

FIRST DIVISION

[G.R. No. 219111, March 12, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
NELSON NUYTE Y ASMA, ACCUSED-APPELLANT.**

D E C I S I O N

DEL CASTILLO, J.:

Challenged in this appeal is the September 25, 2014 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05409 which affirmed the December 9, 2011 Decision^[2] of the Regional Trial Court (RTC) of Legazpi City, Branch 8, finding appellant Nelson Nuyte y Asma (Nuyte) guilty beyond reasonable doubt of one count of rape and five counts of violation of Section 5(b) of Republic Act (RA) No. 7610, as amended.^[3]

The Antecedent Facts

Appellant was charged in six separate Informations with one count of rape under Article 266-A of the Revised Penal Code (RPC) docketed as Criminal Case No. FC-00-780, and five counts of violation of Section 5(b) of RA 7610 docketed as Criminal Case Nos. FC-00-781 to FC-00-785 inclusive, before the RTC of Legazpi City, Branch 8.

The Informations read as follows:

Criminal Case No. FC-00-780 -Rape

That on April 10, 2004 at more or less 12:00 o'clock noon, x x x Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with lewd and unchaste design, thru force, threat and intimidation, armed with a knife, did then and there willfully, unlawfully and feloniously have sexual intercourse with "AAA",^[4] 14 years old against her will and consent, to her damage and prejudice.

ACTS CONTRARY TO LAW.^[5]

Criminal Case No. FC-00-781 -Violation of RA 7610

That on April 12, 2004 at more or less 4:00 o'clock in the afternoon, x x x Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with lewd and unchaste design, by means of intimidation, coercion, influence and other consideration, did then and there willfully, unlawfully and feloniously have sexual intercourse with "AAA", x x x 14 years old, x x x against her will and consent, act which debased and degraded her intrinsic worth and dignity as a human being, to her damage and prejudice.

ACTS CONTRARY TO LAW.^[6]

Criminal Case No. FC-00-782 - Violation of RA 7610

That on May 6, 2004 at more or less 7:00 o'clock in the morning, x x x Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with lewd and unchaste design, by means of intimidation, coercion, influence and other consideration, did then and there willfully, unlawfully and feloniously have sexual intercourse with "AAA" x x x 14 years old, x x x against her will and consent, act which debased and degraded her intrinsic worth and dignity as a human being, to her damage and prejudice.

ACTS CONTRARY TO LAW.^[7]

Criminal Case No. FC-00-783 - Violation of RA 7610

That on May 3, 2004 at more or less 5:00 o'clock in the afternoon, x x x Province of Albay, Philippines, and within the jurisdiction, of this Honorable Court, the above named accused, with lewd and unchaste design, by means of intimidation, coercion, influence and other consideration, did then and there willfully, unlawfully and feloniously have sexual intercourse with "AAA", x x x 14 years old, x x x against her will and consent, act which, debased and degraded her intrinsic worth and dignity as a human being, to her damage and prejudice.

ACTS CONTRARY TO LAW.^[8]

Criminal Case No. FC-00-784 - Violation of RA 7610

That on April 19, 2004 at more or less 7:00 o'clock in the morning, x x x Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with lewd and unchaste design, by means of intimidation, coercion, influence and other consideration, did then and there willfully, unlawfully and feloniously have sexual intercourse with "AAA", x x x 14 years old, x x x against her will and consent, act which debased and degraded her intrinsic worth and dignity as a human being, to her damage and prejudice.

ACTS CONTRARY TO LAW.^[9]

Criminal Case No. FC-00-785 - Violation of RA 7610

That on April 14, 2004 at more or less 12:00 x x x noon, x x x Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with lewd and unchaste design, by means of intimidation, coercion, influence and other consideration, did then and there willfully, unlawfully and feloniously have sexual intercourse with "AAA", x x x 14 years old, xxx against her will and consent, act which debased and degraded her intrinsic worth and dignity as a human being, to her damage and prejudice.

ACTS CONTRARY TO LAW.^[10]

Appellant pleaded not guilty to the charges.

The trial court summarized the prosecution's version of the incidents in the following manner:

["AAA"] is the youngest in a brood of three. Her eldest brother works in a junkshop, while her elder brother usually stays home because of a lingering illness. Her parents work in a mountainous area in x x x Albay, When nobody else can, ["AAA"] usually assumes the obligation to tether the cows (4 heads of them) in the morning and untether them in the afternoon after [arriving] from school.

On April 10, 2004 at about 12:00 noon, after tethering the cows, ["AAA"] heard a clapping [sound]. On her way back home, appellant [Nuyte] suddenly appeared, grabbed her by the hair, held her up and at knife point, warned her against telling her mother, or else he will kill them both. Nuyte forced ["AAA"] to the ground and started kissing her chest. He removed her undergarment and his, mounted her and inserted his penis into her vagina. After ejaculating, he wiped his penis, wore back his underwear and left.

The same act was committed under the same instance and in the same place on April 12, 2004 at 4:00 o'clock in the afternoon, and on April 19, 2004 at 7:00 o'clock in the afternoon." ["AAA"] tried to make an outcry, but because of the distance of the *situs criminis* from the neighboring houses, nobody heard her.

On May 3, 2004 at 5:00 o'clock in the afternoon and on May 6, 2004 at 7:00 o'clock in the morning, Nuyte again succeeded in carrying out his dastardly acts against ["AAA"] also at knifepoint, [This time, "AAA" broke] her silence and finally decided to divulge everything to her mother, notwithstanding [appellant's] threat of physical harm against her and her mother.

On May 12, 2004, the parents of ["AAA", "BBB" and "CCC", who were] in a coconut plantation [attending] to the copra at the kiln[,] were fetched by ["DDD"], sister of Rowena Nuyte, wife of the [appellant], allegedly because ["AAA"] was raped by Nuyte. The spouses rushed home and saw ["AAA"] crying and [thereupon] revealed to them about the rape committed by Nuyte. They repaired to the house of Nuyte, but the latter was already nowhere to be found. They thus decided to make a report to the police and submitted ["AAA"] for physical examination, whereupon ["AAA"] was found to have multiple healed deep and superficial [hymenal] lacerations x x x.^[12]

The evidence for the defense was also summarized by the trial court as follows:

xxx [N]uyte had been living in x x x Albay for thirty years already. [His mother-in-law] and the grandfather of ["AAA" were] siblings. x x x ["AAA"] and [appellant's wife], Rowena, would usually exchange conversations when the latter visits the Nuyte household. The family of ["AAA"] owns a sari-sari store which [Nuyte] also frequents to buy some stuff. It was only [in] December 2003 that Nuyte met ["AAA"] when the latter introduced herself to him. This meeting was followed by regular exchange of tete-a-tete which eventually blossomed into a relationship which lasted for about a year. Even prior thereto, Rowena already observed the budding closeness between her husband and ["AAA"]. Her doubts were confirmed v/hen she discovered from the wallet of Nuyte the letter of ["AAA"] particularly telling him - "*Kahit wala ka rito mahal na mahal kita. Kahit na laglagan na ako di pa rin kita malilimutan.*"

Rowena showed the letter to ["EEE"], brother of the father of ["AAA"], but after reading the letter, ["EEE"] told them that he cannot do anything about it because ["AAA's"] parents were still in the mountain, so Rowena requested ["DDD"] to fetch them.

The parents of ["AAA"] proceeded directly to the residence of Nuyte. ["BBB"], the father of ["AAA"], was particularly very mad and started hacking the banana plants nearby. Because Nuyte did not go out of his house, ["BBB"] decided to leave.

The discovery of ["AAA's"] letter fomented domestic strife between Nuyte and his wife. [AAA"] tried to talk to him about the letter, but [Nuyte] advised her to better stay home to avoid adding fuel to the fire. That was the last [time] that they talked. To the mind of the accused, these cases were [filed because] the parents of ["AAA"] could not accept what had happened to their daughter.

Theirs was a consensual sex, Nuyte admitted. In fact their sexual congress happened [several times], usually at noontime in the same grassy place where ["AAA"] tethers the cows x x x, around 50 to 60 meters away from the residence of

Nuyte. She was then only 14 years old and he was 29. Nuyte recalls that in the letter, ["AAA"] was begging him not to leave as she was about to receive the sacrament of confirmation. Their sexual relations bore a child, but it was aborted when ["AAA"] was undergoing Citizens Army Training.^[13]

Ruling of the Regional Trial Court

On December 9, 2011, the RTC found appellant guilty as charged, ruling in this wise:

ALL THE FOREGOING CONSIDERED, this Court entertains no doubt that the prosecution had established that the accused raped the private complainant under the circumstances mentioned in Article 266-A paragraph 1 (a) of the Revised Penal Code and that he violated Sec. 5(b) of Republic Act 7610. Accordingly, accused NELSON NUYTE is hereby found GUILTY beyond reasonable doubt in Criminal Case No. FC-00-780 and sentenced to suffer the penalty of *reclusion perpetua*. He is likewise found GUILTY of five (5) counts of violation of Section 5(b) of Republic Act No, 7610 and likewise meted the penalty of imprisonment ranging from 8 years and 1 day of *prision mayor* in its medium period as minimum to 17 years, 4 months and 1 day of *reclusion temporal* in its maximum period as maximum, subject to the provision of Article 70 of the Revised Penal Code.

Consistent with relevant jurisprudence, Nelson Nuyte is likewise ordered to indemnify the private offended party, ["AAA"], the sum of Php75,000.00 for each case as civil indemnity; Php75,000.00 as moral damages and Php30,000.00 as exemplary damages.

SO ORDERED.^[14]

The trial court found conclusive evidence that on April 10, 2004, "AAA" was raped at knifepoint with the use of force and intimidation against her will. Thus, it convicted appellant of rape in Crim. Case No. FC-00-780. In addition, the court took into consideration appellant's admission of having sexual intercourse with "AAA" several times. Thus, it deemed "AAA" as a child exploited and subjected to sexual abuse under Section 5(b) of RA 7610 and convicted appellant of five counts of violation of Section 5(b) of RA 7610.

Insisting on his innocence by invoking love affair as his defense, appellant elevated the judgment of conviction to the CA via a Notice of Appeal.

Ruling of the Court of Appeals

On September 25, 2014, the CA affirmed appellant's conviction in the six cases, viz.:

WHEREFORE, premises considered, the assailed Decision is hereby AFFIRMED.

SO ORDERED.^[15]

The CA was not persuaded by appellant's contentions that no force or intimidation was actually employed on the victim; that it was impossible for "AAA" to have been sexually abused considering that her classes began in the morning and ended in the afternoon and that she did not suffer any physical injury though the incident happened on grassy ground. The CA did not accord weight to his contention that the inaction of "AAA's" mother and the delay in the disclosure of the incidents affected "AAA's" credibility.

Hence, this appeal.

In our Resolution^[16] dated September 2, 2015, we required the parties to submit their respective supplemental briefs if they so desired within 30 days from notice. The parties filed their separate manifestations that they were no longer filing supplemental briefs; instead, they were adopting their briefs filed before the CA.^[17]

Our Ruling

The appeal is partly granted.

In assailing his conviction, appellant harps on the credibility of "AAA" and her mother, contending that it was unnatural for the mother not to take prompt action upon learning the fate suffered by her daughter; that it was impossible for "AAA" to have been at the crime scene on April 10, 2004, April 19, 2004, and May 3, 2004 considering that these were school days; the absence of physical injury on "AAA's" body was enough proof that she was not forced to lie on a grassy ground; and, her delayed disclosure of the incidents was just an act to protect her relationship with him.

Appellant's arguments are untenable.

Assuming that "AAA's" mother did not show any sign of outrage upon learning of her daughter's fate, such was not of relevant consideration for being extraneous. It did not refer to the central fact of the crime and was not an element thereof. Besides, it is well-settled that "different people react differently to a given situation or type of situation."^[18] Neither did the delay in disclosing the incidents to her mother undermine the credibility of "AAA". "[D]elay in reporting rape incidents, in

the face of threats of physical violence, cannot be taken against the victim because delay in reporting an incident of rape is not an indication of a fabricated charge and does not necessarily cast doubt on the credibility of the complainant."^[19]

Appellant's contention that it was quite impossible for "AAA" to have attended her afternoon classes after having been sexually abused fails to persuade. It has been consistently ruled that "no standard form of behavior can be anticipated of a rape victim following her defilement, particularly a child who could not be expected to fully comprehend the ways of an adult. People react differently to emotional stress and rape victims are no different from them."^[20]

Neither did the absence of physical injury on "AAA" taint the veracity of her testimony. "Infliction of physical injury is not an essential element of rape."^[21]

As to appellant's claim that there was no resistance exhibited by "AAA" before and during the incidents since they had an amorous relation, the same cannot be taken in his favor. "Tenacious resistance against rape is not required; neither is a determined or a persistent physical struggle on the part of the victim necessary. x x x Rape through intimidation includes the moral kind such as the fear caused by threatening the girl with a knife or pistol."^[22] In the case at bar, appellant's act of pointing a knife at "AAA" while doing his dastardly acts easily cowed the latter into submission.

The "sweetheart theory" claimed by appellant is futile. It was never substantiated by the evidence on record. The only evidence adduced to show such relationship were his testimony and that of his wife. The alleged love letter supposedly written by "AAA" was never presented in court. Thus, other than his self-serving assertion and that of his wife, which were rightly discredited by the trial court, nothing supported his claim that he and "AAA" were indeed lovers. As the Court emphasized in *People v. Gito*^[23] "being sweethearts does not negate the commission of rape because such fact does not give appellant license to have sexual intercourse against her will and will not exonerate him from the criminal charge of rape. Being sweethearts does not prove consent to the sexual act."

This Court finds no reason to reverse appellant's conviction for rape in Criminal Case No. FC-00-780. "AAA" categorically testified that on April 10, 2004, the appellant had carnal knowledge of her against her will and consent, *viz.*:

PROS. NEBRES:

q- Now, madam witness, will you please tell us where were you on April 10, 2004 at about 12 o'clock noon if you can still recall?

a- At xxx Albay.

q- Now, do you recall of an incident that happened on that particular date and time?

a- Yes.

q- Will you please tell this Honorable Court that incident?

a- On that date and time[,] I was tending a cow [then] I heard a clapping [sound].

q- And what happened?

a- [When] I was on my way home[, appellant] suddenly [appeared].

q- What happened next?

a- He suddenly grab[bed] my hair, held me x xx and poke[d] a knife [at] me.

q- What else happened if any?

a- He told me not to tell my mother otherwise he will [kill us both].

q- x x x x

a- He forcibly [laid] me x x x on the grassy area and again told me not to tell my parents about it.

q- After you were forcibly laid on the grass what happened?

a- [H]e started kissing x x x my chest and removed my undergarment.

q- After removing your undergarment what happened x x x if any?

a- [H]e also removed his garments and his brief and then mounted x x x me.

q- [W]hat happened next, if any?

a- [H]e inserted his penis inside my vagina.

x x x x

q- How long did he [insert] his penis inside your vagina?

a- I cannot tell x x x.

q- What happened after the accused inserted his penis into your vagina?

a- He ejaculated and wipe[d] his private part.^[24]

With regard to the alleged incidents on April 12, 14 and 19, 2004, subject matter of Criminal Case Nos. FC-00-781, FC-00-784 and FC-00-785, respectively, the Court finds "AAA's" testimony to be inadequate and lacking specific details on how they were accomplished.

Anent Criminal Case No. FC-00-781 (April 12, 2004 incident), the testimony of "AAA" consisted merely of the following:

q- Now, aside from this incident that happened on April 10, 2004 do you recall of any incident that happened, to you?

a- Yes, on April 12, 2004.

q- What time?

a- 4:00 p.m.

q- Will you please tell this Honorable Court what happened to you?

a- The same situation while I am [sic] tending to our cow at x x x Albay.

q- What happened next, if any?

a- Nelson Nuyte again pulled me [towards] the grassy area and performed the same act he did before.

x x x x

q- What did you do, if any, x x x?

a- I tried to ask for help but nobody hear[d] my plea because the houses were far from that site.

q- How did you ask for help?

a- I shouted for help.

q- Was there any person who responded to your request for help?

a- Nobody. ^[25]

Similarly, the totality of "AAA's" declaration regarding Criminal Case No. FC-00-785 pertaining to the April 14, 2004 incident is as follows:

q- Now, aside from the [April 10, 2004 and April 12, 2004] incidents that you mentioned[,] x x x was there any other incident x x x?

a- April 14, 2004.

q- Could you still recall the time?

a- 12:00 noon.

q- Now, please tell this Honorable Court what happened to you on that date and time?

a- He pursue the same act against my person on the process as before [sic].

q- What action did you do, if any, for the third time that the accused made [sic]?

a- He always warned me.^[26]

Likewise, with respect to Criminal Case No. FC-00-784 (April 19, 2004), "AAA" testified as follows:

q- Aside from the April 10, April 12 and then April 14, 2004 [incidents,] was there any other incident that happened to you?

a- April 19, 7:00 a.m.

q- What year?

a- 2004.

q- Can you still recall the incident x x x?

a- Yes.

q- And please tell this Honorable Court the place of the incident?

a- The same situation, in the grassy area he performed the same acts against my person.

q- Will you please tell this court what did you do when the incident happened?

a- He always poke[d] a knife that's why I [did not] inform my parents about it.^[27]

"AAA's" bare statements that appellant repeated what he had done on her previously were not enough to establish beyond reasonable doubt the incidents subject of Criminal Case Nos. FC-00-781, FC-00-784 and FC-00-785. Said declarations were mere general conclusions. The prosecution must endeavor to present in detailed fashion the manner by which each of the crimes was committed. "[E]very charge of rape is a separate and distinct crime and each must be proved beyond reasonable doubt."^[28] There is no reason why the foregoing principle should not be applied in the aforementioned cases. Prescinding therefrom, appellant should be acquitted in these cases.

Anent the incidents that transpired on May 6, 2004 and May 3, 2004 subject of Criminal Case Nos. FC-00-782 and FC-00-783, respectively, the designation of the offense in the Information was for violation of Section 5(b) of RA7610, viz.:

Criminal Case No. FC-00-782 - Violation of RA 7610

That on May 6, 2004 at more or less 7:00 o'clock in the morning, x x x Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with lewd and unchaste design, by means of intimidation, coercion, influence and other consideration, did then and there willfully, unlawfully and feloniously have sexual intercourse with "AAA", x x x 14 years old, x x x against her will, and consent, act which debased and degraded her intrinsic worth and dignity as a human being, to her damage and prejudice.

ACTS CONTRARY TO LAW.^[29]

Criminal Case No. FC-00-783 - Violation of RA 7610

That on May 3, 2004 at more or less 5:00 o'clock in the afternoon, x x x Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, with lewd and unchaste design, by means of intimidation, coercion, influence and other consideration, did then and there willfully, unlawfully and feloniously have sexual intercourse with "AAA", x x x 14 years old, x x x against her will and consent, act which debased and degraded her intrinsic worth and dignity as a human being, to her damage and prejudice.

ACTS CONTRARY TO LAW.^[30]

A cursory reading of the two Informations reveals with pristine clarity that each contained elements of both crimes of rape defined under Article 266-A of the Revised Penal Code and of child abuse defined and penalized under Section 5(b) of RA 7610. However, the offender cannot be accused of both crimes for the same act without traversing his right against double jeopardy. In *People v. Abay*,^[31] it was explained that if the victim is 12 years or older, as in this case, the offender should be charged with either sexual abuse under Section 5(b) of RA 7610 or rape.

In the two cases under consideration, the victim was 14 years old when the crimes were committed. Following *Abay*, appellant may either be charged with violation of Section 5(b) of RA 7610 or with rape under Article 266-A of the RPC. Here, appellant was charged with violation of Section 5(b) of RA 7610. In the recent case of *People v. Tubillo*^[32] it was held that "[a] reading of the information would show that the case at bench involves both the elements of Article 266-A(1) of the RPC and Section 5(b) of RA 7610. As elucidated in *People v. Abay* and *People v.*

Pangilinan, in such instance, the court must examine the evidence of the prosecution, whether it focused on the specific force or intimidation employed by the offender or on the broader scope of coercion or influence to have carnal knowledge with the victim."

In the present case, the evidence of the prosecution in no uncertain terms focused on the force or intimidation employed by appellant against "AAA" under Article 266-A (1)(a) of the RPC. The prosecution, through the steadfast declaration of "AAA", was able to establish that the appellant forced her to lie down on a grassy ground and, at knifepoint, inserted his penis into her vagina.

The testimony of "AAA" pertaining to the May 3, 2004 and May 6, 2004 incidents subject of Criminal Case Nos. FC-00-782 and FC-00-783 was as follows:

q- Now, aside from these four incidents that happened to you on April 10, April 12, April 14 and 19, 2004, was there any other incident that happened to you [involving] the accused?

Witness:

Yes, May 3, 2004, 3:00 p.m.

PROS. NEBRES:

q- Can you tell this Honorable Court what happened?

a- xxx he pulled me to another site farther from the first site but he [had] with him that knife he poked on me.

x x x x

q- Now, after you were brought to the other site x x x by the accused what happened?

a- He raped me again.

q- Will you tell this Honorable Court how the accused rape[d] you?

a- By removing my shorts and undergarments and lay[ing] me down [on] the grassy area.

q- Now, did you follow the instruction to [lie] down?

a- It was done forcibly against me.

x x x x

q- What happened alter you were forcibly requested to [lie] down?

a- He mounted x x x me, removed his undergarment.

q- After removing your underwear and xxx his garments what happened?

a- He inserted his penis inside my vagina.

q- After the accused inserted his penis inside your vagina what happened?

a- After performing his acts he [wore] back his garments and left.

q- Please tell this Honorable Court how long the penis was inserted [into] your vagina?

a- I cannot tell.

q- Did you feel [anything] unusual when the accused inserted his penis inside your vagina?

a- Yes, sir.

q- What did you feel?

a- Painful.

q- Now, aside from this x x x incident, do you recall of any other incident done by the accused?

a- Yes.

x x x x

q- Please tell this Honorable Court of the date and time?

a- May 6, 2004,7:00 a.m.

x x x x

q- Please tell us how this incident happened?

a- He pulled me [towards] that area while a knife was poked on my person.

q- What happened in that area where you were pulled by the accused x x x?

a- He raped me again.

q- Please tell us how the accused rape[d] you x x x?

a- He forcibly [laid] me down[,] remov[ed] his garments and inserted] his penis inside my vagina.

x x x x

q- Did you feel anything after the accused inserted his penis inside your vagina?

a- Yes, sir.

q- What did you feel?

a- It was painful.^[33]

The foregoing narration established beyond reasonable doubt the elements of rape, to wit: appellant had carnal knowledge of "AAA" through force and intimidation, and without her consent and against her will.

Moreover, it is settled that the designation of the offense is not controlling but line recital of the facts describing how the offense was committed. Here, the Informations in Criminal Case No. FC-00-782 and Criminal Case No. FC-00-783 clearly charged appellant with rape. Thus, he cannot claim denial of his right to be informed of the nature and cause of the accusation and to fully defend himself.^[34]

Appellant therefore, should be held guilty of rape under Article 266-A(1)(a) of the RPC and sentenced to *reclusion perpetua* instead of violation of Section 5(b) of RA 7610.

The penalty and pecuniary liabilities

Pursuant to Article 266-B of the RPC, whenever the crime of rape is committed with the use of deadly weapon, the penalty shall be *reclusion perpetua* to death. The Information in Criminal Case No. FC-00-780 specifically alleged the use of a knife, a bladed weapon, in the commission of the rape. The prosecution duly proved this allegation from the testimony of "AAA". Under the aforesaid Article, the use of a deadly weapon qualified the rape so that the imposable penalty is *reclusion perpetua* to death. Since the two penalties are indivisible, Article 63 of the RPC finds application in that, when there are neither mitigating nor aggravating circumstances in the commission of a deed, the lesser penalty shall be imposed. In the case at bar, there was no other aggravating circumstance alleged in the Information and proven during the trial, hence, the penalty of *reclusion perpetua* imposed on appellant by the trial court and affirmed by the appellate court is proper.

As to the pecuniary liabilities, the Court upholds the award of P75,000.00 as civil indemnity since this is mandatory upon the finding of the fact of rape. The award of P75,000.00 as moral damages is likewise upheld as the same is automatically

granted in rape cases without need of further proof other than the commission of the crime. However, the award of exemplary damages is increased to P75,000.00 following prevailing jurisprudence.^[35] Likewise, interest at the rate of 6% *per annum* shall be imposed on all damages awarded from the date of finality of this Decision until fully paid.

The same penalty and pecuniary liabilities are imposed on appellant in Criminal Case Nos. FC-00-782 and FC-00-783.

WHEREFORE, the appeal is **PARTLY GRANTED**. The Decision dated September 25, 2014 of the Court of Appeals in CA-G.R. CR-HC No. 05409 is **AFFIRMED with MODIFICATIONS**:

1. In Criminal Case Nos. FC-00-780, FC-00-782, and FC-00-783, the appellant is found **GUILTY** of rape and sentenced to suffer the penalty of *reclusion perpetua* for each count. He is **ORDERED** to pay "AAA" P75,000.00 as civil indemnity, P75,000.00 as moral damages, and P75,000.00 as exemplary damages, for each count, all with interest of 6% *per annum* from finality of this Decision until fully paid.

2. Appellant is **ACQUITTED** in Criminal Case Nos. FC-00-781, FC-00- 784 and FC-00-785 for insufficiency of evidence.

SO ORDERED.

Leonardo-De Castro,^[*] *Bersamin*,^[**] and *Tijam, JJ.*, concur.
Sereno, C.J., on leave.

^[*] Designated as Acting Chairperson per Special Order No. 2540 dated February 28, 2018.

^[**] Designated as additional member per October 18, 2017 raffle vice J. Jardeleza who recused due to prior action as Solicitor General.

^[1] *CA rollo*, pp. 82-93; penned by Associate Justice Samuel H. Gaerlan and concurred in by Presiding Justice Andres B. Reyes, Jr. (now a member of this Court) and Associate Justice Apolinario D. Bruselas, Jr.

^[2] Records, Crim. Case No. FC-00-780, pp. 180-195; penned by Judge Isabelo T. Rojas.

^[3] SPECIAL PROTECTION OF CHILDREN AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION ACT.

[4] "The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence And Special Protection Against Child Abuse, Exploitation And Discrimination, Providing Penalties for its Violation, And for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women And Their Children, Providing For Protective Measures For Victims, Prescribing Penalties Therefor, And for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and Their Children, effective November 15, 2004." *People v. Dumadag*, 667 Phil. 664, 669 (2011).

[5] Records (Crim. Case No. FC-00-780), p. 1.

[6] Records (Crim. Case No. FC-00-781), p. 1.

[7] Records (Crim. Case No. FC-00-782), p. 1.

[8] Records (Crim. Case No. FC-00-783), p. 1.

[9] Records (Crim. Case No. FC-00-784), p. 1.

[10] Records (Crim. Case No. FC-00-785), p. 1.

[11] Should be in the morning, TSN, p. 10, August 17, 2010.

[12] Records (Crim. Case No. FC-00-780), pp. 185-186.

[13] Records (Crim. Case No. FC-00-780), pp. 186-187.

[14] Records (Crim. Case No. FC-00-780), pp. 194-195.

[15] *CA rollo*, p. 93.

[16] *Rollo*, p. 19.

[17] *Id.* at 20-31.

[18] *People v. Tuazon*, 585 Phil. 119, 131 (2008).

[19] *People v. Rusco*, G.R. No. 212157, September 28, 2016, 804 SCRA 346, 357.

[20] *People v. Crespo*, 586 Phil. 542, 566 (2008).

[21] *People v. Teczon*, 586 Phil. 740, 746 (2008).

- [22] *People v. Ballacillo*, G.R. No. 201106, August 3, 2016, 799 SCRA 408, 421.
- [23] G.R. No. 199397, September 14, 2016, 803 SCRA 75, 89 (2016).
- [24] TSN, August 17, 2010, pp. 6-8.
- [25] TSN, August 17, 2010, pp. 9-10.
- [26] TSN, August 17, 2010, p. 10.
- [27] TSN, August 17, 2010, pp. 10-11.
- [28] *People v. Mercado*, 664 Phil. 747, 752 (2011).
- [29] Records (Crim. Case No. FC-00-782), p. 1.
- [30] Records (Crim. Case No. FC-00-783), p. 1.
- [31] 590 Phil. 390 (2009).
- [32] G.R. No. 220718, June 21, 2017.
- [33] TSN, August 17, 2010, pp. 11-15.
- [34] See *People v. Escosio*, 292-A Phil. 606 (1993).
- [35] *People v. Jugueta*, G.R. No. 202124, April 5, 2016, 788 SCRA 331.
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