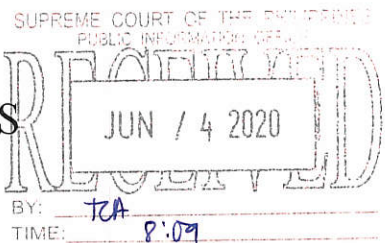




REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila



SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **12 February 2020** which reads as follows:

“**G.R. No. 232495** (*People of the Philippines v. Roque Bacani y Taccad*). – After a judicious review of the records, the Court resolves to **DISMISS** the appeal<sup>1</sup> from the Decision<sup>2</sup> dated June 15, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06639 for failure to show that the CA committed any reversible error in upholding the conviction of Roque Bacani y Taccad (accused-appellant) for five (5) counts of Rape.

Accused-appellant’s contention that the intercourse was consensual due to AAA’s<sup>3</sup> voluntary submission lacks merit.<sup>4</sup> A victim’s failure to offer tenacious or vigorous resistance against the sexual onslaught of her attacker does not suggest that she must have consented to it.<sup>5</sup> When a victim is intimidated, she is gripped with fear for her physical safety and is cowed into submission, which surely cannot be equated with consent.<sup>6</sup> As the CA correctly held,

<sup>1</sup> *Rollo*, pp. 22-23.

<sup>2</sup> *Id.* at 2-21; penned by Associate Justice Elihu A. Ybañez with Associate Justices Magdangal M. De Leon and Victoria Isabel A. Paredes, concurring.

<sup>3</sup> The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to RA 7610, entitled “An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation And Discrimination, Providing Penalties for its Violation and for Other Purposes,” approved on June 17, 1992; RA 9262, entitled “An Act Defining Violence Against Women and Their Children, Providing For Protective Measures For Victims, Prescribing Penalties Therefore, and for Other Purposes,” approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the “Rule on Violence against Women and Their Children” (November 15, 2004). See also Amended Administrative Circular No. 83-2015, entitled Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances,” dated September 5, 2017.

<sup>4</sup> *Rollo*, p. 7.

<sup>5</sup> See *People v. Federico*, 454 Phil. 814, 821 (2003).

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

where resistance would be futile, offering none at all does not amount to consent to the sexual assault.<sup>7</sup> Indeed, the law does not impose upon a rape victim the burden of proving resistance.<sup>8</sup>

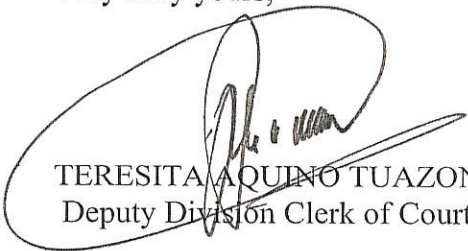
As to the imposable penalty, the CA correctly sentenced accused-appellant to suffer the penalty of *reclusion perpetua* pursuant to Article 266-B of the Revised Penal Code (RPC). However, the Court modifies the award of damages to conform with the prevailing jurisprudence.<sup>9</sup>

Accordingly, We increase the award of civil indemnity from ₱50,000.00 to ₱75,000.00 for each count; moral damages from ₱50,000.00 to ₱75,000.00 for each count; and exemplary damages from ₱30,000.00 to ₱75,000.00 for each count. The CA likewise properly ruled that the amount of all the damages awarded shall earn interest at the rate of 6% *per annum* from the finality of this Resolution until fully paid.

**WHEREFORE**, the Court **ADOPTS** the findings of fact and conclusions of law in the Decision dated June 15, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06639 finding accused-appellant Roque Baccani y Taccad **GUILTY** of five (5) counts of Rape under Article 266-A of the RPC, and sentencing him to suffer the penalty of *reclusion perpetua* in each count. The Court, however, **MODIFIES** the award to ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages, for each count.

The amount of damages awarded shall earn legal interest of the rate of 6% *per annum* from the date of finality of this Resolution until fully paid. "

Very truly yours,



TERESITA AQUINO TUAZON  
Deputy Division Clerk of Court *with 6/11*

02 JUN 2020

<sup>7</sup> *Rollo*, p. 18.

<sup>8</sup> See *People v. Federico*, *supra* note 5.

<sup>9</sup> *People v. Jugueta*, 783 Phil. 806, 826 (2016).

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THE DIRECTOR (reg)  
Bureau of Corrections  
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 16  
Malolos City, 3000 Bulacan  
(Crim. Case Nos. 995- M-2006 to 999-M-2006)

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Supreme Court, Manila

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\*with copy of CA Decision dated June 15, 2016  
*Please notify the Court of any change in your address.*  
GR232495. 02/12/20(157)URES(m) *jc/1*