[1] of the Regional Trial Court, Branch 11, Sindangan, Zamboanga del Norte[2] convicting accused-appellant of five (5) counts of rape committed against Marites Quirante, his sixteen year old niece, and imposing on him the supreme penalty of death.

The five (5) informations[3] charging accused-appellant of the crime of rape, except for the specific dates and time when the crimes of rape were allegedly committed, uniformly read, as follows:

"The undersigned, First Assistant Provincial Prosecutor, upon a sworn complaint originally filed by the private offended party, accuses EUGENIO MANGOMPIT, JR., of the crime of RAPE, committed as follows:

That, at dawn, on or about the 20[th] day of July 1994, in the municipality of Siayan, Zamboanga del Norte, within the jurisdiction of this Honorable Court, the said accused, moved by lewd and unchaste design and by means of force, violence and intimidation, did then and there wilfully (sic), unlawfully and feloniously succeed in having sexual intercourse with one MARITES QUIRANTE, 16 years old, single and of good reputation, against her will and without her consent.

CONTRARY TO LAW (Viol. of Art. 335, Revised Penal Code)."[4]

The other informations[5] charge accused-appellant with the crime of rape allegedly committed on the following dates: at midnight on 9 September 1994, in the afternoon of 12 September 1994, in the afternoon of 15 September 1994, and in the evening of 20 September 1994.

Accused-appellant was arraigned on 17 November 1995. With the assistance of counsel, he pleaded not guilty to the charges leveled against him[6].

The prosecution presented three witnesses, namely Marites Quirante, the private complainant, Bienvenido Quirante, the father of the victim, and Dr. Raymund Nadela, the medico-legal officer who examined the victim. The evidence for the prosecution reveals the following:

In 1994, accused-appellant stayed at the house of Bienvenido Quirante, the father of the victim, in Balok, Siayan, Zamboanga del Norte. Bienvenido Quirante was accused-appellant's brother-in-law as he was married to accused-appellant's sister. The victim, Marites Quirante, was accused-appellant's niece and she was fifteen years old at that time[7].

At around 1:00 a.m. of 20 July 1994, Marites was sleeping with her siblings and parents inside a room in their house. Accused-appellant was also sleeping with them in the same room. With a bolo in one hand, accused-appellant suddenly held Marites's hands, took off her underwear, laid on top of her, and inserted his penis

into her vagina[8]. Accused-appellant then made a push and pull movement while on top of Marites. Marites shouted for help while all this was happening but her parents and other siblings remained in deep slumber[9]. This went on for about five minutes and after satisfying his lust, accused-appellant threatened to kill Marites if she told anybody about the incident.

Accused-appellant allegedly raped the victim again on 9 September 1994 at around 12:00 midnight. The incident allegedly happened in the same room of their house while her parents and other siblings were sound asleep. Accused-appellant again threatened her with a bolo and he then proceeded to have carnal knowledge with her. She again shouted for help but her parents and siblings did not wake up. Accused-appellant again threatened to kill her if she told anyone about the incident.[10]

The last three incidents allegedly also took place at the house of the victim. During these incidents however, the parents and siblings of the victim were not at home. The third incident allegedly occurred on 12 September 1994 at around 5:00 p.m. This was followed by a fourth rape incident three days later on 15 September 1994 at around 5:00 p.m. The last rape allegedly occurred on 20 September 1994 at around 6:00 p.m. In these three instances, the other family members were allegedly still at the family farm and had not yet returned home. Accused-appellant again threatened her with a bolo before having his way with her and, afterwards, threatened to kill her and her parents if she reported the incidents to anyone,[11]

Because of her fear that accused-appellant would make good his threats, Marites did not tell anyone about her harrowing experience with her uncle. It was only on 5 December 1994 when her parents noticed that she was pregnant that she told them that accused-appellant had raped her five (5) times[12]. Three days later, she had herself examined at the Siayan Main Health Center. On that same date, she filed a complaint for rape against her uncle, accused-appellant Eugenio Mangompit, Jr. On 13 April 1995, Marites gave birth to a baby girl.[13]

Bienvenido Quirante, the father of the victim, told the court that accused-appellant first came to live with them in June of 1994. He claimed that accused-appellant had no job and that he did not even help in their farm.[14] He testified that he first asked Marites about the rape incidents when he saw that her stomach was already bulging and upon learning about it, he immediately reported the matter to the police.[15]

On cross-examination, the witness described their house as a regular sized one measuring two fathoms in width and two and a half fathoms in length. He stated that there were no divisions inside the house except for the kitchen which was separated by a small divider.[16] At the time of the alleged incidents, there were nine (9) people staying at the house who all slept together inside the house.[17] He admitted that at the time of the first two rape incidents, neither he, his wife, nor their children woke up or heard Marites scream for help. He claimed that they were in deep slumber as they were all too tired from work.[18] He likewise stated that prior to the time that he noticed that the stomach of his daughter was bulging, she did not inform him or any member of the family about her rape at the hands of accused-appellant.[19]

The last witness for the prosecution, Dr. Raymund Nadela, testified on the results of the medical examination he conducted on Marites Quirante on 8 December 1994. He stated that based on his findings, there is a possibility that Marites had been raped as her hymen was no longer intact although there was no sign of any laceration.[20]

For its part, the defense presented three witnesses namely accused-appellant himself, his brother Primitivo Mangumpit, and Miraflor Acopiado.

Primitivo Mangumpit testified that his brother could not have committed the crimes of rape charged against him because during the dates when the alleged rapes were committed, accused-appellant was with him in Paraiso, Kalawit, Zamboanga del Norte. During the month of July when the first rape incident allegedly occurred,

accused-appellant was working with him on his farm. He claimed that accused-appellant stayed at his farm until January 1995 when accused-appellant became sick with malaria and he had to be brought to the hospital.[21]

On cross-examination and on questions propounded by the court, he admitted that the place where his niece, Marites, lived was about six (6) hours away from his place by public transportation.[22] He likewise admitted that he can no longer recall the days of the week when the alleged rapes occurred because of the lapse of time.[23] He asserted, however, that accused-appellant never stayed with his sister, the mother of Marites, during the dates when the incidents of rape were allegedly committed.

For his part, accused-appellant denied ever having committed the crimes for which he was being held[24]. He claimed that from 1993 to 1994, he was staying at El Paraiso, Kalawit, Zamboanga del Norte in the house of his brother, Primitivo Mangumpit[25]. He admitted that he stayed in the house of his mother in Siayan, Zamboanga del Norte from 1980-1983 but he denied ever having stayed at the house of Marites Quirante in Baloc, Siayan, Zamboanga del Norte in 1994[26]. He also claimed that in 1994, he became afflicted with malaria which necessitated his treatment at the District Hospital in Labason, Zamboanga del Norte in January of 1995[27]. He surmised that the reason why the cases were filed against him is because of the interest of his sister, the mother of the complainant, in acquiring his coconut plantation in Sapang Dalaga, Misamis Occidental.[28]

The last witness, Miraflor Acopiado, stated that she is the daughter of witness Primitivo Mangumpit and, as such, she is the niece of accused-appellant. She testified that from July 18 to 25, 1994, she was visiting her father at his home in Kalawit, Zamboanga del Norte. She stated that accused-appellant could not have committed the rape incident on 20 July 1994 as she personally saw accused-appellant at the house of her father and he was sick with malaria. In fact, she stated that the reason why she went to Kalawit was because her father needed money for the treatment of accused-appellant's sickness[29]. On cross-examination, however, she admitted that she went back home to Dapitan City on 25 July 1994 and that she did not know the whereabouts of accused-appellant in September of 1994 when the other alleged rapes occurred.[30]

On 6 August 1999, the trial court rendered its decision convicting accused-appellant of five (5) counts of rape. The dispositive portion of the decision reads, as follows:

"WHEREFORE, accused Eugenio Mangumpit, Jr., is found guilty beyond reasonable doubt of five (5) Counts of Rape and is sentenced to suffer the mandatory penalty of DEATH for each count. In addition, accused is ordered to indemnify the offended party Marites Quirante P250,000.00 plus P125,000.00 as exemplary damages.

ACCUSED is further ordered to acknowledge and support the offspring born of the rape.

COSTS de oficio.

SO ORDERED."[31]

Hence, this appeal with accused-appellant raising the following assignment of errors[32]:

### I.

THE COURT OF ORIGIN ERRED SERIOUSLY IN NOT ABSOLVING THE ACCUSED-APPELLANT OF THE CRIMES CHARGED DUE TO THE PRESENCE OF REASONABLE DOUBT.

### II.

THE COURT A QUO ERRED GRAVELY IN IMPOSING THE SUPREME PENALTY OF DEATH AGAINST THE ACCUSED-APPELLANT CONSIDERING FULLY THE PRONOUNCEMENTS IN THE RECENT AND RELEVANT CASES OF PEOPLE VERSUS GARCIA (281 SCRA 463), PEOPLE VS.

RAMOS (G.R. NO. 129439, SEPT. 25, 1998) AND PEOPLE VS. OMAR MEDINA (G.R. NO. 126575, DEC. 11, 1998)

After a conscientious review of the records of the case, we agree with the lower court that the crimes of rape have indeed been committed and that accused-appellant is the author thereof.

The trial court drew its conclusions from the direct, positive and categorical statements made by complainant Marites Quirante on the witness stand on the material circumstances regarding the commission of the crimes committed against her person. Marites did not waver during her testimony when asked by the judge, the public prosecutor and the defense counsel to narrate the specific instances when accused-appellant raped her.

On direct examination, Marites candidly answered the questions of the public prosecutor on her harrowing experience at the hands of accused-appellant. She told the court how she was sexually assaulted by accused-appellant on five occasions and how the accused-appellant always threatened her with a bolo.[33] She likewise recalled how she finally had to tell her parents about the rape incidents as she had become pregnant with accused-appellant's child.

On questions propounded by the trial court, Marites gave the details on her ordeal. Thus:

COURT: I have a few questions.

Q: Are you familiar with Eugenio Mangompit, Jr.?

A: Yes, sir. Because he is the brother of my mother.

Q: In other words he is your uncle?

A: Yes, sir.

Q:

You said a while ago that on July 20, 1994 at about 1:00 a.m. you were allegedly sexually abused by your uncle Eugenio Mangompit, Jr., am I right?

A: Yes, sir.

Q: At that time he was holding a bolo, am I right?

A: Yes, sir.

Q:

You said a while ago that you were sleeping together with your father, mother, brothers and sisters including Eugenio Mangompit in one room, am I right?

A: Yes, sir.

Q: And at that time Eugenio Mangompit, Jr. went near you, am I right?

A: Yes, sir.

Q: You said a while ago that Eugenio Mangompit, Jr. sexually abused you. Before he abused you, you were wearing a panty?

A: Yes, sir.

Q: What happened to your panty at that time when Eugenio Mangompit went near you?

A: He took off my panty.

Q: Who took off your panty?

A: Eugenio Mangompit, Jr.

Q: When Eugenio Mangompit, Jr. took off your panty, you shouted, am I right?

A: Yes, sir.

Q:

But at that time, you said, your parents including your brothers and sister sleeping inside the room were in deep slumber?

A: Yes, sir.

Q: That is the reason why they failed to hear your shout?

A: Yes, sir.

Q: When Eugenio Mangompit, Jr. removed your panty, what happened next?

A: He placed himself on top of me and do the push and pull movement.

Q:

You mean to say at that time also Eugenio Mangompit, Jr. removed his brief and mounted on top of you and make (sic) a push and pull movement?

A: Yes, sir.

Q:

What did you feel when Eugenio Mangompit, Jr. mounted on top of you and make the push and pull movement, did you feel his private organ entered (sic) into your vagina?

A: Yes, sir.

Q:

After that, how many minutes Eugenio Mangompit, Jr. was on top of you making push and pull movement and then withdrew?

A: Five minutes.

Q: After that five minutes, did you feel something hot inside your vagina?

A: Yes, sir.

Q:

In the following morning did you discover that your panty was stained with blood or your private part was injured or there was blood?

A: Yes, sir.

Q:

But then you said you did not reveal this incident to your mother because Eugenio Mangompit, Jr. threatened

you to kill you if you reveal the incident that happened that night?

A: Yes, sir.

Q:

Do you remember what happened to you at about the same hour, 1:00 a.m. of September 9, 1994 inside the room?

A: Eugenio Mangompit, Jr. again raped me.

Q:

Do you mean to say what had happened to you on July 20, 1994 was repeated at dawn of September 9, 1994?

A: Yes, sir.

Q:

At that time, as you said, Eugenio Mangompit, Jr. was still holding a bolo and threatened you that if you reveal the incident that took place between you at dawn of September 9, 1994, he will kill you, am I right?

A: Yes, sir.

Q: And that dawn, Eugenio Mangompit, Jr. was able to penetrate you?

A: Yes, sir.

Q: And you did not reveal this incident to your parents because he always threatened your life, am I right?

A: Yes, sir.

Q:

Do you remember then, as you have said, that the same incident took place at dawn of September 12, 1994, inside the same the room while your brothers, sister and parents were in deep slumber, am I right?

A: Yes, sir.

Q: At that time you have seen also that at that time Eugenio Mangompit, Jr. was holding a bolo?

A: Yes, sir.

Q: And that time he was able to penetrate you, am I right?

A: Yes, sir.

Q:

At about 5:00 p.m. of September 15, 1994 the same fellow sexually abused you while your parents, brothers and sisters were not around, am I right?

A: Yes, sir.

Q: At that time he was satisfied because he was able to penetrate you, am I right?

A: Yes, sir.

Q:

After which he still continued threatening your life that if you will reveal the incidents to your parents or to

somebody, he will kill you, am I right?

A: Yes, sir.

Q:

You said likewise that at about 6:00 o'clock in the evening of September 20, 1994 Eugenio Mangompit, Jr. abused you, am I right?

A: Yes, sir.

Q: The same he was able to penetrate you and he was satisfied?

A: Yes, sir."<sup>[34]</sup>

The testimony of the complainant about the incidents is straightforward, categorical and free from any serious flaw. By her testimony, she has adequately shown that accused-appellant succeeded in having sexual intercourse with her on five (5) different occasions without her consent and with the use of force and intimidation. No compelling reason is presented to the Court to warrant a conclusion that the trial court has erred in giving due weight and credence to the testimony of Marites.

For his defense, accused-appellant merely denied ever having lived with accused-appellant at her home in Siayan, Zamboanga del Norte and claimed that in 1997, he lived with his brother Primitivo Mangumpit in Kalawit, Zamboanga del Norte. For this reason, accused-appellant argues that he could never have committed the acts charged against him. His claim is corroborated by his brother and his niece who both testified that accused-appellant could not have committed the crimes as he was in Kalawit, Zamboanga del Norte at the time of the commission of the crimes.

We are hard put to treat the foregoing as credible and convincing proof that accused-appellant could not have been the perpetrator of the crimes charged against him. Considering that alibis are easy to fabricate with the aid of immediate family members or relatives, they assume no importance in the face of positive identification, as in the instant case, by the victim herself.<sup>[35]</sup>

Moreover, it is well-settled that for the defense of alibi to prosper, the accused must establish that he was so far away that he could not have been physically present at the place of the crime, or its immediate vicinity, at the time of its commission.<sup>[36]</sup> Where there is even the least chance that for the accused to be present at the crime scene, the alibi seldom will hold water.<sup>[37]</sup> In the instant case, accused-appellant's assertions that he was in El Paraiso, Kalawit, Zamboanga del Norte when the incidents of rape were committed does not indubitably establish that he could not have been present at the scene of the crime at the time the same was committed. By his own admission and the admissions of his witnesses, the town of Siayan, Zamboanga del Norte, the place where the alleged crimes occurred, is easily accessible from where he was allegedly staying in Kalawit, Zamboanga del Norte. They declared that it will not take more than a few hours to traverse the distance.

Accused-appellant likewise raised but failed to prove that Marites was prompted by his sister, the victim's mother, to charge him with the rape as the latter was allegedly interested in acquiring his coconut plantation in Misamis Occidental. Aside from the fact that accused-appellant failed to adduce evidence, other than his own self-serving testimony, of his ownership of said property, there is absolutely no showing that any relative of the victim actually raised the matter with him as a means of settling the case. More importantly, such alleged motives have never swayed the Court from lending full credence to the testimony of a victim who remained steadfast throughout her testimony in court, especially a minor, as in this case.<sup>[38]</sup> It is well-settled doctrine that no parent would expose his or her own daughter to the shame and scandal of having undergone such a debasing defilement of her chastity

if the charges filed were not true.[39]

It is further asserted by accused-appellant that that it was highly unlikely and improbable that he would commit the crimes of rape against the victim in the same small room where members of her family were sleeping. He likewise finds unbelievable and ridiculous the testimony of Marites that she shouted for help while the sexual assaults were happening and yet no member of her family woke up to help her.

It must be noted at this point that accused-appellant was charged with five counts of rape, each rape happening on different dates and times. In three of these incidents, namely those on the 12[th], 15[th], and 20[th] of September 1994, the victim was alone in their house as her parents and siblings had not returned from working in their fields. Considering that their nearest neighbor was about half a kilometer away[40], it is not highly improbable that no one could have heard her cries for help during these three occasions.

During the other two (2) occasions, the crimes admittedly were committed while the members of her family were sleeping in the same room. Accused-appellant's contention cannot exculpate him, however, from the acts imputed to him. It must be stressed that these crimes were committed in the dead of night, the first at around 1:00 a.m. on 20 July 1994 and the second at around 12:00 midnight on 9 September 1994. At these late hours, the members of her family were already in deep slumber after a hard day's work. It is thus not improbable that the members of her family, who were sleeping beside her could not have been awakened by the victim's shouting and struggling while being ravished.[41] It is not impossible nor incredible for the members of the complainant's family to be in deep slumber and not to be awakened while the brutish sexual assault on her was being committed.[42] Lust is no respecter of time and place.[43] Several times, the Court has held that rape can be committed even in places where people congregate, in parks, along the roadsides, in school premises, in a house where there are other occupants, in the same room where other members of the family are also sleeping[44], and even in places which to many, would appear unlikely and high risk venues for its commission[45].

The trial court thus committed no error in convicting accused-appellant of the five (5) counts of rape. What remains to be determined is whether the supreme penalty of death was correctly imposed by the trial court.

Accused-appellant, in his brief, contends that the trial court erred in imposing the supreme penalty of death considering that the qualifying circumstance of his blood relationship with private complainant, as uncle and niece, was not alleged in the information.

There is merit in this contention of accused-appellant.

The crime of rape at the time of the incidents complained of was governed by article 335 of the Revised Penal Code, as amended by Republic Act No. 7659[46]. Said article, provides, as follows:

"Art. 335. When and how rape is committed. - Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

- By using force or intimidation;
- When the woman is deprived of reason or otherwise unconscious; and
- When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by reclusion perpetua.

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.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be reclusion perpetua to death.

When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death.

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

- When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;
- When the victim is under the custody of the police or military authorities;
- When the rape is committed in full view of the husband, parent, any of the children or other relatives within the third degree of consanguinity;
- when the victim is a religious or a child below seven (7) years old;
- When the offender knows that he is afflicted with Acquired Immune Deficiency Syndrome (AIDS) disease;
- When committed by any member of the member of the Armed Forces of the Philippines or the Philippine National Police or any law enforcement agency.
- When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation."

We have previously declared that that the seven (7) special circumstances of rape introduced by R.A. 7659 which call for the automatic imposition of the death penalty partake of the nature of qualifying circumstances since these increase the penalty of rape by one degree. As such, these circumstances should be pleaded in the information or complaint in order to be appreciated in the imposition of the proper penalty.[47]

In the case at bench, the trial court apparently relied on the 1<sup>st</sup> special circumstance introduced by R.A. 7659, that of minority of the victim and relationship with the offender, in imposing the death penalty. However, the concurrence of the minority of the victim and her relationship to the offender should be specifically alleged in the information conformably with the right of an accused to be informed of the nature and cause of the accusation against him.[48] Even though the minority of Marites and her relationship with accused-appellant were proven beyond doubt, the death penalty cannot be imposed because both of these qualifying circumstances were not alleged in the information. It would be a denial of the right of accused-appellant to be informed of the charges against him, and consequently, a denial of due process, if he is charged with simple rape and is subsequently convicted of its qualified form punishable by death although the attendant circumstances qualifying the offense and resulting in the imposition of capital punishment were not set forth in the indictment on which he was arraigned.[49] Therefore, despite the five (5) counts of rape committed by accused-appellant, he cannot be sentenced to the supreme penalty of death. Accordingly, the penalty of death imposed by the trial court should be reduced to reclusion perpetua.

The Solicitor-General, in his Appellee's Brief, cites the paragraph in Article 335 of the Revised Penal Code which provides that "(w)henever 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" in justifying the imposition of the death penalty on accused-appellant. He argues that since it was proven during the trial that accused-appellant used a bolo during the occasions he raped the complainant and considering further that the aggravating circumstance of dwelling was appreciated by the trial court, the greater penalty imposed by the cited paragraph should be meted out.

There is no merit in the argument.

For the same reasons mentioned previously, the fact that a deadly weapon was used in the commission of the rape should likewise be pleaded in the complaint or information. In *People vs. Garcia*[50], the Court declared:

"One further observation. Article 335 provided only for simple rape punishable by reclusion perpetua, but Republic Act No. 4111 introduced amendments thereto by providing for qualified forms of rape carrying the death penalty, that is, when committed with the use of a deadly weapon or by two or more persons, when by reason or on the occasion of the rape the victim becomes insane, or, under the same circumstances, a homicide is committed. The homicide in the last two instances in effect created a complex crime of rape with homicide. The first two attendant circumstances are considered as equivalent to qualifying circumstances since they increase the penalties by degrees, and not merely as aggravating circumstances which affect only the period of the penalty but do not increase it to a higher degree. The original provisions of the Article 335 and Republic Act No. 4111 are still maintained.

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Now, it has long been the rule that qualifying circumstances must be properly pleaded in the indictment. If the same are not pleaded but proved, they shall be considered only as aggravating circumstances since the latter admit of proof even if not pleaded. xxx" (citations omitted)[51]

Accordingly, accused-appellant may only be convicted of simple rape, the crime for which he was indicted. Simple rape is punishable by a single indivisible penalty of reclusion perpetua. Thus, even if the aggravating circumstance of dwelling was proven to have attended the commission of the crime, the appropriate penalty under the law would still be reclusion perpetua. Article 63 of the Revised Penal Code provides that 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."

As regards the civil indemnity, this Court has ruled that if the crime of rape is committed or effectively qualified by any of the circumstances under which the death penalty is authorized by law, the indemnity for the victim shall be increased to P75,000.00. However, since the death penalty is not imposable due to the deficiency in the allegations of the information against the accused-appellant, the victim is only entitled to P50,000.00 as indemnity for each count of rape.[52] The trial court thus correctly awarded the amount of P50,000.00 for each count of rape or a total of P250,000.00 as civil indemnity to the victim. The trial court failed, however, to award moral damages in the amount of P50,000.00 as moral damages for each count of rape. In rape cases, the victim's injury is inherently concomitant with the odious crime to warrant per se an award for moral damages without the requirement of proof of mental and physical suffering.[53] Thus, the total amount of P250,000.00 as moral damages should likewise be awarded.

The trial court likewise correctly imposed the amount of P25,000 for each count of rape, or a total of P125,000.00, as and by way of exemplary damages. Under Article 2230 of the New Civil Code, "(I)n criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances." In the case at bench, the aggravating circumstances of relationship, dwelling, and, for two of the charges, nighttime were proven to have attended the commission of the crime. Relationship, that of uncle and niece, was proven by the testimony of the victim and by the admission of accused-appellant himself. Dwelling was likewise proven as it was shown that the five incidents of rape were all committed inside the house of the family of the victim where accused-appellant was staying as a houseguest. Finally, the aggravating circumstance of nighttime was likewise proven in two of the five rape incidents as it was shown that accused-appellant waited until late in the night when the other family members were in deep slumber before consummating his carnal desire for the victim.

WHEREFORE, the decision of the trial court finding accused-appellant Eugenio Mangompit, Jr. guilty beyond

reasonable doubt of five (5) counts of rape is AFFIRMED with the MODIFICATION that accused-appellant is hereby sentenced to suffer the penalty of reclusion perpetua in each of the five (5) criminal cases. Accused-appellant is likewise sentenced to pay the victim Marites Quirante, the amount of P50,000.00 as indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages for each count of rape or a total of P250,000.00 as civil indemnity, P250,000.00 as moral damages and P125,000.00 as exemplary damages.

**SO ORDERED.**

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.

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- [1] Rollo, pp. 16-37.
- [2] Presided by Judge Wilfredo G. Ochotorena.
- [3] Rollo, pp. 7-11.
- [4] For Criminal Case No. S-2548.
- [5] Docketed as Criminal Cases No. S-2549-2552.
- [6] Records, p. 23.
- [7] TSN, 9 May 1997, pp. 3-5.
- [8] TSN, 21 February 21 1997, pp. 21-22.
- [9] Ibid, p. 21.
- [10] Ibid, p. 23.
- [11] Ibid, pp. 15-17.
- [12] Ibid, p. 17.
- [13] Ibid, p. 20.
- [14] TSN, 9 May 1997, p. 3.
- [15] Ibid, pp. 4-5.
- [16] Ibid, p. 9.
- [17] Ibid, p. 8.
- [18] Ibid, pp. 8-9.
- [19] Ibid, pp. 9-10.
- [20] TSN, 17 April 1998, p. 6.
- [21] TSN, 29 January 1999, p. 3.
- [22] Ibid, p. 9.
- [23] Ibid, p. 6.

- [24] TSN, 23 April 1999, pp. 2-3.
- [25] Ibid, p. 3.
- [26] Ibid, p. 4.
- [27] Ibid, pp. 4-5.
- [28] Ibid, pp. 7-8.
- [29] TSN, 16 July 1999, p. 3.
- [30] Ibid, p. 6.
- [31] Rollo, p. 21.
- [32] Rollo, p. 60.
- [33] TSN, 21 February 1997, pp. 5-6.
- [34] TSN, 21 February 1997, pp. 21-23.
- [35] People vs. Santiago, 319 SCRA 644.
- [36] People vs. Balderas, 276 SCRA 470; People vs. Tadulan, 271 SCRA 233.
- [37] People vs. Enriquez, 281 SCRA 103.
- [38] People vs. Batoon, 317 SCRA 545.
- [39] People vs. Zaballero, 274 SCRA 627.
- [40] TSN, 21 February 1997, p. 17.
- [41] People vs. Tan, Jr., 264 SCRA 425.
- [42] Ibid.
- [43] People vs. Segundo, 228 SCRA 691; People vs. Codilla, 224 SCRA 104; People vs. Guibao, 217 SCRA 64.
- [44] People vs. Perez, 296 SCRA 17.
- [45] People vs. Tan, Jr. supra.
- [46] Under the Anti-Rape Law of 1997 (R.A. 8353), rape is now classified as a crime against persons under Articles 266-A and 266-B of the Revised Penal Code.
- [47] People vs. Magbanua, 319 SCRA 719; People vs. Perez, supra.
- [48] People vs. Manggasin, 306 SCRA 228; People vs. Ilao, 296 SCRA 698; People vs. Ramos, 296 SCRA 559.
- [49] People vs. Magbanua, supra; People vs. Garcia, 281 SCRA 463.
- [50] 281 SCRA 463.**
- [51] Cited also in People vs. Alfanta, 320 SCRA 357.
- [52] People vs. Ambray, 303 SCRA 697.
- [53] People vs. Prades, July 30, 1998.

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