



Republic of the Philippines  
 Supreme Court  
 Manila

CERTIFIED TRUE COPY  
*Wilfredo V. Lapitan*  
 WILFREDO V. LAPITAN  
 Division Clerk of Court  
 Third Division  
 JUL 15 2016

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
 Appellee,

**G.R. No. 207231**

**Present:**

SERENO, C. J.,\*  
 VELASCO, JR., J., *Chairperson,*  
 PERALTA,  
 PEREZ, and  
 REYES, JJ.

- versus -

**ROGER GALAGATI y GARDOCE,**  
 Appellant.

**Promulgated:**

June 29, 2016

X-----*Wilfredo V. Lapitan*-----X

**DECISION**

**PERALTA, J.:**

This is an appeal from the July 31, 2012 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CEB-CR-H.C. No. 00383, the dispositive portion of which states:

IN LIGHT OF ALL THE FOREGOING, the Court hereby AFFIRMS with MODIFICATION the assailed Decision dated March 8, 2005 of the Regional Trial Court, Branch [61], Kabankalan City, Negros Occidental in Criminal Case No. 2003-3215. The accused-appellant Roger Gardoce Galagati is found GUILTY of the crime of Rape committed on September 13, 2002 and is hereby sentenced to suffer the penalty of *reclusion perpetua*. He is likewise ordered to indemnify AAA the amounts of Php50,000 as civil indemnity, Php50,000 as moral damages, and Php30,000 as exemplary damages, plus legal interest on all damages

\* Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated September 22, 2014.

<sup>1</sup> Penned by Associate Justice Pamela Ann Abella Maxino, with Associate Justices Edgardo L. Delos Santos and Zenaida T. Galapate-Laguilles, concurring; *rollo*, pp. 3-23.

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awarded at the rate of six percent (6%) [*per annum*] from the date of the finality of this decision.

As to accused-appellant Galagati's appeal in Criminal Case Nos. 2003-3216, 2003-3218, 2003-3219, 2003-3220 and 2003-3221, the same is GRANTED. The decision of the trial court is REVERSED and SET ASIDE. Accused-appellant Galagati is, for failure of the prosecution to prove his guilt beyond reasonable doubt, ACQUITTED for five counts of rape through sexual assault.

SO ORDERED.<sup>2</sup>

On May 13, 2003, seven (7) Informations were filed against accused-appellant Roger Gardoce Galagati (*Galagati*) for rape. The accusatory portion of Criminal Case No. 2003-3215 reads:

That on or about September 13, 2002, in the City of Kabankalan, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, said accused, by means of or employing force and intimidation and exerting his moral influence and ascendancy as an adult, did then and there wilfully, unlawfully and feloniously have sexual intercourse with [AAA], a minor about fifteen (15) years old, without the consent and against the will of the latter.

CONTRARY TO LAW.<sup>3</sup>

The Information for the six other cases stated the same allegations, except for the dates of commission, particularly on October 8,<sup>4</sup> 10,<sup>5</sup> 11,<sup>6</sup> 15,<sup>7</sup> 22,<sup>8</sup> and 25,<sup>9</sup> 2002.

In his arraignment on June 4, 2003, Galagati pleaded not guilty.<sup>10</sup> Joint trial ensued while he was under detention. Only private complainant AAA testified for the prosecution. Her version of facts, which was not subject to cross-examination, are as follows:

AAA was born on September 11, 1987 from parents Susie Valensona and Luciano Monasque, who are not legally married.<sup>11</sup> Galagati is the common-law spouse ("live-in" partner) of Susie.<sup>12</sup> At the time of the

<sup>2</sup> *Rollo*, p. 22.

<sup>3</sup> Records, Criminal Case No. 2003-3215, p. 1.

<sup>4</sup> Records, Criminal Case No. 2003-3216, p. 1.

<sup>5</sup> Records, Criminal Case No. 2003-3215, p. 67.

<sup>6</sup> Records, Criminal Case No. 2003-3218, p. 1.

<sup>7</sup> Records, Criminal Case No. 2003-3219, p. 1.

<sup>8</sup> Records, Criminal Case No. 2003-3220, p. 1.

<sup>9</sup> Records, Criminal Case No. 2003-3221, p. 1.

<sup>10</sup> Records, Criminal Case No. 2003-3215, p. 4.

<sup>11</sup> TSN, November 19, 2003, pp. 4, 7, 18-19; Per birth certificate, however, the names of her parents are Susie Valenzona and Ronilo Monasque (Records, Criminal Case No. 2003-3215, p. 50)

<sup>12</sup> TSN, November 19, 2003, p. 6; In his testimony, Galagati admitted that he is a "live-in" partner of Susie (TSN, February 23, 2005, pp. 8, 11-12).

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incidents, AAA was a 15-year-old second year student at Binicuil National High School and residing at her grandfather's house, together with Galagati, and her mother, uncle, and three siblings.<sup>13</sup>

On September 13, 2002, at around 2:00 p.m., while AAA was alone in the changing room of their house, Galagati forced her to have sexual intercourse with him. Acting on a threat that he would kill her mother and siblings, he laid her down, took off her panty, and inserted his penis into her vagina. She continuously cried and noticed a lot of blood coming from her vagina. He then told her to stop crying and take a bath, which she did. Her mother did not know what happened due to the threat. As to the other rape incidents that occurred, AAA testified:

Q: After September 13, 2002, were there other occasions that the accused raped you?

A: Yes, sir.

Q: Can you tell us the dates?

A: Yes, sir.

Q: What were those dates?

A: October 8, 10, 11, 15, 22 and 25, 2002.

Q: How could you recall those dates you mentioned [when] you were raped by the accused?

A: Because at that time I have no class and at the time no one [was] in the house.

Q: On October 8, 2002, what time did the accused raped you?

A: After eating my lunch and [I] was about to undress myself preparing to go to school.

Q: What time was that if you can recall?

A: 1:00 o'clock in the afternoon.

Q: On October 8, 2002, can you tell where did the accused rape you?

A: At the room where we changed our clothes.

Q: Was there penetration also of the penis on October 8, 2002?

A: No, sir.

Q: What happened when you were raped on October 8, 2002?

A: He fingered me.

Q: How about his penis?

A: In my vagina.

Q: What did he do to his penis?

A: He just [rubbed] it in my vagina.

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<sup>13</sup> TSN, November 19, 2003, pp. 3, 5-6.



Q: What finger did he use when he raped you on October 8, 2002, Madam Witness?

A: Index finger.

Q: Did the index finger penetrate your vagina?

A: Yes, sir.

Q: How about on October 10, 2002, where did the rape incident happen?

A: At the same place.

Q: What time?

A: About that time.

Q: Was there penetration of the penis or index finger?

A: Index finger.

Q: His penis was also rubbed against your vagina?

A: Yes.

Q: How about on October 11, 2002, where was the rape incident happened?

A: The same place.

Q: And what time?

A: The same time.

Q: On this date, October 11, 2002, was there penetration of the penis or index finger?

A: Still finger.

Q: How about the date you mentioned, October 15, 2002, where was the rape incident happened?

A: The same place.

Q: The same time also?

A: Yes.

Q: At your house?

A: Yes.

Q: Was there penetration in your vagina?

A: Yes.

Q: Penis or index finger?

A: Finger.

Q: How about on October 22, 2002, where the rape incident happened?

A: The same place.

Q: The same time?

A: Yes.

Q: Was there penetration in your vagina?

A: Yes, sir.

Q: Penis or finger?

A: Finger.

Q: How about on October 25, 2002, where [did] the rape incident happened?

A: The same place.

Q: Was there penetration?

A: Yes, sir.

Q: Penis or index finger.

A: Index finger.

Q: After all those penetration of index finger on October 8, 10, 11, 15, 22 and 25, 2002, were you still able to go to school on those dates?

A: Yes, sir.

Q: Did you ever inform your mother about those incidents?

A: No, sir.

Q: How about the police?

A: No.

Q: Why did you not inform your mother about those repeated rape incidents?

A: Because he threatened me (*sic*) to kill my siblings and my mother.<sup>14</sup>

On November 4, 2002, AAA was brought to the Kabankalan Police Station to shed some light regarding the fight that transpired between Galagati and Susie's brother. In the course of the interview, she was able to disclose the rape incidents to SPO1 Marilou Amantoy and Chona Paglumotan of the Department of Social Welfare and Development (*DSWD*).

Galagati, on the other hand, denied having sexual congress with AAA. He asserted that on September 13, 2002, AAA went back to school at 1 p.m. after eating lunch at the house;<sup>15</sup> on October 8, 2002, there was no class but AAA told him that she would go to school;<sup>16</sup> on October 15, 2002, AAA did not go home;<sup>17</sup> and on October 25, 2002, he was not in the house but in Bacolod.<sup>18</sup> He stressed that he did not touch AAA as he loves her like his own child.<sup>19</sup> Galagati claimed that all the charges filed against him were mere concoction because AAA was being threatened by her family. He revealed that there was a fight between him and AAA's uncle, who is the brother of her mother, because Susie's siblings would usually eat at their house without washing the dishes.<sup>20</sup>

<sup>14</sup> TSN, November 19, 2003, pp. 10-15.

<sup>15</sup> TSN, February 23, 2005, pp. 4-5.

<sup>16</sup> *Id.* at 5-6.

<sup>17</sup> *Id.* at 6.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 6, 14-15.

<sup>20</sup> *Id.* at 8-10.

After trial, the RTC found that AAA's testimony was natural, candid, straightforward and credible, while Galagati's defense of denial was unsupported by competent evidence. It convicted Galagati of the crime charged in Criminal Case Nos. 2003-3215 to 2003-3216 and 2003-3218 to 2003-3221. The *fallo* of the March 8, 2005 Decision<sup>21</sup> states:

WHEREFORE, the Court finds accused Roger Galagati y Gardoce GUILTY beyond reasonable doubt of one (1) count of rape under Paragraph 1 of Article 266-A of the Revised Penal Code, as amended by R.A. No. 8353, as charged in Criminal Case No. 2003-3215 for having carnal knowledge with the victim on September 13, 2002 and five (5) counts of rape under Paragraph 2 of said Article 266-A as charged in Criminal [Case] Nos. 2003-3216, 2003-3218, 2003-3219, 2003-3220 and 2003-3221 for inserting his finger in the genital orifice of the victim and hereby sentences him to suffer the penalty of RECLUSION PERPETUA in Criminal Case No. 2003-3215[,] to pay the victim [AAA] ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, ₱25,000.00 as exemplary damages[,] and applying the Indeterminate Sentence Law, sentences him to suffer the penalty of imprisonment of six (6) years, as minimum, to ten (10) years, as maximum, for each of the five (5) counts of rape under Paragraph 2 of Article 266-A of the Revised Penal Code as charged in Criminal [Case] Nos. 2003-3216, 2003-3218, 2003-3219, 2003-3220 and 2003-3221, [and] to pay the victim ₱50,000.00 as civil indemnity in each of the said five (5) counts of rape and the costs.

For lack of evidence due to the failure of the prosecution to present evidence, Criminal Case No. 2003-3217 is DISMISSED.

It is ordered that the said accused be immediately remitted to the National Penitentiary.

SO ORDERED.<sup>22</sup>

On appeal, however, the CA acquitted Galagati in Criminal Case Nos. 2003-3216 and 2003-3218 to 2003-3221 as it considered AAA's testimony "shallow, trifling, and half-hearted" with regard to the alleged five incidents of sexual assaults. For the appellate court, AAA's testimony with regard to the acts committed on October 8, 11, 15, 22 and 25, 2002 were mere vague generalizations and conclusions of law because she merely answered "yes" when asked by her counsel if Galagati had "raped" her on said dates. There was a complete failure of the prosecution to extract a vivid and detailed testimony from AAA, whose narration only contained inadequate recital of evidentiary facts consisting of statements of "same time," "same place," and confirmation that there was penetration of the index finger, in answer to the public prosecutor's leading question. There was no testimony as to how Galagati approached her, what, if any, he said to her, what she was doing before she was fingered, what happened after, and other details which would validate her charge that he fingered her on those occasions. Also, the CA

<sup>21</sup> Records, Criminal Case No. 2003-3215, pp. 66-78.

<sup>22</sup> *Id.* at 77-78.

noted that there was a complete silence in AAA's testimony that force, threat or intimidation was applied to successfully consummate the sexual assaults. What AAA merely declared was that she did not report all the incidents of rape as Galagati allegedly threatened to kill her mother and siblings. However, this explanation failed to properly show whether the threat was given before, during, or after the commission of the sexual assaults. Finally, the appellate court opined that although moral influence or ascendancy substitutes actual force and intimidation if the malefactor is a common-law spouse of the victim's mother, it does not remove the exacting requirement that the occurrence of sexual assault must be established beyond reasonable doubt.

Now before Us, Galagati seeks to appeal the decision of the CA with respect to Criminal Case No. 2003-3215.

We dismiss.

The settled rule is that the trial court's evaluation and conclusion on the credibility of witnesses in rape cases are generally accorded great weight and respect, and at times even finality, and that its findings are binding and conclusive on the appellate court, unless there is a clear showing that it was reached arbitrarily or it appears from the records that certain facts or circumstances of weight, substance or value were overlooked, misapprehended or misappreciated by the lower court and which, if properly considered, would alter the result of the case.<sup>23</sup> Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial court stood in a much better position to decide the question of credibility.<sup>24</sup> Indeed, trial judges are in the best position to assess whether the witness is telling a truth or lie as they have the direct and singular opportunity to observe the facial expression, gesture and tone of voice of the witness while testifying.<sup>25</sup>

To determine the innocence or guilt of the accused in rape cases, the courts are guided by three well-entrenched principles: (1) an accusation of rape can be made with facility and while the accusation is difficult to prove, it is even more difficult for the accused, though innocent, to disprove; (2) considering that in the nature of things, only two persons are usually involved in the crime of rape, the testimony of the complainant should be scrutinized with great caution; and (3) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.<sup>26</sup> Accordingly, in resolving

<sup>23</sup> *People v. Villamor*, G.R. No. 202187, February 10, 2016; *People v. Padilla*, 617 Phil. 170, 183 (2009); and *People v. Lopez*, 617 Phil. 733, 744 (2009).

<sup>24</sup> *People v. Padilla*, *supra*.

<sup>25</sup> *People v. Villamor*, G.R. No. 202187, February 10, 2016; *People v. Madsali, et al.*, 625 Phil. 431, 451 (2010); and *People v. Lopez*, *supra* note 23.

<sup>26</sup> *People v. Padilla*, *supra* note 23, at 182-183.

rape cases, the primordial or single most important consideration is almost always given to the credibility of the victim's testimony.<sup>27</sup> When the victim's testimony is credible, it may be the sole basis for the accused person's conviction since, owing to the nature of the offense, in many cases, the only evidence that can be given regarding the matter is the testimony of the offended party.<sup>28</sup> A rape victim's testimony is entitled to greater weight when she accuses a close relative of having raped her, as in the case of a daughter against her father.<sup>29</sup>

After a careful review of the records and the parties' submissions, this Court finds no cogent reason to reverse the judgment of conviction in Criminal Case No. 2003-3215. There is no showing that either the trial court or the appellate court committed any error in law and in its findings of fact.

The statutory provisions relevant to the case are Article 266-A and Article 266-B of the Revised Penal Code,<sup>30</sup> which provide:

Article 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 is otherwise unconscious;
- c. By means of fraudulent machination or grave abuse of authority;
- 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. xxx

Article 266-B. *Penalties.* – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

x x x

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

The elements of the offense charged are that: (a) the victim is a female over 12 years but under 18 years of age; (b) 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;

<sup>27</sup> *Id.* at 183; *People v. Villamor*, G.R. No. 202187, February 10, 2016; and *People v. Madsali, et al.*, *supra* note 25.

<sup>28</sup> *People v. Madsali, et al.*, *supra* note 25, at 447.

<sup>29</sup> *People v. Padilla*, *supra* note 23, at 184.

<sup>30</sup> As amended by Republic Act No. 7659 and Republic Act No. 8353.



and (c) the offender has carnal knowledge of the victim either through force, threat or intimidation; or when she is deprived of reason or is otherwise unconscious; or by means of fraudulent machinations or grave abuse of authority.<sup>31</sup>

Neither the presence nor use of a deadly weapon nor the employment of physical violence by the accused upon the victim are essential to a finding that force or intimidation existed at the time the rape was committed.

In *People v. Flores*, we ruled that in rape through force or intimidation, the force employed by the guilty party need not be irresistible. It is only necessary that such force is sufficient to consummate the purpose for which it was inflicted. Similarly, intimidation should be evaluated in light of the victim's perception at the time of the commission of the crime. It is enough that it produced the fear in the mind of the victim that if she did not yield to the bestial demands of her ravisher, some evil would happen to her at that moment or even thereafter. Hence, what is important is that because of force and intimidation, the victim was made to submit to the will of the appellant.<sup>32</sup>

Here, the fact that Galagati used force, threat, and intimidation in order to have sexual intercourse with AAA is demonstrated by the latter's continuous crying while the dastardly act was being committed against her. She was helpless and afraid. The victim's act of crying during the rape was sufficient indication that the offender's act was against her will.<sup>33</sup> The law, at any rate, does not impose upon a rape victim the burden of proving resistance.<sup>34</sup> Physical resistance need not be established in rape when intimidation is exercised upon the victim and she submits herself against her will to the rapist's lust because of fear for her loved one's lives and safety. Moreover, had it not been for the chance that AAA was invited by the police in relation to the quarrel between her uncle and Galagati, nobody would have known about the sexual molestation due to the existing threat to kill her mother and siblings.

AAA's silence after the rape incident does not affect her credibility.

x x x The Court had consistently found that there is no uniform behavior that can be expected from those who had the misfortune of being sexually molested. While there are some who may have found the courage early on to reveal the abuse they experienced, there are those who have opted to initially keep the harrowing ordeal to themselves and attempted to move on with their lives. This is because a rape victim's actions are oftentimes overwhelmed by fear rather than by reason. The perpetrator of

<sup>31</sup> See *People v. Arcillas*, 692 Phil. 40, 50 (2012).

<sup>32</sup> *People v. Victoria*, G.R. No. 201110, July 6, 2015.

<sup>33</sup> *People v. Samson*, G.R. No. 207297, June 9, 2014 (1<sup>st</sup> Division Resolution) and *People v. Hilarion*, G.R. No. 201105, November 25, 2013, 710 SCRA 562, 566.

<sup>34</sup> *People v. Miralles*, G.R. No. 208717, February 24, 2014 (3<sup>rd</sup> Division Resolution), citing *People v. Estoya*, 700 Phil. 490, 499 (2012).

the rape hopes to build a climate of extreme psychological terror, which would numb his victim into silence and submissiveness. x x x<sup>35</sup>

Delay in reporting an incident of rape due to death threat cannot be taken against the victim because the charge of rape is rendered doubtful only if the delay is unreasonable and unexplained.<sup>36</sup> In this case, it cannot be said that AAA's apprehension to make known her horrific experience in the hands of Galagati is unjustifiable considering that she had to deal with such frightful event in her tender age.

The direct, positive and categorical testimony of AAA, absent any showing of ill-motive, prevails over the defense of denial.<sup>37</sup> The medico-legal report,<sup>38</sup> the existence of which was even admitted by the defense,<sup>39</sup> is corroborative of the finding of rape.<sup>40</sup>

Like alibi, denial is an inherently weak and easily fabricated defense.<sup>41</sup> It is a self-serving negative evidence that cannot be given greater weight than the stronger and more trustworthy affirmative testimony of a credible witness.<sup>42</sup> Alleged motives of family feuds, resentment, or revenge are not uncommon defenses, and have never swayed the Court from lending full credence to the testimony of a complainant who remained steadfast throughout her testimony.<sup>43</sup> Besides, no woman would cry rape, allow an examination of her private parts, subject herself (and even her entire family) to humiliation, go through the rigors of public trial, and taint her good name if her claim were not true.<sup>44</sup>

As the lower courts found, Galagati's defenses are weak and unconvincing. While he denied the charges against him, he failed to produce any material and competent evidence to controvert the same and justify an acquittal. He neither established his presence in another place at the time of the commission of the offense and the physical impossibility for him to be at the scene of the crime nor presented a single witness to stand in his favor.<sup>45</sup> Further, We cannot give weight to the alleged fact that he did not hide. Although it is settled that unexplained flight is indicative of guilt, no law or jurisprudence holds that non-flight *per se* is a conclusive proof of

<sup>35</sup> *People v. Villamor*, G.R. No. 202187, February 10, 2016.

<sup>36</sup> *People v. Madsali, et al.*, *supra* note 25, at 443.

<sup>37</sup> *Id.* at 446; *People v. Villamor*, G.R. No. 202187, February 10, 2016. See *People v. Padilla*, *supra* note 23, at 185.

<sup>38</sup> Records, Criminal Case No. 2003-3215, p. 49.

<sup>39</sup> TSN, November 18, 2003, p. 3.

<sup>40</sup> *People v. Llanas, Jr.*, 636 Phil. 611, 624 (2010).

<sup>41</sup> *People v. Villamor*, G.R. No. 202187, February 10, 2016 and *People v. Madsali, et al.*, *supra* note 25, at 446.

<sup>42</sup> *People v. Madsali, et al.*, *supra* note 25, at 446 and *People v. Lopez*, *supra* note 23, at 745.

<sup>43</sup> See *People v. Prodeciado*, G.R. No. 192232, December 10, 2014, 744 SCRA 429, 451.

<sup>44</sup> *People v. Padilla*, *supra* note 23, at 184.

<sup>45</sup> See *People v. Villamor*, G.R. No. 202187, February 10, 2016.

innocence.<sup>46</sup> It simply does not follow as a matter of logic.<sup>47</sup> His pretended innocence is clearly *non-sequitur* to his decision not to flee.<sup>48</sup>

As to the sentence imposed, the RTC and the CA correctly prescribed the penalty of *reclusion perpetua* for the simple rape committed by Galagati in Criminal Case No. 2003-3215. Although the rape of a person under 18 years of age by the common-law spouse of the victim's mother is punishable by death,<sup>49</sup> this penalty cannot be imposed if the relationship was not alleged in the Information.<sup>50</sup> In *People v. Arcillas*,<sup>51</sup> the Court held:

Rape is qualified and punished with death when committed by the victim's parent, ascendant, step-parent, guardian, or relative by consanguinity or affinity within the third civil degree, or by the common-law spouse of the victim's parent. However, an accused cannot be found guilty of qualified rape unless the information alleges the circumstances of the victim's over 12 years but under 18 years of age and her relationship with him. The reason is that such circumstances alter the nature of the crime of rape and increase the penalty; hence, they are special qualifying circumstances. As such, both the age of the victim and her relationship with the offender must be specifically alleged in the information and proven beyond reasonable doubt during the trial; otherwise, the death penalty cannot be imposed.<sup>52</sup>

Here, the minority of AAA was sufficiently alleged in the Information, which stated that she was "a minor about fifteen (15) years old." The Prosecution established that age when the rape was committed on September 13, 2002 by presenting her birth certificate, which revealed her date of birth as September 11, 1987. Anent her relationship with Galagati, however, while the Prosecution established that he is the common-law husband of AAA's mother, the Information did not aver such relationship. His being the "live-in" partner of Susie at the time of the commission of the rape, even if established during the trial, could not be appreciated because the Information did not specifically allege it as a qualifying circumstance.

With regard to the civil liability of Galagati, We modify the CA ruling. Consistent with the latest case of *People v. Ireneo Jugueta*,<sup>53</sup> he is now ordered to pay AAA civil indemnity *ex delicto*, moral damages, and exemplary damages in the amount of ₱75,000.00 each. Civil indemnity is

<sup>46</sup> *People v. Arafiles*, 382 Phil. 59, 74 (2000); *People v. San Juan*, 391 Phil. 479, 493 (2000); and *People v. Bantayan*, 401 Phil. 322, 334 (2000).

<sup>47</sup> *People v. San Juan*, *supra* note 46.

<sup>48</sup> See *People v. Precioso*, G.R. No. 95890, May 12, 1993, 221 SCRA 748, 757.

<sup>49</sup> The imposition of death penalty is now prohibited. Republic Act No. 9346, which was approved on June 24, 2006, provides that the penalty of *reclusion perpetua* shall be imposed in lieu of the death penalty.

<sup>50</sup> See *People v. Tejero*, 688 Phil. 543, 558 (2012).

<sup>51</sup> 692 Phil. 40 (2012).

<sup>52</sup> *People v. Arcillas*, *supra* note 31, at 52. (Citations omitted).

<sup>53</sup> G.R. No. 202124, April 5, 2016.



mandatory upon the finding of the fact of rape.<sup>54</sup> Moral damages in rape cases should be awarded without need of showing that the victim suffered trauma or mental, physical, and psychological sufferings constituting the basis thereof.<sup>55</sup> When a crime is committed with a qualifying or generic aggravating circumstance, an award of exemplary damages is justified under Article 2230 of the New Civil Code.<sup>56</sup> Exemplary damages is awarded to set a public example and to protect hapless individuals from sexual molestation.<sup>57</sup> Lastly, interest at the rate of six percent (6%) *per annum* is imposed on all the amounts awarded in this case, from the date of finality of this judgment until the damages are fully paid.<sup>58</sup>

On a final note, it is well to remind the public prosecutors to discharge their duties and responsibilities with zeal and fervor. In this case, had the prosecution properly alleged in the Information the qualifying circumstance of relationship between the accused and the victim and proved the same during the trial, the rape committed would have warranted the imposition of the penalty of *reclusion perpetua* without eligibility for parole.<sup>59</sup> Further, higher amount of damages would have been imposed. Again, *People v. Ireneo Juguetta*<sup>60</sup> held that where the penalty imposed is death but reduced to *reclusion perpetua* because of R.A. No. 9346, the civil indemnity *ex delicto*, moral damages, and exemplary damages shall be in the amount of ₱100,000.00 each.

**WHEREFORE**, premises considered, the instant appeal is **DISMISSED**. The July 31, 2012 Decision of the Court of Appeals in CA-G.R. CEB-CR-H.C. No. 00383, which affirmed the March 8, 2005 Decision of Regional Trial Court, Branch 61, Kabankalan City, Negros Occidental, in Criminal Case No. 2003-3215, is **AFFIRMED WITH MODIFICATION**. Appellant Roger Gardoce Galagati is **ORDERED** to **PAY** AAA the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. Further, six percent interest (6%) *per annum* is imposed on all the amounts awarded reckoned from the date of finality of this judgment until the damages are fully paid.

Let a copy of this Decision be furnished to the Honorable Secretary of Justice for his information and for whatever action he may deem appropriate.

<sup>54</sup> *People v. Cedenio*, G.R. No. 201103, September 25, 2013, 706 SCRA 382, 386-387 and *People v. Tejero*, *supra* note 50.

<sup>55</sup> *People v. Cabungan*, 702 Phil. 177, 189 (2013).

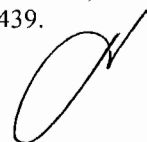
<sup>56</sup> *Id.* at 190; *People v. Cruz*, 714 Phil. 390, 400 (2013); *People v. Tejero*, *supra* note 50, at 559.

<sup>57</sup> *People v. Umanito*, G.R. No. 208648, April 13, 2016 (3<sup>rd</sup> Division Resolution).

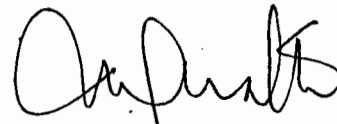
<sup>58</sup> Bangko Sentral ng Pilipinas Monetary Board Circular No. 799, Series of 2013, effective July 1, 2013, in *Nacar v. Gallery Frames*, G.R. No. 18971, August 13, 2013, 703 SCRA 439.

<sup>59</sup> See Republic Act. 9346; *People v. Lopez*, 617 Phil. 733, 746 (2009).

<sup>60</sup> G.R. No. 202124, April 5, 2016.




**SO ORDERED.**




**DIOSDADO M. PERALTA**  
Associate Justice

**WE CONCUR:**

**MARIA LOURDES P. A. SERENO**  
Chief Justice



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson




**JOSE PORTUGAL PEREZ**  
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

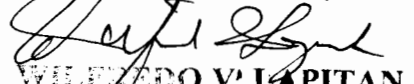
**CERTIFICATION**

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



**MARIA LOURDES P. A. SERENO**  
Chief Justice

**CERTIFIED TRUE COPY**



**WILFREDO V. LAPITAN**  
Division Clerk of Court  
Third Division

**JUL 15 2016**