Republic of the Philippines
Supreme Court
Baguio City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

- *versus* -

LEO MENDOZA,
Accused-Appellant.

G.R. No. 214349

Present:

VELASCO, JR., *J.*,
Chairperson,
LEONARDO-DE CASTRO,*
PERALTA,
PEREZ, and
REYES, *JJ.*

Promulgated:
April 20, 2016

x -- x

DECISION

PEREZ, *J.*:

On appeal is the June 27, 2014 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01048-MIN which affirmed with modification the April 16, 2012 Judgment[2] of the Regional Trial Court (RTC) of Davao City, Branch 12, finding appellant Leo Mendoza guilty beyond reasonable doubt of the crime of rape defined and penalized under Articles 266-A and 266-B of the Revised Penal Code.[3]

---

* Additional Member per Raffle dated March 21, 2016.

[1] CA *rollo*, pp. 84-95; penned by CA Associate Justice Pablito A. Perez and concurred in by Associate Justices Romulo V. Borja and Henri Jean Paul B. Inting.

[2] Records pp. 196-220; penned by Judge Pelagio S. Paguican.

[3] With the enactment of Republic Act (R.A.) No. 8353 (The Anti-Rape Law of 1997), Article 335 of Republic Act (R.A.) No. 3815 (The Revised Penal Code) was amended reclassifying in the process the crime of rape as a crime against persons. The Anti-Rape Law of 1997 expanded the definition of rape and incorporated as Articles 266-A, 266-B, 266-C and 266-D in Title Eight under Chapter Three of the Revised Penal Code.

The Antecedents

The appellant was charged in an Information[4] dated May 31, 2005, whose accusatory portion reads as follows:

> "That on or about December 3, 2004, in the City of Davao, Philippines and within the jurisdiction of this Honorable Court, accused LEO MENDOZA, who is the grandfather of complainant-victim [AAA],[5] a nine (9) year old minor, by means of force and intimidation and taking advantage of his moral ascendancy over the herein victim, [AAA], did then and there wilfully, unlawfully and feloniously have carnal knowledge of her, against her will.
>
> CONTRARY TO LAW."

On arraignment, the appellant pleaded not guilty. During the pre-trial conference, the prosecution and the defense stipulated, among others, that: (1) AAA was the granddaughter of the appellant; (2) AAA was nine (9) years old at the time of the alleged incident of rape; (3) AAA was at appellant's house on the day of the incident; and (4) AAA's step-grandmother, YYY, confronted the appellant on December 7, 2004 about the vaginal pain of AAA.

Thereafter, trial on the merits ensued with the prosecution presenting the following witnesses: the victim herself, AAA; her mother, XXX; her step-grandmother, YYY; and the examining physician, Dr. Vita P. Ogatis (Dr. Ogatis).

AAA testified that she was nine years old and that the incident happened at around 1:00 p.m. of December 3, 2004 at the appellant's house. During that time, YYY was at the public market[6] and only AAA and the appellant were left at the house.[7] AAA recounted that while inside the bedroom, the appellant quickly undressed her and mounted her. Using his hand to open AAA's vagina, the appellant inserted his penis into her private part. The forced sexual intercourse caused AAA to cry out in pain but was

---

4 Records, p. 1.

5 Pursuant to the Court's ruling in *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, the real name of the rape victim will not be disclosed. Similarly, the personal circumstances of the victim or any other information tending to establish or compromise the victim's identity, as well as those of her immediate family or household members will be withheld. In this connection, fictitious initials are used to represent them. Here, the rape victim is referred to as AAA; her mother, XXX; and her step-grandmother, YYY.

6 TSN, January 20, 2006, testimony of AAA, pp. 5-6.

7 Id. at 5; TSN, February 15, 2006, testimony of AAA, p. 5; TSN, February 20, 2006, testimony of YYY, p. 15.

ordered by the appellant to keep her mouth shut.[8] AAA was also warned by the appellant not to tell anyone about the incident.[9] In spite of the warning, AAA related her misfortune to YYY after the latter noticed that she was sick.[10] When YYY confronted the appellant, he denied having done anything to AAA and even mauled her for lying.[11] On cross-examination, AAA stated that when she was made to hold the appellant's penis, it was soft[12] and that it touched the side of her vagina.[13]

YYY began her testimony by stating, in open court, that she was the live-in partner of the appellant and that XXX, who was residing someplace else, is the daughter of the appellant from his first wife. XXX has a daughter, AAA, who was then living with YYY and the appellant in the latter's house. AAA is, therefore, the granddaughter of the appellant.

YYY narrated that in the morning of December 6, 2004, she saw AAA going back and forth to the comfort room. This prompted her to ask AAA what had happened to her and if she was suffering from stomach ache. AAA disclosed that her vagina was painful and that the appellant had sexual intercourse with her.[14] In the evening of that same day, AAA developed a fever. As AAA still had fever on the following day, December 7, 2004, YYY had her panty removed. Upon closer inspection, YYY observed that AAA's vagina was swollen. YYY confirmed that when she confronted the appellant about AAA's claim of molestation, he got angry, accused AAA of lying and physically hurt the child-victim. Due to her own poor state of health and kidney trouble, it was only in February 2005 that YYY reported the rape incident to the police and had AAA medically examined.[15]

Dr. Ogatis, who was then a resident physician of the Department of Obstetrics and Gynecology at the Davao Medical Center, conducted an anogenital examination on AAA on February 16, 2005. She issued the corresponding medical certificate[16] bearing the following conclusions:

Anogenital Exam

---

8 TSN, February 15, 2006, id. at 4.
9 TSN, February 20, 2006, id. at 4.
10 Id. at 5.
11 Id. at 9.
12 TSN, February 15, 2006, supra note 7.
13 Id. at 5-6.
14 TSN, February 20, 2006, p. 10 of testimony of YYY.
15 Id. at 11-14.
16 Records, p. 7.

Genitalia	Crescentic hymen. (+) Partial healed laceration at 7 o'clock position of the hymen. Erythematous vulva. Erythematous perihymenal area. (+) Foul smelling, greenish vaginal discharge.
Anus	Good sphincteric tone

Impression

1. Disclosure of Sexual Abuse.
2. Medical Evaluation Revealed: Genital Findings Definitive for Penetrating Injury.

NOTE: Pending laboratory Result.

When called to testify in court for the prosecution, Dr. Ogatis thorougly explained the contents of the above-stated medical report. According to her, the examination done on AAA was extensive and accurate as she can already see the whole hymenal area and the external genitalia. Dr. Ogatis noted that AAA's entire vulva as well as her perihymenal area, the outer portion of the hymen, were both reddish. She mentioned that the redness of a person's genitalia may be due to a number of factors including trauma. Dr. Ogatis further testified that the presence of partially healed laceration at 7 o'clock position of AAA's hymen was caused by a penetrating injury or penetration. Dr. Ogatis opined that the injury sustained by AAA was consistent with her disclosure of sexual abuse by the appellant. However, she conceded that the foul smelling, greenish vaginal discharge could be attributable to the presence of infection or poor perineal hygiene on the part of the patient.

During her testimony, XXX confirmed that she is the mother of AAA. According to her, AAA's date of birth is May 12, 1996[17] as shown by the Certificate of Live Birth[18] marked during pre-trial and referred to during trial.

When his turn at the trial came, the appellant testified in his own defense.

Although the appellant acknowledged that AAA was his

---

17 TSN, February 20, 2006, p. 30 of testimony of XXX.

18 Records, p. 8.

granddaughter being the child of his daughter, XXX,[19] he denied the accusation against him. The appellant testified that at the time of the alleged rape on December 3, 2004, he and his two sons were playing the guitar at the balcony of his house while AAA was in the living room. He claimed that the rape charge was a mere fabrication and coincided with the fact that his live-in partner, YYY, wanted to separate from him. The appellant insisted that he could have not raped his granddaughter because he loves her. He also argued that his erectile dysfunction raised doubts as to his culpability.

On the basis of the appellant's claim that he was suffering from an erectile dysfunction, the trial court ordered that he be subjected to a medical examination that could have assessed the state of his virility.

Dr. Herbert Calubay (Dr. Calubay), a urologist at Davao Medical Center, conducted a fertility examination on the appellant. His examination revealed that the probability of the appellant having erectile dysfunction was low[20] and that in fact, the appellant had no potency problems and was still capable of erection.[21]

The RTC's Ruling

After trial, the RTC convicted the appellant. The dispositive portion of its judgment states:

> WHEREFORE, Premises Considered, ***JUDGMENT*** is hereby rendered finding Accused guilty beyond reasonable doubt of the crime of rape in Criminal Case No. 57,297-05 as defined and penalized in Article 266-A and 266-B of the Revised Penal Code and the said Accused is hereby sentenced to suffer the penalty of ***Reclusion Perpetua*** and to pay [AAA] the sum of Seventy Five Thousand (₱75,000.00) Pesos in the above-mentioned criminal case as civil indemnity and Fifty Thousand (₱50,000.00) Pesos for the above-mentioned case as moral damage.
>
> Under Article 29 of the Revised Penal Code, the Accused who is detained is hereby entitled to the full credit of his preventive imprisonment, if agreed voluntarily in writing to abide by the rules and regulations imposed upon convicted prisoners.
>
> If he did not agree, he shall be entitled to 4/5 of his preventive imprisonment.

---

19 TSN, June 22, 2006, testimony of Leo Mendoza, p. 4.
20 TSN, March 6, 2007, testimony of Dr. Calubay, p. 11.
21 Id. at 5.

SO ORDERED.[22]

The RTC gave full credence to the testimony of AAA who narrated her painful experience in a clear, convincing and unwavering manner. The trial court reasoned out that AAA would not allow herself to be subjected to a medical examination of her private parts or exposed herself to the humiliation of a rape trial wherein she was accusing her own grandfather of sexual abuse unless she was telling the truth. On the other hand, the RTC rejected appellant's defense of denial. The trial court reiterated the well-settled rule that denial is an inherently weak defense that cannot prevail over the positive testimony of the prosecution witness that the appellant committed the crime. Moreover, the trial court held that the appellant failed to substantiate his claim that he was incapable of erection and that the same was belied by his own testimony that he had sexual contact with YYY at certain intervals.

The CA's Ruling

On appeal, the appellant raised as issue the lack of the element of carnal knowledge to constitute the crime of rape since his alleged "soft or limp penis touched only the *outer* side of the *outer lip* of the female organ,"[23] as stated by AAA during her cross-examination. He argued that absent any showing of the slightest penetration of the female organ, there can be no consummated rape.

Finding that the element of carnal knowledge was duly established by the prosecution, the CA affirmed with modification the RTC's judgment of conviction in a Decision[24] the dispositive portion of which reads:

> **WHEREFORE**, the appeal is **DENIED**. The 16 April 2012 Decision of the Regional Trial Court, Branch 12, Davao City, in Criminal Case No. 57,297-05, is **AFFIRMED** with **MODIFICATION** that accused-appellant Leo Mendoza is ordered to pay *AAA* the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages and ₱30,000.00 as exemplary damages.

The Issue

In the resolution of November 17, 2014, the Court required the parties

---

22 Records, pp. 219-220.

23 CA *rollo*. p. 27; Appellant's Brief dated October 3, 2012.

24 Supra note 1 at 94.

to submit their respective supplemental briefs within thirty (30) days from notice. However, both parties manifested that they will no longer file the required briefs as they had already exhaustively and extensively discussed all the matters and issues of this case in the briefs earlier submitted with the CA. Hence, in this appeal, the Court will rule on the lone assignment of error made by the appellant in his brief before the CA, to wit:

> THE COURT *A QUO* ERRED WHEN IT CONVICTED APPELLANT DESPITE FAILURE OF THE PROSECUTION TO PROVE CARNAL KNOWLEDGE BEYOND REASONABLE DOUBT.[25]

The Court's Ruling

The appeal is without merit.

Under Article 266-A paragraph 1 of the Revised Penal Code, rape is committed 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.

If committed by a grandfather against his granddaughter under eighteen (18) years of age, the rape is qualified pursuant to Article 266-B of the same Code, to wit:

> xxxx
>
> 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

---

25 Id. at 87.

> 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;
>
> XXXX
>
> Based on the foregoing provisions, the elements of qualified rape are: (1) sexual congress; (2) with a woman; (3) [done] by force and without consent; (4) the victim is under eighteen (18) years of age at the time of the rape; and (5) 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.[26]

The presence of the qualifying circumstances of minority and the relationship of AAA to appellant, which were both alleged in the information, were indisputable. The records reveal that from the very beginning, the appellant recognized that AAA is his grandchild and was still a minor at the time the alleged rape transpired. In the course of trial, the prosecution and defense witnesses were in agreement with respect to AAA's minority and that blood relationship exists particularly the ascendancy of appellant over AAA. AAA's minority was further established by the presentation of her Certificate of Live Birth showing that she was just eight-and-a-half [8 ½] years old when the rape was committed.

Essentially, the only matter left for the Court to determine is whether carnal knowledge took place. Carnal knowledge is proven by proof of the entry or introduction of the male organ into the female organ; the touching or entry of the penis into the labia majora or the labia minora of the pudendum of the victim's genitalia constitutes consummated rape.[27]

The alleged act of forced coitus is actually a factual matter wherein the determination of guilt or innocence of the accused largely depends on the victim's testimony considering the intrinsic nature of the crime in which only two persons are normally involved.[28] In this case, the presence of the aforesaid element was proven by the prosecution particularly when AAA gave a vivid account of her ordeal during her direct examination, viz:

> Q: AAA, you said you are 9 years old. Do you know when were you born?
> A: No, sir.

---

26 G.R. No. 208173, *People v. Buclao*, June 11, 2014, 726 SCRA 365, 377.
27 G.R. No. 212929, *People v. Galvez*, July 29, 2015.
28 *People v. Bejic*, 552 Phil. 555, 567 (2007).

Q: Are you still studying?
A: No, sir.

Q: Have you studied before?
A: Yes, sir.

Q: How far have you gone to school?
A: Grade I.

Q: Do you know Lolo Leo?
A: Yes, sir.

Q: AAA, do you know this man wearing an orange T-shirt?
A: Yes, sir.

Q: How do you call him?
A: Masoy.

Q: Why do you call him Masoy?
A: He is my mother's father.

Q: Who is this woman beside you?
A: She is my mother.

Q: Where does Masoy live now, still in Malabog?
A: No more.

Q: Where does he sleep now?
A: In jail.

Q: Why is he in jail?
A: Because he touched me.

Q: When was this?
A: December 3, 2004.

Q: What did he do to you?
A: He mounted on me.

Q: When you said "gisakyan", what do you mean by that?
A: "Jer-jer".

Q: What is "jer-jer"?
A: Sexual intercourse (gi-iyot).

Q: Where did this happen?
A: In the house.

xxxx

Q: During that time, December 3, 2004, what time, more or less, did this happen?

A: One o' clock.

Q: In the morning, or in the afternoon?
A: Noontime.

Q: Where was your mother at that time?
A: She was at the public market.

Q: What about the other occupants, if there are any, where are they?
A: Some of them were in the barrio.

Q: How did Masoy had sex with you on December 3, 2004?
A: He inserted his penis inside my vagina.

Q: How did you feel when he inserted his penis?
A: I cried.

Q: You allowed Masoy to let his penis enter your vagina?
A: No, sir.

Q: Did you have clothes at that time?
A: Yes, sir.

Q: How did he enter his penis when you had clothes?
A: He undressed me.

Q: What was undressed?
A: Everything.

Q: Were you wearing blouse, t-shirt, pants or skirt?
A: I was wearing t-shirt and short pants.

Q: Where did this happen, inside the house or outside the house?
A: Inside the house.

Q: When you say inside the house, was this inside the bedroom, in the kitchen, or in the living room?
A: Inside the bedroom.

Q: Whose room is that?
A: Masoy and his wife.

Q: Where was the wife of Masoy at that time?
A: She was also in the market.

Q: Why was the wife of Masoy in the market?
A: She bought viand.

COURT:

Q: The wife of Masoy is the mother of your mother?
A: Yes, Your Honor.

xxxx

COURT:

Q: Your Lolo Masoy is an old man already?
A: Yes, Your Honor.

Q: Now, when his penis entered your vagina, was it limp or standing?
A: It was limp.

PROS. GARCIA, JR.:

Q: It entered your vagina even his penis was limp?
A: Yes, sir.

Q: Was it easily placed inside, or was it difficult for him to have it entered?
A: It easily entered inside.

COURT:

Q: Why, did he open your vagina?
A: Yes, Your Honor.

Q: What did [he] use?
A: Hand, Your Honor.

xxxx

Q: Did you tell this to your Lola or to your Mama?
A: Yes, sir.

Q: Who was the first one to know, your Lola, or your Mama?
A: Lola.

xxxx

Q: What did you tell your Lola?
A: I told her: "He touched me, La".

xxxx

Q: What did your Lola take that after hearing what you said?
A: She got mad.

Q: Mad at whom, to you, or Masoy?
A: She got mad at Masoy.

Q: What did Lola do to Masoy?
A: She had Masoy incarcerated.

xxxx

Q: After your reported to your Lola, what did Masoy do or what was the reaction of Masoy?
A: He mauled me.

Q: Who mauled you?
A: Lolo Masoy.

Q: Why did he do this?
A: Because he is saying that I am telling a lie.

xxxx[29]

It can be gleaned from the foregoing excerpts the credibility and believability of AAA's claim of sexual assault. She rendered a clear, coherent and convincing narration of the rape incident and positively identified the appellant as the perpetrator of the crime. As a rule, the Court accords full weight and credit to the testimony of a rape victim,[30] more so, if she were a child-victim for youth and immaturity are badges of truth and sincerity.[31] AAA, a girl of tender years, would not accuse her own grandfather of a crime so serious as rape[32] nor would she allow herself and her family to endure the social scourge and the psychological stigma of rape if her accusation is false or fabricated.[33] Human reason dictates that a rape victim will not come out in the open unless her motive is to obtain justice and to have the felon apprehended and punished.[34]

It bears stressing that the RTC had similar appreciation of AAA's testimony. Basic is the rule that the Court will not interfere with the judgment of the trial court in passing upon the credibility of the witnesses or the veracity of their respective testimonies unless a material fact or circumstance has been overlooked which, if properly considered, would affect the outcome of the case.[35] The trial court is in a better position to determine the credibility of witnesses having heard and observed firsthand their behavior and manner of testifying during trial.[36] The application of the aforesaid rule becomes more stringent in cases where findings of the trial court are sustained by the CA.[37] In the instant case, the Court finds no compelling reason to contradict the factual findings of the lower courts as they do not appear to be unfounded or arbitrary.

---

29 TSN, January 20, 2006, supra note 6 at 3-9.
30 *People v. Llanas, Jr.*, 636 Phil. 611, 622 (2010).
31 *People v. Rubio*, 683 Phil. 714, 723 (2012).
32 Supra note 28 at 572.
33 *People v. Baroy*, 431 Phil. 638, 653 (2002).
34 *People v. Talavera*, 461 Phil. 883, 891(2003).
35 Supra note 33.
36 *People v. Requiz*, 376 Phil. 750, 755 (1999).
37 *People v. Condes*, 659 Phil. 375, 386 (2011).

In his futile attempt to exonerate himself from culpability, the appellant mainly interposed the defense of denial and relied on the following testimony of AAA in having this Court believe that there was no penetration:

x x x x x

Q: Your Lolo is already old?
A: Yes.

Q: Was his penis still erect when he was on top of you?
A: Yes.

Q: And you testified that you were also made to touch the penis of your Lolo?
A: Yes.

Q: But the penis was soft when you touch?
A: Yes.

COURT:

Q: It was not erect?
A: Yes.

Q: If its not erect it did not enter your vagina?
A: Yes.

Q: Up to where?
A: On the side.

Q: On the side of where?
A: On the side of my vagina.

Court: Can you demonstrate. You go inside together with the interpreter and the stenographer you point where exactly the penis of you lolo touch your vagina.

(STENOGRAPHER, INTERPRETER AND THE WITNESS WENT INSIDE THE BATHROOM AND IT WAS POINTED OUT BY THE WITNESS THAT THE PENIS OF HER LOLO WAS JUST OUTSIDE OR THE OUTER LIP OF HER VAGINA. IT DID NOT ENTER HER VAGINA.)[38]

At first glance, it might appear that the statements made by AAA during her cross-examination were conflicting. However, a careful review of the aforequoted testimony discloses that AAA was merely being responsive to questions propounded to her in such fashion which were not necessarily

38 TSN, February 15, 2006, supra note 7 at 5-6.

reflective of the sequence of events that led to the rape incident. The description made by AAA that appellant's penis was soft would not suffice to discredit her testimony that she cried out in pain when the penis was forcibly inserted into her vagina. As ruled by this Court in *People v. Ablog*,[39] softness is relative and that softness may not be to such a degree that penetration is impossible. In the same case, the Court declared that it may even be the touching by the victim of the sexual organ of the accused-appellant which transformed its initially soft condition to hardness.

Actually, Dr. Calubay negated the appellant's claim that he was suffering from erectile dysfunction. Dr. Calubay even testified to the contrary concluding that there was no evidence of impotency on the part of the appellant and therefore, he is capable of consummating a sexual act.

Quite possibly, appellant's genitalia grazed the side or outer lip of AAA's vagina but it did not automatically discount the fact that forced coitus did happen. Significantly, AAA's claim that she was raped was corroborated by the medico-legal finding of Dr. Ogatis who concluded that partially healed laceration on the private part of AAA was brought about by a penetration. When the testimony of a rape victim is consistent with the medical findings, there is sufficient basis to conclude that there has been carnal knowledge.[40]

Even if the Court concede to the alleged inconsistencies in the testimony of AAA, such discrepancies will not detract from the fact that she categorically identified the appellant as the culprit and recounted in detail the crime of rape committed against her.[41] Considering AAA's background, who at a very young age was no longer going to school, she cannot be expected to answer each and every question thrown at her with precision. The Court ratiocinated in *People v. Manayan* that, "*An error-free testimony cannot be expected from children of tender years, most especially when they are recounting details of harrowing experiences, those that even adults would rather bury in oblivion. To be sure, the testimony of a young rape victim may not be described as flawless; but its substance, veracity and weight are hardly affected by the triviality of her alleged inconsistencies. On the contrary, they may even reinforce her credibility, as they have probably arisen from the naivete of a child, confused and traumatized by the bestial acts done to her person.*"[42]

---

39 *People v. Ablog*, 368 Phil. 526, 534 (1999).
40 *People v. Arpon*, 678 Phil. 752, 776 (2011).
41 *People v. Manayan*, 420 Phil. 357, 375-376 (2001).
42 Id. at 360. (Italics ours.)

In further support of his defense of denial, the appellant hinted that it was impossible for him to rape AAA because his two (2) sons were also in the house at the time the rape allegedly transpired. Time and again, the Court ruled that lust is no respecter of time and place, thus, rape can be committed even in places where people congregate, in parks, along the roadside, within the school premises, inside a house where there are other occupants, and even in the same room where other members of the family are also sleeping.[43] For this very reason, the Court rejects appellant's claim that the presence of his two (2) sons at the crime scene was a deterrent and indicate the impossibility of his commission of the crime of rape. Moreover, the appellant subtly insinuates that the accusation for rape was instigated by his wife who wanted to leave him. On this score, the appellant has shown no solid grounds to prove his insinuation and consequently, it deserves scant consideration.

Therefore, weighed against the positive testimonies of the prosecution witnesses supported by physical evidence consistent with the prosecution's attestation that AAA was raped, the appellant's defense of denial must fail. The defense of denial has been invariably viewed by the Court with disfavor for it can easily be concocted and is a common and standard defense ploy in prosecutions for rape.[44] In order to prosper, the defense of denial must be proved with strong and convincing evidence[45] and the appellant miserably failed in this regard.

All told, the Court is convinced that the appellant is guilty beyond reasonable doubt of qualified rape.

As previously mentioned, the imposable penalty for qualified rape is death. However, in view of the enactment of Republic Act (R.A.) No. 9346, the imposition of the penalty of death is prohibited. In lieu thereof, the penalty of *reclusion perpetua* without eligibility for parole is to be meted on appellant pursuant to Sections 2 and 3 of the same Act. Considering that the lower courts failed to qualify that the penalty of *reclusion perpetua* is without eligibility for parole, this omission should be rectified.[46]

---

43 G.R. No. 199096, *People v. Traigo*, June 2, 2014, 724 SCRA 389, 394.

44 G.R. No. 196228, *People v. Besmonte,* June 4, 2014, 725 SCRA 37, 56.

45 Id.

46 *People v. Subesa,* 676 Phil. 403, 416-417 (2011).
The Court issued a Resolution dated August 4, 2015 in A.M. No. 15-08-02-SC (Guidelines for the Proper Use of the Phrase "Without Eligibility for Parole" in Indivisible Penalties) wherein Title II of which reads:

II

In these lights, the following guidelines shall be observed in the imposition of penalties and in the use of the phrase "*without eligibility for parole*":

Coming now to appellant's pecuniary liabilities, the Court finds it necessary to modify the amounts of civil indemnity, moral damages and exemplary damages. Prevailing jurisprudence,[47] most notably *People v. Jugueta*,[48] pegs all these at ₱100,000.00 each. As such, the CA's awards of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages are all increased to ₱100,000.00. In addition, all damages awarded shall earn interest at the rate of six percent (6%) *per annum* from date of finality of this judgment until fully paid.[49]

WHEREFORE, the Court **AFFIRMS** the June 27, 2014 Court of Appeals Decision in CA-G.R. CR-HC No. 01048-MIN with **MODIFICATIONS**. Appellant Leo Mendoza is found **GUILTY** beyond reasonable doubt of the crime of Qualified Rape, and sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. He is ordered to pay the victim AAA the following: (a) ₱100,000.00 as civil indemnity; (b) ₱100,000.00 as moral damages; (c) ₱100,000.00 as exemplary damages; and (d) interest of six percent (6%) *per annum* on all damages awarded from the date of finality of this judgment until fully paid.

SO ORDERED.

JOSE PORTUGAL PEREZ
Associate Justice

---

(1) In cases where the death penalty is not warranted, there is no need to use the phrase "*without eligibility for parole*" to qualify the penalty of *reclusion perpetua*, it is understood that convicted persons penalized with an indivisible penalty are not eligible for parole; and

(2) When circumstances are present warranting the imposition of the death penalty, but this penalty is not imposed because of R.A. [No.] 9346, the qualification of "*without eligibility for parole*" *shall be used* to qualify *reclusion perpetua* in order to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for R.A. No. 9346.

47 G.R. No. 190348, *People v. Colentava,* February 9, 2015; G.R. No. 208716, *People v. Lumaho*, September 24, 2014, 736 SCRA 542, 555-556.

48 G.R. No. 202124, 5 April 2016.

49 G.R. No. 201105, *People v. Hilarion*, November 25, 2013, 710 SCRA 562, 570.

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ATTESTATION

I attest 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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, it is hereby certified 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.

MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
MAY 26 2016