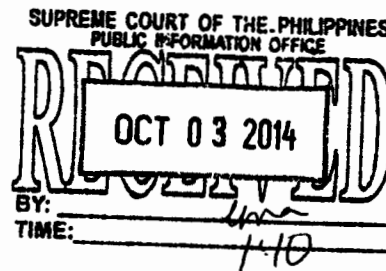




Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated July 28, 2014 which reads as follows:*

**“G.R. No. 192784 – PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. JOSE HENRY ROBLES y NUDO, Accused-Appellant.**

The accused seeks the reversal of the decision promulgated on March 17, 2010,<sup>1</sup> whereby the Court of Appeals (CA) affirmed the joint decision rendered on January 13, 2006 by the Regional Trial Court (RTC), Branch 69, in Pasig City<sup>2</sup> finding him guilty beyond reasonable doubt of three counts of rape committed against his nieces. The CA raised the civil indemnities and moral damages to ₱75,000.00 for each count of rape.

**Antecedents**

In three separate informations all dated November 5, 2002 and docketed as Criminal Case No. 124642-H, Criminal Case No. 124688-H and Criminal Case No. 124643-H of the RTC, the Office of the Provincial Prosecutor charged the accused with two counts of rape committed against his minor niece AAA,<sup>3</sup> and one count of rape committed against his 12-year old niece BBB.<sup>4</sup>

<sup>1</sup> Rollo, pp. 2-20; penned by Associate Justice Franchito N. Diamante, with the concurrence of Associate Justice Amelita G. Tolentino (retired) and Associate Justice Priscilla J. Baltazar-Padilla.

<sup>2</sup> CA rollo, pp. 35-56.

<sup>3</sup> Pursuant to Republic Act No. 9262, otherwise known as the *Anti-Violence Against Women and Their Children Act of 2004*, and its implementing rules, the real names of the victims, as well as those of their immediate family or household members, are withheld and fictitious initial instead are used to represent them, to protect their privacy. See *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

<sup>4</sup> *Supra* note 1, at 3.

The Prosecution presented the testimonies of: (1) CCC, the mother of AAA; (2) DDD, the mother of BBB; (3) AAA; (4) BBB; and (5) Dr. Paul Ed C. Ortiz, the examining physician.

CCC was the sister-in-law of the accused. She testified that on August 29, 2002, her daughters AAA and EEE told on their uncle and reported to her that he had raped them both on separate dates at his house.<sup>5</sup> CCC further testified that she forthwith reported the rapes to the police.

DDD stated that she found out on August 29, 2002 that the accused, who was her very own younger brother, had molested and sexually abused some of their own nieces.

On her part, AAA recalled that the accused, her own uncle, had raped her on two separate occasions; that the first had been at around ten o'clock in the evening of July 29, 2002, when he ordered her to sleep in a room at his house instead of going home because it was late; that she had been watching television in his house along with her cousins FFF and GGG (the minor children of the accused); that he had entered the room where she had gone to, and had laid down beside her; that he had held a knife with which he had threatened to stab her if she shouted; that he had forcibly removed her shorts and underwear, gone on top of her, inserted his penis into her vagina, and made up and down movements; that he had poked the knife at her left temple while kissing her lips, neck and chest; that he had committed the second rape at around four o'clock in the afternoon of August 22, 2002, when she had gone to his house to watch television with FFF and GGG, hoping that her uncle would not repeat his despicable act; that after FFF left the house to buy something, the accused had then made his move by closing the door and turning the lights off; that he had threatened her with a gun as he undressed her; that she had struggled to free herself but her effort had been in vain because he then tied her hands behind her back; that he had gone on top of her, and inserted his penis into her while making an up and down movement; and that GGG, the 10-year old son of the accused, had been around and had witnessed the rape but could only cry and go upstairs.<sup>6</sup>

BBB narrated that at around 4:00 o'clock in the afternoon of July 29, 2002, she was watching television in the house of the accused, her uncle, along with her cousin FFF; that the accused was not yet home; that FFF had felt sleepy and gone upstairs without finishing what they were watching; that at around 5:30 o'clock the accused had arrived; that when he had noticed that she was alone, he had told her to follow him upstairs; that being naïve she had obeyed him; that he had led her to a room upstairs,

<sup>5</sup> Id. at 6-7 (it is noted, however, that these cases did not include the rape of EEE).

<sup>6</sup> Supra note 2, at 38-39.

and he had then threatened to kill her and her mother if she shouted; that he had then undressed her and removed his shorts; and that he had positioned himself on top of her, inserted his penis in her vagina, and then made up and down movements while holding a knife against her stomach.<sup>7</sup>

Dr. Ortiz confirmed that both victims had hymenal lacerations that attributed to the penetration of a male sex organ.<sup>8</sup>

In contrast, only the accused testified for the Defense. He denied the charges, and claimed that the parents of the victims had brought the charges due to their ill-will towards him out of their envy for his being better off than they were. He alleged that the victims' parents had conspired to destroy his life and that of his family.<sup>9</sup>

### **Ruling of the RTC**

On January 13, 2006, the RTC, giving full faith and credit to the testimonies of the minor victims, convicted the accused of three counts of rape,<sup>10</sup> decreeing:

WHEREFORE, finding the accused Jose Henry Robles y Nudo guilty beyond reasonable doubt of the crime of Rape, the court hereby sentences him as follows:

In Criminal Case Nos. 124642 and 124688, the penalty of Reclusion Perpetua for each case; and to pay AAA the amount of ₱50,000.00 as moral damages, ₱50,000.00 as civil indemnity and ₱25,000.00 as exemplary damages for each case.

In Criminal Case No. 124643, to suffer the penalty of Reclusion Perpetua and to pay BBB the amount of ₱50,000.00 as moral damages, ₱50,000.00 as civil indemnity and ₱25,000.00 as exemplary damages.

SO ORDERED.<sup>11</sup>

### **Decision of the CA**

On March 17, 2010, the CA promulgated its decision affirming the convictions but increasing the civil indemnity and moral damages for each count of rape,<sup>12</sup> to wit:

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<sup>7</sup> Id. at 39-40.

<sup>8</sup> Id. at 40.

<sup>9</sup> Id. at 41.

<sup>10</sup> Supra note 2.

<sup>11</sup> Id. at 56.

<sup>12</sup> Supra note 1.

**WHEREFORE**, in the light of the foregoing, the assailed Decision dated 13 January 2006 by the Regional Trial Court – Branch 69, Pasig City is hereby **AFFIRMED** with **MODIFICATION** by increasing the award of civil indemnity and moral damages to ₱75,000.00 each. All aspects of the fallo of the assailed decision, stand.

SO ORDERED.<sup>13</sup>

### **Issue**

The accused now appeals arguing that the CA erred in affirming the decision of the RTC.

### **Ruling of the Court**

The appeal lacks merit.

First of all, the findings of fact by the CA, because they affirm those of the trial court on the commission of the rapes, conclude this Court in this review. Such conclusiveness is derived from the trial court's first-hand opportunity to observe the demeanor and manner of the victim when she testified at the trial,<sup>14</sup> an opportunity that the Court does not have.

Only when the accused convincingly shows in this appeal that such findings of fact by the CA were palpably unsupported by the evidence on record, or unless the judgment of the CA rested on a misapprehension of facts should the Court reverse and undo the conviction.<sup>15</sup> But neither of such events happened here; hence, the findings of fact by the CA remain conclusive and binding on the Court, which is not a trier of facts.

Secondly, the ill-will the accused imputed to the victims' parents as the motivation for bringing the charges against him – particularly their supposed envy of his having better economic circumstances than theirs – was properly ignored and disregarded by the lower courts. Such imputation could not be believed in the light of the close family relations between the parties involved rendering their incrimination of him, their own brother, for the very serious crimes committed on their own children, his own nieces, emotionally devastating - unless they were out to seek justice for their daughters and for themselves.

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<sup>13</sup> Id. at 20.

<sup>14</sup> *People v. Brecinio*, G.R. No. 138534, March 17, 2004, 425 SCRA 616, 622; *People v. Quimzon*, G.R. No. 133541, April 14, 2004, 427 SCRA 261, 271.

<sup>15</sup> *Pangonorum v. People*, G.R. No. 143380, April 11, 2005, 455 SCRA 211, 220.

And, thirdly, the mere denial of the crimes by the accused did not prevail over the positive declarations by the victims themselves firmly and positively accusing him of raping them. Between their categorical positive testimonies and his uncorroborated denials, the former prevailed.<sup>16</sup> Indeed, mere denial was an inherently weak defense by virtue of its nature as self-serving negative evidence that could not be accorded greater evidentiary weight than the victims' declarations as credible witnesses testifying on affirmative matters.<sup>17</sup>

Rape is now defined in Art. 266-A and penalized in Art. 266-B of the *Revised Penal Code*, as follows:

Article 266-A. *Rape; When And How Committed.* - Rape is committed –

1) By a man who 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.

x x x x

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

x 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 x

<sup>16</sup> *People v. Tejero*, G.R. No. 187744, June 20, 2012, 674 SCRA 244, 258.

<sup>17</sup> *People v. Pansacala*, G.R. No. 194255, June 13, 2012, 672 SCRA 549, 559.

Under the foregoing, the crimes committed were qualified rapes. The informations in Criminal Case No. 124642-H and Criminal Case No. 124688-H (involving the two counts of rape committed against AAA), and in Criminal Case No. 124643-H (involving the rape committed against BBB) specifically alleged that the victims AAA and BBB were the nieces of the accused, and at the time of the rapes were minors of 14 years and 12 years in age, respectively. Although such allegations were duly established during the trial, the RTC found him guilty only of simple rape and prescribed *reclusion perpetua* as the penalty for each count. On appeal, the CA corrected the RTC, and expressly found him guilty of three counts of qualified rape, but did not impose the death penalty only because of the intervening passage of Republic Act No. 9346 prohibiting the imposition of the death penalty. Nonetheless, the CA raised the amounts of civil indemnity and moral damages to ₱75,000.00 each per count. We affirm the modification.

In its decision, the RTC allowed exemplary damages of only ₱25,000.00 for each count of rape. The CA affirmed the amount thus fixed. We hold that the correct amount ought to be ₱30,000.00, it being established that the victims were minors at the time of the commission of the qualified rapes. Such minority should be appreciated as an aggravating circumstance in each count of qualified rape, for, as noted in *People v. Catubig*,<sup>18</sup> Article 2230 of the *Civil Code*, which authorizes the grant of exemplary damages to the victim in crimes when at least one aggravating circumstance was attendant, uses the term *aggravating circumstance* in its broad or generic sense, to wit:

The term “aggravating circumstances” used by the Civil Code, the law not having specified otherwise, is to be understood in its broad or generic sense. The commission of an offense has a two-pronged effect, one on the public as it breaches the social order and the other upon the private victim as it causes personal sufferings, each of which is addressed by, respectively, the prescription of heavier punishment for the accused and by an award of additional damages to the victim. The increase of the penalty or a shift to a graver felony underscores the exacerbation of the offense by the attendance of aggravating circumstances, whether ordinary or qualifying, in its commission. Unlike the criminal liability which is basically a State concern, the award of damages, however, is likewise, if not primarily, intended for the offended party who suffers thereby. It would make little sense for an award of exemplary damages to be due the private offended party when the aggravating circumstance is ordinary but to be withheld when it is qualifying. Withal, the ordinary or qualifying nature of an aggravating circumstance is a distinction that should only

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<sup>18</sup> G.R. No. 137842, August 23, 2001, 363 SCRA 621.

July 28, 2014

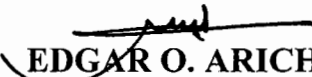
be of consequence to the criminal, rather than to the civil, liability of the offender. In fine, relative to the civil aspect of the case, an aggravating circumstance, whether ordinary or qualifying, should entitle the offended party to an award of exemplary damages within the unbridled meaning of Article 2230 of the *Civil Code*.<sup>19</sup>

In addition, the Court imposes legal interest of 6% *per annum* on all the amounts of the civil liabilities, reckoned from the finality of this judgment until full payment.<sup>20</sup>

**WHEREFORE**, the Court **AFFIRMS** the decision promulgated on March 17, 2010, subject to the modification that the amount to be awarded to the victims of the three counts of qualified rape as exemplary damages is raised to ₱30,000.00; **DIRECTS** the accused to pay interest of 6% *per annum* on all the damages awarded from the date of finality of this judgment until fully paid; and **ORDERS** the accused to pay the costs of suit.

**SO ORDERED.”**

Very truly yours,

  
**EDGAR O. ARICHETA**

Division Clerk of Court *pkala*

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The Solicitor General (x)  
Makati City

Court of Appeals (x)  
Manila  
(CA-G.R. CR H.C. No. 02186)

The Director  
Bureau of Corrections  
1770 Muntinlupa City

The Hon. Presiding Judge  
Regional Trial Court, Br. 69  
1600 Pasig City  
(Crim. Case Nos. 124642-H,  
124643-H & 124688-H)

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SR

<sup>19</sup> Id. at 635.

<sup>20</sup> *Sison v. People*, G.R. No. 187229, February 22, 2012, 666 SCRA 645, 667.

