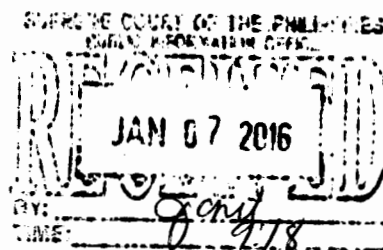




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 209040

Present:

-versus-

SERENO, C.J.,
Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PEREZ, and
 PERLAS-BERNABE, JJ.

RODOLFO PATEÑO y
DAYAPDAPAN,
 Accused-Appellant.

Promulgated:

~~DEC 09 2015~~

X-----

RESOLUTION

PEREZ, J.:

The subject of this review is the Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00788 dated 23 May 2013 which affirmed the Decision² of the Regional Trial Court (RTC) of Bais City, Branch 45, in Criminal Case Nos. F-03-12-A, F-03-13-A, F-03-14-A, F-03-15-A, and F-03-16-A finding accused-appellant Rodolfo Pateño y Dayapdapan guilty beyond reasonable doubt of five (5) counts of rape.

Except for the dates, the five (5) Informations identically charge accused-appellant of rape committed as follow:

¹ Rollo, pp. 3-23; Penned by Associate Justice Carmelita Salandanan-Manahan with Associate Justices Ramon Paul L. Hernando and Ma. Luisa C. Quijano-Padilla concurring.

² Records (Criminal Case No. F-03-12-A), pp. 158-166; Presided by Judge Ismael O. Baldado.

That on or about March 25, 2002 at about 10:00 o'clock in the evening at x x x, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the said accused, who is the father of 14-year old [AAA],³ did then and there willfully, unlawfully and feloniously by force, threat or intimidation, insert his penis into the vagina of his said daughter and had carnal knowledge of her against her will and consent.⁴

On arraignment, accused-appellant pleaded not guilty. During pre-trial, both parties made the following factual stipulations:

1. That the accused admits his identity in the five (5) cases that whenever his name is mentioned in the proceedings he is the same accused in this case;
2. That accused admits that he is the father of the victim [AAA];
3. That accused admits that he is living at [x x x],⁵ Negros Oriental; and
4. That private complainant admits that she was a contestant in a beauty pageant involving money contribution wherein the winner is determined with the amount of money raised on occasion of the *barangay* fiesta of [x x x] on 5 April 2002.⁶

AAA related that she was only four years old when her parents left her to the care of her aunt, BBB. AAA started living with accused-appellant only in 2000 in a two-bedroom house. On 25 March 2002 at around 10:00 p.m., AAA, then 14 years old, was awakened by accused-appellant who removed her short pants and underwear. Accused-appellant likewise took off his clothes. He threatened AAA with a scythe and ordered her to stay quiet. He then mounted her and made pumping motions. After satisfying his lust, accused-appellant left without saying a word. He proceeded to perform this bestial act on AAA for the four (4) succeeding nights.⁷

When AAA could no longer bear it, she left the house and stayed in the house of her teacher from 30 March to 1 April 2002 where she intimated to the latter her harrowing experience in the hands of accused-appellant.⁸

³ The real names of the victim and of the members of her immediate family are withheld pursuant to Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act) and Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004).

⁴ Records, p. 1.

⁵ The address of appellant is withheld to protect the victim who lived with him.

⁶ Records (Criminal Case No. F-03-12-A), p. 39.

⁷ TSN, 24 July 2003, pp. 4-15.

⁸ Id. at 16-17.

On 5 April 2002, AAA underwent a medical examination, the findings and results of which are as follow:

- Contusion upper border iliac region, right
- Pelvic exam:
 - With old hymenal tear at 3 & 9 o'clock positions
 - Negative for discharges
 - Admits 2 fingers with ease⁹

A pastor of the United Church of Christ of the Philippines (UCCP) testified on the contents of the Membership Record Book which show that AAA was born on 10 September 1987 and was baptized on 5 June 1988. Said document also listed accused-appellant as AAA's father.

Accused-appellant confirmed that AAA started staying with him in March 2002 but added that there were five of them living in the house of his nephew, Rene Pateño (Rene). He denied raping AAA and claimed that AAA is taking revenge because during a beauty contest in April of that year, he pinched AAA in front of her fellow contestants and *barangay* councilors.¹⁰ Accused-appellant's nephew, Rene testified that accused-appellant lived with him but AAA was living with his sister.¹¹ Rene's sister Arly corroborated Rene's statement that AAA was living with her on the dates of the alleged rape incidents.¹² Both witnesses speculated that AAA wrongfully accused her father of rape because she harbored a grudge towards accused-appellant who would always scold her.¹³

On 27 April 2007, accused-appellant was found guilty beyond reasonable doubt of five (5) counts of rape. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, this [c]ourt finds accused **RODOLFO PATEÑO y DAYAPDAPAN**, **guilty beyond reasonable doubt for the crime of rape for five (5) counts** as provided under the provisions of Article 266-A of the Revised Penal Code, and pursuant to the provisions of par. (1) of Article 266-B, he may be meted the extreme penalty of death. But, with the passage of Republic Act No. 8353, he is thereby meted the penalty of **FIVE (5) RECLUSION PERPETUAS**, and with all the accessory penalties.

⁹ Records (Criminal Case No. F-03-12-A), p. 9.

¹⁰ TSN, 12 May 2005, pp. 3-7.

¹¹ TSN, 23 August 2005, p. 4.

¹² TSN, 17 July 2006, p. 5.

¹³ TSN, 23 August 2005, pp. 7-8, id. at 7-8.

He is thereby ordered to pay the victim, [AAA], the amount of FIFTY THOUSAND (P50,000.00) PESOS for actual damages and another FIFTY THOUSAND (P50,000.00) PESOS for moral damages, and to pay costs.¹⁴

On 23 May 2013, the CA rendered the assailed judgment affirming with modification the trial court's decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the Appeal is **DENIED**. The *Joint Decision* dated April 27, 2007 of the Regional Trial Court RTC), Branch 45, Bais City in Criminal Case Nos. F-03-12-A, F-03-13-A, F-03-14-A, F-03-15-A, [and] F-03-16-A convicting Rodolfo Pateño y Dayapdapan of five (5) counts of rape and meting him the penalty of imprisonment of *reclusion perpetua* for each count, is hereby **AFFIRMED** with the **MODIFICATIONS** as to damages.

Accused-appellant Rodolfo Pateño y Dayapdapan is ordered to pay the victim AAA Seventy Five Thousand Pesos (P75,000.00) as civil indemnity, Seventy Five Thousand Pesos (P75,000.00) as moral damages and Thirty Thousand Pesos (P30,000.00) as exemplary damages, for each count of rape, all with interest at the rate of 6% per annum from the date of finality of this judgment. No costs.¹⁵

Accused-appellant filed the instant appeal. In a Resolution¹⁶ dated 18 November 2013, accused-appellant and the Office of the Solicitor General (OSG) were required to file their respective supplemental briefs if they so desired. Both parties manifested that they were adopting their respective briefs filed before the appellate court.¹⁷

In his Brief,¹⁸ accused-appellant argues that AAA's testimony regarding the time and manner of the purported five (5) rape incidents is incredulous. Accused-appellant insists that AAA did not feel any fatherly love towards him and she had the motive to falsely accuse him of rape. Accused-appellant claimed that AAA had been reprimanded numerous times by him because of her unacceptable behavior. Finally, accused-appellant contends that the prosecution failed to prove AAA's age at the time of the commission of the alleged crime.

The appeal is without merit.

¹⁴ Records (Criminal Case No. F-03-12-A), p. 166.

¹⁵ *Rollo*, pp. 22-23.

¹⁶ *Id.* at 29.

¹⁷ *Id.* at 31-33 and 37-39.

¹⁸ CA *rollo*, pp. 20-33.

Accused-appellant insists that AAA's claim of sequent rape identically done is highly improbable and contrary to human experience.

In *People v. Solomon*,¹⁹ we held that the victim's uniform testimony regarding the manner by which she was raped does not diminish her credibility. We explained, thus:

Men are creatures of habit and are bound to adopt a course of action that has proven to be successful. As appellant was able to fulfill his lustful designs upon complainant the first time, it comes as no surprise that he would repeat the horrific acts when the circumstances obtaining in the first rape again presented themselves.²⁰

As in the aforestated case, AAA did not immediately report the incident to her teacher and instead, she suffered for four more similar incidents before she broke her silence.

There is a plausible explanation for the conduct of the victim. The Court explained in *Solomon*, viz.:

Complainant's youth partly accounts for her failure to escape appellant's lust. A young girl like complainant cannot be expected to have the intelligence to defy what she may have perceived as the substitute parental authority that appellant wielded over her. That complainant had to bear more sexual assaults from appellant before she mustered enough courage to escape his bestiality does not imply that she willingly submitted to his desires. Neither was she expected to follow the ordinary course that other women in the same situation would have taken. There is no standard form of behavior when one is confronted by a shocking incident. Verily, under emotional stress, the human mind is not expected to follow a predictable path.²¹

AAA was only able to report the incident when she was away from the custody of accused-appellant and when she felt safe.

AAA's credibility was upheld by the trial court, which is in a position to observe the candor, behavior and demeanor of the witness. Findings of the lower courts with respect to credibility of the rape victim are conclusive.

¹⁹ 434 Phil. 1 (2002).

²⁰ Id. at 21.

²¹ Id.

We also cannot give credence to accused-appellant's claim that AAA was taking revenge when she filed the rape charges against accused-appellant for allegedly castigating her. No woman in her right mind, especially a young girl, would fabricate charges of this nature and severity.²²

The RTC and the CA correctly appreciated the twin qualifying circumstances of minority and relationship. Accused-appellant admitted during the pre-trial conference that AAA was his daughter. Thus, relationship between accused-appellant and AAA is established. Anent the element of minority, the prosecution presented a certification²³ from the UCCP Office in Ayungon, Negros Occidental stating that AAA was baptized according to the rites and ceremonies of the UCCP. The certification shows that AAA was born on 10 September 1987 to accused-appellant and a certain Nely Fabel. A page of the UCCP Membership Book was submitted bearing the same information. It was held that a birth certificate, baptismal certificate, school records or documents of similar nature can be presented to prove the age of a victim.²⁴ In this case, the Membership Book, which is considered an entry in official records under Section 44,²⁵ Rule 130 of the Rules of Court, is admissible as *prima facie* of their contents and corroborative of AAA's testimony as to her age. Moreover, entries in public or official books or records may be proved by the production of the books or records themselves or by a copy certified by the legal keeper thereof.²⁶

Considering that accused-appellant committed rape qualified by the twin circumstances of minority and relationship, the proper penalty to be imposed is death. Since the imposition of the death penalty has been prohibited by Republic Act No. 9346, the lower courts properly imposed the penalty of *reclusion perpetua* without eligibility for parole for each count of rape.

As to the award of damages, we deem it proper to further modify the CA's award. Pursuant to our ruling in *People v. Gambao*,²⁷ AAA is thus entitled to ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages and ₱ 100,000.00 as exemplary damages. Finally, all damages awarded

²² *People v. Cabral*, 623 Phil. 809, 815 (2009).

²³ Records, p. 88.

²⁴ *People v. Jacob*, 413 Phil. 542, 548 (2001).

²⁵ Section 44. *Entries in official records*. — Entries in official records made in the performance of his duty by a public officer of the Philippines, or by a person in the performance of a duty specially enjoined by law, are *prima facie* evidence of the facts therein stated.

²⁶ *People v. Jalosjos*, 421 Phil. 43, 86 (2001).

²⁷ G.R. No. 172707, 1 October 2013, 706 SCRA 508, 533.

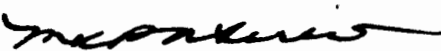
shall earn interest at the rate of 6% *per annum* from date of finality of this judgment until fully paid.²⁸

WHEREFORE, accused-appellant Rodolfo Pateño y Dayapdapan is found **GUILTY** for each count of the crime of rape, qualified by minority and relationship, charged under Criminal Case Nos. F-03-12-A, F-03-13-A, F-03-14-A, F-03-15-A, and F-03-16-A and is hereby sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole, in lieu of death. He is also **ORDERED** to pay AAA the amounts of ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages, for each count of rape, plus legal interest at the rate of 6% *per annum* from the finality of this Resolution until the amounts due are fully paid.

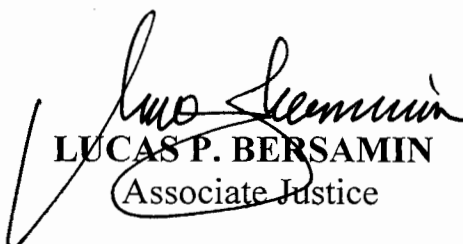
SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice

²⁸

People v. Colantava, G.R. No. 190348, 9 February 2015.

M. Bernabe
ESTELA M. BERLAS-BERNABE
Associate Justice

CERTIFICATION

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

M. Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice