



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, **G.R. No. 232308**
 Plaintiff-Appellee,

Present:

PERALTA, *C.J.*, *Chairperson*
 CAGUIOA,
 LAZARO-JAVIER,
 LOPEZ and
 GAERLAN, *JJ.*

- versus -

Promulgated:

XXX,¹

OCT 07 2020

Accused-Appellant.

X-----X

DECISION

LAZARO-JAVIER, J.:

The Case

This appeal² seeks to reverse and set aside the Decision³ dated June 22, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06146 which affirmed, with modification the trial court's verdict of conviction⁴ against appellant XXX for qualified rape. Its dispositive portion reads:

¹ The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used in accordance with *People v. Cabalquinto* [533 Phil 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

² *Rollo*, pp. 22-23.

³ Penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by now Supreme Court Associate Justice Rosmari D. Carandang and Associate Justice Socorro B. Inting, *id.* at 2-21.

⁴ Penned by Judge Pablo M. Agustin, *CA rollo*, pp. 91-100.

WHEREFORE, the decision dated April 11, 2013 of the Regional Trial Court of Tuguegarao City, Cagayan, Branch 4 (RTC) in Criminal Case No. 12711 is **AFFIRMED** with **MODIFICATION** in that accused-appellant [XXX] is found **GUILTY** beyond reasonable doubt of the crime of rape defined under Article 266-A No. 1(a) and penalized under the first paragraph of Article 266-B of the Revised Penal Code, as amended by R.A. No. 8353, in relation to R.A. No. 7610. The award of Seventy-five Thousand Pesos (P75,000.00) as civil indemnity, Thirty Thousand Pesos (P30,000.00) as exemplary damages and Seventy-five Thousand Pesos (P75,000.00) as moral damages is affirmed. Accused-appellant is ordered to pay the victim interest on all damages at the legal rate of six percent (6%) per annum from the date of finality of this judgment until full payment.

SO ORDERED.⁵

The Information

Appellant was charged with qualified rape under the following Information, *viz.*:

The undersigned City Prosecutor of Tuguegarao City accuses [XXX] for the crime of RAPE defined and penalized under Article 266-A No. 1(a) in relation to Article 266-B, 6th paragraph of the Revised Penal Code as amended by Republic Act 8353 in relation to R.A. 7610, committed as follows:

That on August 4, 2009, in the City of Tuguegarao, Province of Cagayan, and within the jurisdiction of this Honorable Court, the accused [XXX], invited the private complainant [AAA]⁶ to go upstairs of his house to choose some package that was sent by his wife from Singapore, to which the private complainant politely acceded; that when the private complainant was already choosing some packages, the accused, with lewd design, and by means of force, threat and intimidation, did then and there, willfully, unlawfully and feloniously lift the uniform of the private complainant, lay her on the floor, and despite her resistance and struggle, he did lie and succeed in having sexual intercourse with the private complainant, against her will[,] that due to the incident, the accused was brought to the Cagayan Police Provincial Office, Camp Triso H. Gador, Tuguegarao City for proper disposition.

That the acts of the accused were aggravated by the fact that the private complainant was a [17-year-old] minor at the time of the incident, and that accused is the uncle of the private complainant, he being the first cousin of the father of the private complainant.

⁵ *Rollo*, pp. 19-20.

⁶ *Supra* note 1.

That the acts of the accused debased, degraded, and demeaned the intrinsic worth and dignity of the private complainant and which is prejudicial to her normal growth and development as a minor.

CONTRARY TO LAW.⁷

The case was raffled to the Regional Trial Court - Tuguegarao City, Cagayan, Branch 4 and docketed as Criminal Case No. 12711.

The Proceedings Before the Trial Court

On arraignment, appellant pleaded “not guilty.”⁸

During the trial, complainant AAA, her mother and her aunt, and Dr. Marriane Rowena Diasen (Dr. Diasen) testified for the prosecution while appellant alone testified for the defense.

The prosecution too presented in evidence complainant’s sworn statement, joint affidavit of SPO2 William M. Guzman (SPO2 Guzman) and PO2 Robert Rivero (PO2 Rivero), complainant’s mother’s affidavit, complainant’s certificate of live birth, and complainant’s medico-legal certificate.⁹

The Prosecution’s Version

Complainant testified that she was born on May 3, 1992. Appellant is her uncle, being her father’s first cousin. Appellant lives in Cataggaman Pardo, which is only two (2) streets or two to three (3) minute walk away from her house.¹⁰

On August 4, 2009, around 1 o’clock in the afternoon, she went to the house of her cousin in Cataggaman Pardo, but the latter was not around. She proceeded to her grandfather’s house located in the same barangay, but no one was there either. She then decided to take a rest inside appellant’s tricycle parked in front of his house, near her grandfather’s house.¹¹

Appellant later arrived from a drinking spree and invited her into his house to choose some clothes sent by his wife from Singapore. She obliged and went upstairs for the clothes. As she was sorting through them, appellant

⁷ Record, p. 1; *CA rollo*, pp. 90-91.

⁸ *Rollo*, p. 4.

⁹ *Id.* at 4.

¹⁰ TSN dated March 8, 2011, p. 4.

¹¹ TSN dated November 26, 2009, pp. 2-8.

lifted her skirt and embraced her from behind. She tried to shout but appellant inserted his fingers into her mouth. Appellant forced her to lie down on the floor, undressed her, and kissed her lips, neck, and vagina. Appellant then forcefully inserted his penis into her vagina, which caused her pain.¹² He told her he would only remove his penis after he shall have already ejaculated.¹³ She did not shout anymore because appellant told her he was ready to go to jail and even die with her. Each time she tried to get up and run away, appellant pulled her feet to prevent her from escaping.¹⁴

After ravishing her, appellant told her to take a bath, change her clothes, and go home. Crying, she headed straight to her grandfather's house but still no one was there. She proceeded to the school of her aunt and told the latter she wanted to commit suicide because appellant had raped her. She was scared to go home as appellant might rape her again since he earlier told her to come back in the evening. She, thus, spent the night in a boarding house in Caritan, Tuguegarao City.¹⁵

Complainant's mother testified that on August 4, 2009, she got home from work around 7 o'clock in the evening. As complainant was still not home, she went to Cataggaman Pardo to look for her, but she did not find her there. The next day, she saw complainant crying in front of Otto Shoe Department Store in Centro, Tuguegarao. Complainant told her that appellant raped her and she was scared of him. They went to the Provincial Philippine Command to report the rape. Thereafter, they proceeded to Cagayan Valley Medical Center (CVMC), where complainant underwent a medico-legal examination.¹⁶

Complainant's aunt testified that on August 4, 2009, complainant sent her a text message saying she had a problem. During her break around 2:30 o'clock in the afternoon, she waited for complainant in front of her school. Complainant came to her crying. Complainant told her that appellant raped her and she wanted to commit suicide.

Dr. Diasen testified that she examined complainant. She found multiple fresh lacerations, abrasions, and some blood stains in and around complainant's hymenal and peri-hymenal area which strongly indicated that a sexual incident occurred within twenty-four (24) hours prior to the examination.¹⁷ She testified that her findings supported complainant's revelation that she had been sexually abused the day before the physical examination.¹⁸

¹² *Id.* at 5.

¹³ *Id.* at 3-4.

¹⁴ *Id.* at 10-11.

¹⁵ *Id.* at 5-5.

¹⁶ TSN dated March 8, 2011, pp. 4-5; TSN dated August 13, 2010, pp. 2-4; TSN dated November 26, 2009, p. 7.

¹⁷ TSN dated August 13, 2010, pp. 2-4; Record, p. 9; *rollo*, p. 32.

¹⁸ TSN dated August 13, 2010, pp. 4-5.

The Defense's Version

Appellant denied the charge. He testified that in the morning of August 4, 2009, he and his two (2) children were cleaning their house while their neighbors were preparing food for the barangay fiesta.¹⁹ In the afternoon, he went for a drinking spree with his friends Angel Pattad, Jesus Bacud, Nestor Olivo, Rogelio Lattao, Eusebio Chato and Ninoy Bucayu in his neighbor's house, about thirty (30) to forty (40) meters away from his house. He did not see complainant that day.²⁰

On cross, appellant testified that he left his house as early as 6:30 o'clock in the morning when his friend picked him up for a drinking spree in their neighbor's house. He stayed there until noon time, then returned home to check on his two (2) children.²¹ He was quite close to complainant's father. He, complainant, and her father had no ill-feelings against each other.²²

The Trial Court's Ruling

By Decision dated April 11, 2013,²³ the trial court convicted appellant of the offense charged, *i.e.*, rape, qualified by minority and relationship under Article 266-A No. 1(a) in relation to Article 266-B 6th paragraph of the RPC, as amended. It gave greater weight to complainant's positive testimony over appellant's denial and alibi. It ruled that the presence of other people in the crime scene did not negate the commission of rape. Thus:

From the evidence on hand, this court is convinced that the accused [XXX] raped [AAA] as stated in the information.

x x x x x x x x x

WHEREFORE, PREMISES CONSIDERED, finding accused **XXX "GUILTY"** beyond reasonable doubt for the crime of RAPE defined and penalized under Article 266-A No. 1(a) in relation to Article 266-B, 6th paragraph of the Revised Penal Code as amended by Republic Act 8353, in relation to R.A. No. 7610, this Court hereby sentences him to reclusion perpetua and to suffer the accessory penalties provided by law, particularly Article 41 of the Revised Penal Code. For the civil liability, he is condemned to pay the amount of P75,000.00 as actual, P30,000.00 as exemplary damages and P75,000.00 as moral damages.

¹⁹ TSN dated October 20, 2011, p. 2.

²⁰ TSN dated January 31, 2012, p. 2.

²¹ *Id.* at 3.

²² *Id.* at 4.

²³ Penned by Judge Pablo M. Agustin, record, pp. 91-100.

The accused who is a detained prisoner is hereby credited in full of the period of his preventive imprisonment in accordance with Article 29 of the Revised Penal Code, as amended.

SO DECIDED.²⁴

The Proceedings before the Court of Appeals

On appeal, appellant faulted the trial court for finding him guilty of qualified rape despite the prosecution's purported failure to prove his guilt beyond reasonable doubt and for appreciating the aggravating circumstance of minority, albeit without competent proof thereof. Appellant essentially argued: (1) the conflicting factual narration of complainant rendered her credibility questionable. In her sworn statement, complainant alleged that his father heard her pleas and went upstairs when he was molesting her. But at the trial, complainant testified that no one else was present in his house; and (2) a mere photocopy of complainant's certificate of live birth was not sufficient to establish her minority.²⁵

On the other hand, the Office of the Solicitor General (OSG)²⁶ maintained that the prosecution was able to establish appellant's guilt beyond reasonable doubt. Too, the trial court did not err in admitting in evidence a photocopy of complainant's certificate of live birth to establish the aggravating circumstance of minority.²⁷

The Court of Appeals' Ruling

In its assailed Decision dated June 22, 2016,²⁸ the Court of Appeals affirmed, with modification. It ruled that appellant's conviction ought to be for simple rape only instead of qualified rape. It explained that paragraph 6 of Article 266-B of the Revised Penal Code (RPC) cannot be applied to qualify the rape because the relationship between appellant and complainant is beyond the third civil degree. Thus:

Based on the foregoing discussion, this Court affirms the conviction of accused-appellant of rape under Article 266-A No. 1(a) of the Revised Penal Code, as amended by R.A. 8353, in relation to R.A. No. 7610. However, this Court finds that the dispositive portion of the RTC's decision, which includes the application of the 6th paragraph of Article 266-B, should be modified. The aggravating circumstance of relationship

²⁴ Record, p. 100; *CA rollo*, p. 98.

²⁵ *CA rollo*, pp. 16-27.

²⁶ Represented by Assistant Solicitor General Karl B. Miranda and Associate Solicitors Michael G.R. Gomez and Gabriel S. Villanueva.

²⁷ *CA rollo*, pp. 69-80.

²⁸ Penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by now Supreme Court Associate Justice Rosmari D. Carandang and Associate Justice Socorro B. Inting, *rollo*, pp. 2-21.

alleged in the information cannot be appreciated because accused-appellant is the first cousin of AAA's father. The relationship between AAA and accused-appellant is beyond the 3rd civil degree of relationship that is considered under No. 1 of the 6th paragraph of Article 266-B. Nevertheless, this Court affirms the penalty of *reclusion perpetua* imposed upon accused-appellant pursuant to Article 266-B, paragraph 1 of the Revised Penal Code, with the accessory penalties provided by law.

X X X X X X X X X

WHEREFORE, the Decision dated April 11, 2013 of the Regional Trial Court of Tuguegarao City, Cagayan, Branch 4 (RTC) in Criminal Case No. 12711 is AFFIRMED with MODIFICATION in that accused-appellant [XXX] is found GUILTY beyond reasonable doubt of the crime of rape defined under Article 266-A No. 1(a) and penalized under the first paragraph of Article 266-B of the Revised Penal Code, as amended by R.A. No. 8353, in relation to R.A. No. 7610. The award of Seventy-five Thousand Pesos (P75,000.00) as civil indemnity, Thirty Thousand Pesos (P30,000.00) as exemplary damages and Seventy-five Thousand Pesos (P75,000.00) as moral damages is affirmed. Accused-appellant is ordered to pay the victim interest on all damages at the legal rate of six percent (6%) per annum from the date of finality of this judgment until full payment.

SO ORDERED.²⁹

The Present Appeal

Appellant now seeks affirmative relief from the Court and prays anew for his acquittal. In compliance with the Court's Resolution³⁰ dated October 2, 2017, both appellant and the OSG manifested that, in lieu of supplemental briefs, they were adopting their respective briefs filed before the Court of Appeals.³¹

Issue

Did the Court of Appeals err in convicting appellant of simple rape?

Ruling

The prosecution was able to establish to a moral certainty that through force or intimidation, appellant succeeded in having carnal knowledge of the victim against her will

²⁹ *Id.* at 19-20.

³⁰ *Id.* at 27-28.

³¹ *Id.* at 29-30, 33-35.

Article 266-A, paragraph 1 of the RPC, as amended by RA No. 8353, defines rape, viz.:

Art. 266-A. *Rape: When and How Committed.* – Rape is committed –

- 1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:
 - a) Through force, threat or intimidation;
 - b) When the offended party is deprived of reason or otherwise unconscious,
 - c) By means of fraudulent machination or grave abuse of authority; and
 - d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

To support a conviction for rape, the following elements must be proved: (1) the offender had carnal knowledge of a woman; and (2) the offender accomplished such act through force or intimidation, or when the victim was deprived of reason or otherwise unconscious, or when she was under twelve (12) years of age or was demented.

Here, the prosecution had established to a moral certainty the elements of carnal knowledge and force or intimidation. Complainant positively identified appellant as the man who, through force or intimidation, had carnal knowledge of her against her will, thus:

- Q. And While you were choosing pieces of clothes for you and your siblings, what happened?
- A. He pulled up my skirt, sir.
- Q. And other than pulling your skirt, what else did [XXX] did to you?
- A. He suddenly embraced me and forced me, I tried to shout but he put his hands on my mouth so that I cannot shout.
- Q. Where was [XXX] in relation to you when he embraced you?
- A. He was at my back sir.
- Q. And after embracing you and putting his fingers into your mouth and prevent you from shouting, what else did [XXX] do to you?
- A. He forced me to lie down and he undressed me, sir.
- Q. Where did he force you to lie down?
- A. At the floor, sir?
- Q. And when you were already in the floor, what did [XXX] do to you?

- A. When I was on the floor I am trying to shout but still he put his fingers on my mouth to prevent me from shouting and he started pushing me and undressed me.
- Q. What part of your body did he kiss you?
- A. My lips, neck[,] and my vagina, sir.
- Q. You said that he undressed you, what were you wearing at that time?
- A. A school uniform.
- Q. Of what school?
- A. Cagayan State University, sir.
- Q. You are enrolled in what department?
- A. Medical Technology Department, sir.
- Q. Was he able to remove all your clothing?
- A. No sir, he was only able to remove my lower garments, sir.
- Q. After taking over your lower garments, what did [XXX] do to you?
- A. He was forcing to insert his penis into my vagina, sir.
- Q. And was he able to insert his penis into your vagina?
- A. Yes sir.
- Q. When his penis was already inserted into your vagina, what did [XXX] do?
- A. He said he will only remove his penis after he withdrawn. "*Sabi niya magpapalabas muna siya bago niya tatanggalin.*"
- Q. And did you estimate how long did he take, [XXX] to stay on top of you, taking his penis from your vagina?
- A. I cannot remember, sir.
- Q. Let's go back [AAA] to that very moment when [XXX] inserted his penis into your vagina, how did you feel when [XXX] inserted his penis into your vagina?
- A. I felt pain, sir.
- Q. Why?
- A. Because it is my first time to have sex, sir.³²
- x x x x x x x x x
- Q. Will you agree with me that not all the time this accused put his palm in your mouth?
- A. Yes sir.
- Q. And there [was an] opportunity for you to shout again?
- A. Yes sir.
- Q. But you never shouted again?
- A. He told me that he was ready to die with me and he was ready to go to jail.³³

³² TSN dated November 26, 2009, pp. 4-5.

³³ *Id.* at 10.

X X X X X X X X X X

Q. Was the accused armed with a gun or knife at that time?

A. He was not armed but I was afraid because of his big body built.³⁴

Complainant made a clear, candid, and positive narration of how appellant suddenly embraced her from behind, forced her to lie down on the floor, undressed her, kissed her lips, neck, and vagina, forcefully inserted his penis into her vagina while preventing her from screaming by inserting his fingers into her mouth, and threatened that he was ready to die with her or go to jail. Complainant's allegation of rape conforms with the physical evidence through the testimony and medical findings of Dr. Diasen that complainant sustained "*hymenal area (+) multiple lacerations and Perihymenal area (+) abrasions on both sides of the erythematous looking – there is a 1 cm laceration from the fourchette downward to the anal verge.*" Dr. Diasen testified that the multiple abrasions strongly indicated that a sexual incident occurred within twenty-four (24) hours prior to the examination, thus, supporting complainant's disclosure that she was sexually abused the day before.

It is settled that testimonies of child-victims are given full weight and credit.³⁵ The same cannot be easily dismissed as mere concoction especially when it pertained to a young girl's story on how her own relative had sexually ravished her, as in this case. More so because the rape story here is supported no less by physical evidence. *People v. Rupal*³⁶ is in point:

It is emphasized that when a rape victim's allegation is corroborated by a physician's finding of penetration, "there is sufficient foundation to conclude the existence of the essential requisite of carnal knowledge." Such medico-legal findings bolster the prosecution's testimonial evidence. Together, these pieces of evidence produce a moral certainty that the accused-appellant indeed raped the victim. The "[p]hysical evidence is evidence of the highest order. It speaks more eloquently than a hundred witnesses." Moreover, a young girl's revelation that she had been raped, coupled with her voluntary submission to medical examination and willingness to undergo public trial where she could be compelled to give out the details of an assault on her dignity, cannot be so easily dismissed as mere concoction.

Indeed, the Court respects the trial court's factual assessment that complainant's testimony was credible and convincing³⁷ since it had the opportunity to observe the department of complainant first hand and even carries the Court of Appeal's full concurrence.³⁸

³⁴ *Id.* at 11.

³⁵ *People v. Mayola*, 802 Phil. 756, 764 (2016).

³⁶ G.R. No. 222497, June 27, 2018.

³⁷ *People v. Hirang*, 803 Phil. 277, 290 (2017).

³⁸ *Castillano v. People*, G.R. No. 222210 (Notice), June 20, 2016.

On this score, the alleged inconsistency or improbability in the victim's testimony pertaining to whether appellant's father was also inside the house when she got raped or whether there were also many people nearby since it was then the feast day of the barangay refer to trivial matters which do not affect the credibility of the victim's testimony. For another, the proximity of a number of people at the rape scene does not disprove the commission of rape. For lust is no respecter of time and place. Rape can be committed anywhere, even in places where people congregate. *People v. Balora*³⁹ decrees:

The court has time and again held that "the evil in man has no conscience. The beast in him bears no respect for time and place, driving him to commit rape anywhere — even in places where people congregate such as in parks, along the roadside, within school premises and inside a house where there are other occupants." "Rape does not necessarily have to be committed in an isolated place and can in fact be committed in places which to many would appear to be unlikely and high-risk venues for sexual advances." Indeed, no one would think that rape could happen in a public place like the comfort room of a movie house and in broad daylight.

Finally, in the prosecution of rape cases, the presence or absence of spermatozoa is immaterial. For it is well settled that penetration of the woman's vagina, however slight, and not ejaculation constitutes rape.⁴⁰ Thus, even if no spermatozoa was found in complainant's vaginal area despite her claim that appellant declared he would only pull out his penis after he had ejaculated inside her vagina, the same does not negate penile penetration and the commission of rape.

Complainant's graphic account of the incident shows the element of penile penetration, viz.: "*he (appellant) was only able to remove my lower garments, sir.*" "*He (appellant) was forcing to insert his penis into my vagina.*" "*Yes sir,*" appellant was able to insert his penis into her vagina. "*I felt pain, sir.*" When appellant's penis was already inside her vagina, "*Sabi niya magpapalabas muna siya bago niya tatanggalin.*" Her story is supported by the doctor's finding of multiple lacerations and abrasions in her hymenal and perihymenal area which strongly indicated sexual intercourse.

On the other hand, appellant's defenses consist of denial and alibi. These are the weakest of all defenses for they are easy to contrive but difficult to disprove. Appellant did not even present his friends and neighbors with whom he was allegedly drinking or his children who were allegedly at home during the rape incident, to corroborate his theories of denial and alibi.

In any event, as between complainant's credible and positive identification of appellant as the person who, using force and intimidation,

³⁹ 388 Phil. 193, 203 (2000).

⁴⁰ *People v. Balora*, *id.* at 206.

had carnal knowledge of her against her will, on one hand, and appellant's bare denial and alibi, on the other, the former indubitably prevails.⁴¹

The crime committed is simple rape

The crime of qualified rape under Article 266-B (1)⁴² of the RPC requires the concurrence of the twin aggravating circumstances of the victim's minority and her relationship to the perpetrator. Both should be alleged and proved.⁴³ Otherwise, the accused could only be held guilty of simple rape.⁴⁴

The prosecution here had sufficiently established complainant's minority. Apart from the testimonies of complainant and her mother,⁴⁵ the prosecution also presented in evidence a photocopy of complainant's certificate of live birth to prove that complainant was only seventeen (17) years old when appellant raped her.

Under Rule 130, Section 3, paragraph (d) of the Revised Rules of Court,⁴⁶ the presentation of the original document may be dispensed with when the same is a public record in the custody of a public officer or is recorded in a public office. In *People v. Cayabyab*,⁴⁷ the Court ruled that a photocopy of the rape victim's birth certificate is admissible to prove her age because its original is a public record in the custody of the local civil registrar, a public officer. The trial court and the Court of Appeals, therefore, did not err in admitting in evidence the photocopy of complainant's certificate of live birth to prove her minority.

As for the relationship between the victim and the offender, the same must be within the third civil degree of consanguinity or affinity in order to qualify rape under Article 266-B. In *People v. Ugang*,⁴⁸ the Court did not appreciate relationship as a qualifying circumstance because the accused was the victim's relative within the fifth civil degree only, he being a cousin of the victim's father, as in here. Consequently, accused Ugang was convicted only of simple rape.

⁴¹ *Etino v. People*, 826 Phil. 32, 48 (2018); *People v. Candellada*, 713 Phil. 623, 45 (2013).

⁴² Article 266-B. *Penalties-*

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

1) 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;

x x x x x x x x x

⁴³ *People v. Armodia*, 810 Phil. 822, 832-833 (2017).

⁴⁴ *People v. Gallano*, 755 Phil. 120, 131 (2015).

⁴⁵ TSN dated October 20, 2011, p. 2; TSN dated January 31, 2012, pp. 2-6.

⁴⁶ Sec. 3. Original document must be produced; exceptions. When the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself, except in the following cases:

x x x x x x x x x

(d) When the original is a public record in the custody of a public officer or is recorded in a public office.

⁴⁷ 503 Phil. 606, 619-620 (2005).

⁴⁸ 431 Phil. 552, 567-569 (2002).

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Here, relationship cannot be appreciated as a qualifying/aggravating circumstance because appellant here, like *Ugang* is a cousin of complainant's father, hence, a relative within the fifth civil degree only. The Court of Appeals, thus, correctly modified appellant's conviction from qualified rape to simple rape.

The Penalty

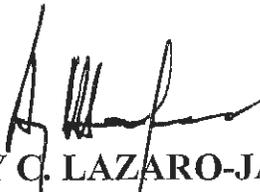
Article 266-B of the Revised Penal Code, as amended by RA 8353, prescribes the penalty of *reclusion perpetua* for simple rape.

All told, the Court of Appeals did not err in convicting appellant of simple rape and sentencing him to *reclusion perpetua*. In accordance with prevailing jurisprudence,⁴⁹ the award of exemplary damages should be increased from Thirty Thousand Pesos (P30,000.00) to Seventy-Five Thousand Pesos (P75,000.00). On the other hand, we affirm the award of civil indemnity and moral damages in the amount of Seventy-Five Thousand Pesos (P75,000.00) each and the imposition of six percent (6%) interest on all the monetary awards from finality of decision until fully paid.

ACCORDINGLY, the appeal is **DENIED**. The Decision dated June 22, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06146 is **AFFIRMED**. Appellant XXX is found **GUILTY** of **SIMPLE RAPE** as defined and penalized under Article 266-A, paragraph 1 (a), in relation to Article 266-B of the Revised Penal Code, and sentenced to **RECLUSION PERPETUA**.

He is further ordered to **PAY** complainant **AAA** P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages. All monetary awards are subject to six percent (6%) interest *per annum* from finality of this decision until fully paid.

SO ORDERED.


AMY C. LAZARO-JAVIER
 Associate Justice

⁴⁹ *People v. Dumdum*, G.R. No. 221436, June 26, 2019; *People v. Nepomuceno, Jr.*, G.R. No. 227092 (Notice), February 5, 2020; *People v. Jugueta*, 783 Phil. 806, 848-849 (2016).

"II. For Simple Rape/Qualified Rape:

x x x

x x x

x x x

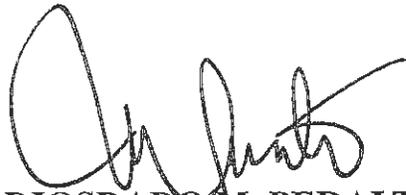
2.1 Where the penalty imposed is *reclusion perpetua*, other than the above-mentioned:

a. Civil indemnity — P75,000.00

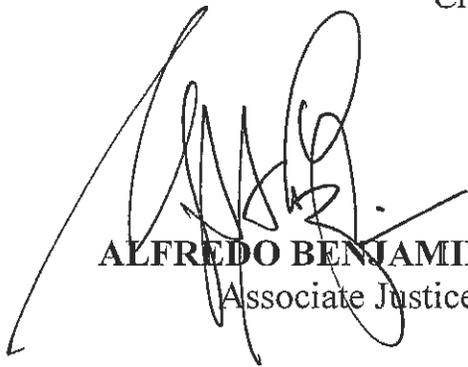
b. Moral damages — P75,000.00

c. Exemplary damages — P75,000.00;

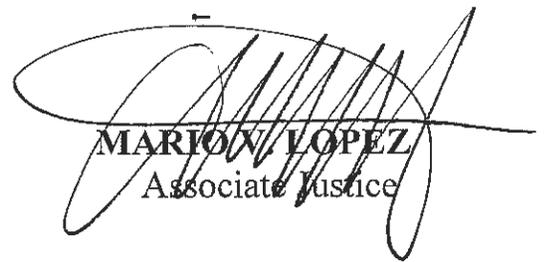
WE CONCUR:



DIOSDADO M. PERALTA
Chief Justice
Chairperson – First Division



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



MARIO X. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice
Chairperson, First Division

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