



Republic of the Philippines  
 Supreme Court  
 Manila

CERTIFIED TRUE COPY  
*Wilfredo V. Lapitan*  
 WILFREDO V. LAPITAN  
 Division Clerk of Court  
 Third Division  
 MAR 17 2016

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
 Plaintiff-Appellee,

**G.R.No. 208071**

**Present:**

VELASCO, JR., J., *Chairperson,*  
 PERALTA,  
 DEL CASTILLO,\*  
 PEREZ, and  
 REYES, JJ.

- versus -

**Promulgated:**

**EDGARDO PEREZ y ALAVADO,**  
 Accused-Appellant.

March 9, 2016

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

**DECISION**

**PERALTA, J.:**

Before the Court is an appeal from the Decision<sup>1</sup> dated February 27, 2013 of the Court Appeals (CA) in CA-G.R. CR-HC No. 00176-MIN which affirmed the Decision<sup>2</sup> dated May 15, 2002 of the Regional Trial Court (RTC), 9<sup>th</sup> Judicial Region, Branch 15, Zamboanga City, in Criminal Case No. 17071 for rape.

The antecedent facts are as follows:

In an Information<sup>3</sup> dated June 23, 2000, accused-appellant Eduardo was charged with the crime of rape, committed by having carnal knowledge

\* Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated February 29, 2016.

<sup>1</sup> Penned by Associate Justice Marie Christine Azcarraga-Jacob, with Associate Justices Romulo V. Borja and Ma. Luisa C. Quijano-Padilla concurring; *rollo*, pp. 5-18.

<sup>2</sup> Penned by Judge Vicente L. Cabatingan; *CA rollo*, pp. 19-29.

<sup>3</sup> *Id.* at 8-9.

of his niece, AAA,<sup>4</sup> a 13-year-old girl, against her will and to her damage and prejudice, the accusatory portions of which read:

That on or about January 3, 2000, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there wilfully, unlawfully, and feloniously, have carnal knowledge of one AAA, a girl, 13 years old, against her will; furthermore, there being present an aggravating circumstance in that the victim is under eighteen (18) years old and the accused is an uncle by affinity of the latter.

CONTRARY TO LAW.<sup>5</sup>

Upon arraignment on September 6, 2000, appellant pleaded not guilty to the offense charged.<sup>6</sup> Thereafter, during trial, the prosecution presented the testimonies of the victim AAA, police investigator PO2 Maria Enriquez, Dr. Marian Calaycay, the examining physician, and BBB, the father of the victim.<sup>7</sup>

AAA testified that she was born on August 18, 1986 to her parents who, at that time, were already separated from each other. She stayed with her father in his house in Tugbungan, Zamboanga City. On December 24, 1999, however, she spent Christmas with her mother who was in the house of her uncle, appellant herein, also situated in Tugbungan, Zamboanga. AAA stated that appellant is the husband of her mother's sister.<sup>8</sup> According to AAA, when she woke up at about 4:00 a.m. on January 3, 2000, she was already on the cement floor inside the room of appellant, who was wearing only a white towel wrapped around his waist. She tried to get out of the room but appellant pushed her to the floor and shut the door with a kick. He then pulled out her skirt, raised her shirt, and removed her underwear, baring her breasts and vagina, which he kissed. Thereafter, he removed his towel, mounted her, and inserted his penis into her vagina, thereby causing her pain. While doing this, he continued on kissing her lips and breast. She cried and kicked him, but he did not stop.<sup>9</sup> Afterwards, he removed his penis and cleaned her vagina with a shirt. He wore his towel again and told her to put on her underwear. He then gave her ₱10.00 which she used to buy "chippy."<sup>10</sup>

<sup>4</sup> In line with the Court's ruling in *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419, 426, citing Rule on Violence Against Women and their Children, Sec. 40, Rules and Regulations Implementing Republic Act No. 9262, Rule XI, Sec. 63, otherwise known as the "Anti-Violence Against Women and their Children Act," the real name of the rape victim will not be disclosed.

<sup>5</sup> *CA rollo*, p. 8.

<sup>6</sup> *Id.* at 19.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 20.

<sup>10</sup> *Id.*

On January 5, 2000, she went home to her father. She did not tell him about the incident until confronted by him. BBB testified that at about 2:00 p.m. on February 10, 2000, his son, AAA's brother, told him that he saw appellant holding the hair of AAA and kissing her. Consequently, BBB confronted AAA about what he had heard from her brother. She then told him what transpired on the alleged incident. Thereafter, he brought her to the barangay officials who advised them to have her examined by a doctor and obtain a Medico-Legal Certificate.<sup>11</sup>

Said testimonies were corroborated by Dr. Marian Calaycay who conducted a medical examination on AAA and issued a Medico-Legal Certificate thereon. Dr. Calaycay testified that the certificate states that AAA's hymen had complete healed lacerations at 4 o'clock and 8 o'clock positions, that her labia majora and labia minora were apposed, that the introitus admits one finger with ease, that her pubic hair were sparsely distributed, her breasts were not yet fully developed and that she tested negative for spermatozoa.<sup>12</sup> Dr. Calaycay further gave many possible agents that may have caused AAA's lacerations, one of which is an erect penis.<sup>13</sup>

Thereafter, PO3 Maria Enriquez, who was assigned at the Women and Children's Desk of the Tetuan Police Station, Zamboanga City, testified that she received a complaint assignment sheet registering the complaint of BBB that his daughter had been raped, together with the medico-legal certificate and birth certificate of AAA. After taking the statements of AAA and BBB, she was convinced that rape was, indeed, committed. Thus, she prepared a case report, and submitted the same to the Office of the City Prosecutor for the filing of the appropriate charge.<sup>14</sup>

In contrast, appellant essentially interposed a defense of denial and alibi. He testified that at the time of the alleged rape, he did not sleep in his room that he shared with his wife because he was out driving his passenger tricycle. He added that during those times, they had many relatives from Curuan, Zamboanga City, composed of the families of his in-laws, visiting them who all slept in the living room of their house, together with the other members of their household. They all stayed in his house because they came to know that the sister of his mother-in-law had just died. Thus, it was highly unlikely for him to transport AAA to his room without waking anybody up. Appellant further testified that the only reason why AAA and her father filed the rape charge against him was because BBB had a personal grudge against him. This was because occasionally, appellant would scold AAA and BBB's other children. Moreover, appellant testified that he also incurred the ire of

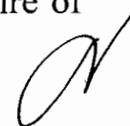
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<sup>11</sup> *Id.* at 21.

<sup>12</sup> *Rollo*, p. 7.

<sup>13</sup> *CA rollo*, p. 20.

<sup>14</sup> *Rollo*, p. 7.



BBB because he made it known that he did not like the presence of BBB's children in his house due to their "itchy hands."<sup>15</sup>

Aside from appellant's testimony, the defense also presented six (6) other witnesses to corroborate his defense of alibi, namely, Anabel Perez, daughter of appellant; Khoki Uwano Perez, nephew of appellant who lived with him; Clarita Perez, wife of appellant; Abigail Perez, another daughter of appellant; Edwin Andico, brother-in-law of appellant; and Mercedita Marquez, sister of appellant.<sup>16</sup>

On May 15, 2002, the RTC found appellant guilty beyond reasonable doubt of the crime of rape and rendered its Decision, the dispositive portion of which reads:

WHEREFORE, having weighed the evidence on both sides, the Court finds Eduardo Perez y Alavado GUILTY beyond reasonable doubt of the crime of RAPE, defined and penalized under Article 266-A of Republic Act No. 8353, The Anti-Rape Law of 1997, as principal and as charged, and in the absence of any aggravating or mitigating circumstance attendant in the commission of the offense, does hereby sentence him to suffer the penalty of RECLUSION PERPETUA, to indemnify the offended party the sum of ₱100,000.00, Philippine Currency, and to pay the costs.

SO ORDERED.<sup>17</sup>

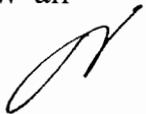
The RTC found that the prosecution sufficiently proved, beyond reasonable doubt, that appellant had carnal knowledge of AAA. Even though AAA was subject to a stringent cross-examination, she remained steadfast, committing no material inconsistency which may adversely affect her credibility. She clearly and convincingly described the manner by which she was deflowered against her will. The fact that it took AAA more than one month to report the incident to her father does not affect her credibility. Jurisprudence is replete with rulings stating that delay in reporting the rape incident in the face of threats of physical violence cannot be taken against the accused. As to the theory that it is highly improbable for the accused to commit the crime of rape because there were several other persons present in the house at that time, the trial court rejected the same in view of multiple case law finding it possible for one to rape another even in the presence of third persons. The RTC also rejected appellant's imputation of ill motive on the part of BBB due to his personal grudges against him in ruling that it is unthinkable that a high school student would endure the shame and humiliation of being publicly known that she has been ravished, allow an

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<sup>15</sup> CA rollo, p. 25.

<sup>16</sup> Rollo, p. 8.

<sup>17</sup> CA rollo, p. 29.



examination of her private parts and undergo the trouble and expense of a court proceeding if her motive was not to bring justice to the person who had grievously wronged her.<sup>18</sup>

Furthermore, while the RTC took notice of the fact that the defense presented numerous testimonies to support appellant's allegations of denial and alibi, it refused to give credence to the same. According to the trial court, the defense's witnesses were all appellant's direct relatives, either by consanguinity or affinity, who depend on appellant and reside in his house, save for his sister. As such, it is possible that their loyalty to appellant may have some influence on their testimonies. The court ruled that it would have made a difference had two or three of the visitors from Curuan come to court to testify for the defense as they were the ones who supposedly occupied the living room at the time of the alleged incident. Their presence could have easily been requested considering that Curuan is very near the City proper.<sup>19</sup> In the end, the RTC ruled that the defense of absolute denial interposed by the accused, which can easily be fabricated, does not hold water in view of the positive identification of the accused by the offended party and the lack of clear and convincing evidence to back it up.

On appeal, the CA affirmed the RTC Decision finding appellant guilty beyond reasonable doubt of having carnal knowledge of AAA. According to the appellate court, the trial court did not err in granting full weight and credence to the uncorroborated testimony of AAA for she positively identified appellant as the perpetrator of the crime in a straightforward and clear manner. It is unlikely that she would accuse appellant, her uncle, of so serious a crime as rape if this was not the plain truth as youth and immaturity are generally badges of sincerity. As to appellant's asseverations that AAA's testimony contained significant inconsistencies, the CA ruled that the same only pertained to minor details of the case.<sup>20</sup> A victim of a savage crime cannot be expected to mechanically retain and then give an accurate account of every lucid detail of a frightening experience. Thus, the appellate court found no reason to disturb the factual findings of the trial court, which are entitled to the highest degree of respect.

It, however, modified the trial court's award of damages from the sum of ₱100,000.00, to ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages in the following wise:

The award of civil indemnity to the rape victim is mandatory upon the finding that rape took place. Moral damages, on the other hand, are awarded to rape victims without need of proof other than the fact of rape,

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<sup>18</sup>*Id.*<sup>19</sup>*Id.* at 27.<sup>20</sup>*Rollo*, p. 14.

under the assumption that the victim suffered moral injuries from the experience she underwent. In line with current jurisprudence, appellant Edgardo Perez should be ordered to indemnify the victim in the amount of Php75,000.00 as civil indemnity and Php75,000.00 as moral damages.

We also deem it proper to award exemplary damages to the victim. It finds support in *People v. Dalisay*. Art. 2229 of the Civil Code serves as the basis for the award of exemplary damages as it pertinently provides, "Exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages." Being corrective in nature, exemplary damages, therefore, can be awarded, not only in the presence of an aggravating circumstance, but also where the circumstances of the case show the highly reprehensible or outrageous conduct of the offender. Consistent with the cited jurisprudence, it is but fitting that exemplary damage, in the sum of Php30,000.00 be granted.<sup>21</sup>

Consequently, appellant filed a Notice of Appeal<sup>22</sup> on March 14, 2013. Thereafter, in a Resolution<sup>23</sup> dated September 4, 2013, the Court notified the parties that they may file their respective supplemental briefs, if they so desire, within thirty (30) days from notice. Both parties, however, manifested that they are adopting their respective briefs filed before the CA as their supplemental briefs, their issues and arguments having been thoroughly discussed therein. Thus, the case was deemed submitted for decision.

In his Brief, appellant assigned the following error:

I.

THE COURT OF APPEALS ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.<sup>24</sup>

Appellant essentially argues that he should not be convicted of the crime charged herein on the basis of AAA's testimony as it is loaded with serious inconsistencies. He likewise asserts that it is beyond human nature how AAA can be transported to appellant's room without being noticed by those who were asleep in the same living room as AAA. Appellant also found surprising why AAA did not immediately report the alleged incident to her parents or other relatives when she had every opportunity to do so.<sup>25</sup>

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<sup>21</sup> *Id.* at 17. (Citations omitted).

<sup>22</sup> *Id.* at 19.

<sup>23</sup> *Id.* at 24.

<sup>24</sup> CA rollo, p. 173.

<sup>25</sup> *Id.* at 37.

We affirm appellant's conviction, with modification as to the award of damages.

Article 266-A, paragraph one (1) of the Revised Penal Code (RPC) provides the elements of the crime of rape:

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 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;

2. By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.<sup>26</sup>

Time and again, the Court has always given primordial consideration to the credibility of a rape victim's testimony. This is because rape is a crime that is almost always committed in isolation, usually leaving only the victims to testify on the commission of the crime. Thus, for as long as the victim's testimony is logical, credible, consistent and convincing, the accused may be convicted solely on the basis thereof.<sup>27</sup> Here, the trial court found AAA's testimony to be categorical, straightforward, spontaneous and frank. In spite of her stringent cross-examination, AAA remained steadfast, committing no material inconsistency which may adversely affect her credibility, clearly and convincingly describing the events that transpired during the rape incidents.

As to appellant's contention that serious inconsistencies in AAA's testimony render it unreliable and present problems as to her credibility, the Court is in agreement with the appellate court that the same pertained only to minor inconsistencies. In *People v. Sanchez*,<sup>28</sup> the Court provided the following guidelines when confronted with the issue of credibility of witnesses:

<sup>26</sup> Article 266-A of the Revised Penal Code (1930), as amended by Republic Act No. 8353 (1997).

<sup>27</sup> *People v. Alfredo Gallano y Jaranilla*, G.R. No. 184762, February 25, 2015.

<sup>28</sup> 681 Phil. 631 (2012).

First, the Court gives the highest respect to the RTC's evaluation of the testimony of the witnesses, considering its unique position in directly observing the demeanor of a witness on the stand. From its vantage point, the trial court is in the best position to determine the truthfulness of witnesses.

Second, absent any substantial reason which would justify the reversal of the RTC's assessments and conclusions, the reviewing court is generally bound by the lower court's findings, particularly when no significant facts and circumstances, affecting the outcome of the case, are shown to have been overlooked or disregarded.

And third, the rule is even more stringently applied if the CA concurred with the RTC.<sup>29</sup>

In this case, the appellate court expressly found no reason to disturb the factual findings of the trial court in view of the absence of any clear showing that some fact had been overlooked. Neither does the Court's own perusal of the records of the case present any reason to depart therefrom. Indeed, a rape victim cannot be expected to mechanically keep and then give an accurate account of the traumatic and horrifying experience she had undergone.<sup>30</sup> Inaccuracies and inconsistencies in her testimony are generally expected.<sup>31</sup> Thus, such fact, alone, cannot automatically result in an accused's acquittal.

There is, however, a need to modify the award of ₱75,000.00 as civil indemnity and ₱75,000.00 as moral damages. In prescribing said amounts as damages, the CA cites the ruling in *People v. Delos Reyes*<sup>32</sup> which states:

Regarding the civil indemnity and moral damages, *People v. Salome* explained the basis for increasing the amount of said civil damages as follows:

The Court, likewise, affirms the civil indemnity awarded by the Court of Appeals to Sally in accordance with the ruling in *People v. Sambrano* which states:

As to damages, we have held that **if the rape is perpetrated with any of the attending qualifying circumstances that require the imposition of the death penalty, the civil indemnity for the victim shall be Php75,000.00 . . .** Also, in rape cases, moral damages are awarded without the need of proof other than the fact of rape because it is assumed that the victim has suffered moral injuries entitling her to such an award. However, the trial court's award of Php50,000.00 as moral damages

<sup>29</sup> *People v. Sanchez, supra*, at 635-636.

<sup>30</sup> *People v. Pareja*, G.R. No. 202122, January 15, 2014, 714 SCRA 131, 148.

<sup>31</sup> *Id.*

<sup>32</sup> 697 Phil. 531 (2012).

should also be increased to Php75,000.00 pursuant to current jurisprudence on qualified rape.

**It should be noted that while the new law prohibits the imposition of the death penalty, the penalty provided for by law for a heinous offense is still death and the offense is still heinous. Consequently, the civil indemnity for the victim is still Php75,000.00.**

People v. Quiachon also ratiocinates as follows:

**With respect to the award of damages, the appellate court, following prevailing jurisprudence, correctly awarded the following amounts; Php75,000.00 as civil indemnity which is awarded if the crime is qualified by circumstances warranting the imposition of the death penalty; Php75,000.00 as moral damages because the victim is assumed to have suffered moral injuries, hence, entitling her to an award of moral damages even without proof thereof,**

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**Even if the penalty of death is not to be imposed on the appellant because of the prohibition in R.A. No. 9346, the civil indemnity of Php75,000.00 is still proper because, following the ratiocination in People v. Victor, the said award is not dependent on the actual imposition of the death penalty but on the fact that qualifying circumstances warranting the imposition of the death penalty attended the commission of the offense. The Court declared that the award of ₱75,000.00 shows "not only a reaction to the apathetic societal perception of the penal law and the financial fluctuations over time but also the expression of the displeasure of the court of the incidence of heinous crimes against chastity."<sup>33</sup>**

Thus, the award of ₱75,000.00 as damages is dependent on the existence of a qualifying circumstance that would warrant the imposition of the death penalty. In this case, however, while the CA ordered appellant to pay AAA the amounts of ₱75,000.00 as civil indemnity and ₱75,000.00 as moral damages, it made no mention of any attending qualifying circumstance in the commission of the crime. It simply stated that "the award of civil indemnity to the rape victim is mandatory upon the finding that rape took place. Moral damages, on the other hand, are awarded to rape victims without need of proof other than the fact of rape, under the assumption that the victim suffered moral injuries from the experience she underwent." In fact, a perusal of the dispositive portion of the trial court's Decision would reveal an "absence of any aggravating or mitigating circumstance attendant in the commission of the offense."

<sup>33</sup> *People v. Delos Reyes, supra*, at 554-556. (Emphasis ours)



It is worthy to note, moreover, that even the following accusatory portion of the Information charging appellant herein does not warrant a conviction of rape in its qualified form:

That on or about January 3, 2000, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there wilfully, unlawfully, and feloniously, have carnal knowledge of one AAA, a girl, 13 years old, against her will; furthermore, **there being present an aggravating** circumstance in that the victim is under eighteen (18) years old and **the accused is an uncle by affinity of the latter.**

Jurisprudence is replete with' rulings requiring that Informations charging an accused with the crime of rape qualified by relationship must succinctly state that said accused is a relative within the third civil degree by consanguinity or affinity, to wit:

While it appears that the circumstance of minority under Article 335 (old rape provision) and Article 266-B was sufficiently proven, the allegation of the relationship between AAA and accused-appellant Roxas is considered insufficient under present jurisprudence. This Court has thus held:

However, as regards the allegation in the Information that appellant is an uncle of the victim, we agree with the Court of Appeals that the same did not sufficiently satisfy the requirements of Art. 335 of the Revised Penal Code, *i.e.*, **it must be succinctly stated that appellant is a relative within the 3rd civil degree by consanguinity or affinity. It is immaterial that appellant admitted that the victim is his niece.** In the same manner, it is irrelevant that "AAA" testified that appellant is her uncle. We held in *People v. Velasquez*:

However, the trial court erred in imposing the death penalty on accused-appellant, applying Section 11 of Republic Act No. 7659. **We have consistently held that the circumstances under the amendatory provisions of Section 11 of R.A. No. 7659, the attendance of which could mandate the imposition of the single indivisible penalty of death, are in the nature of qualifying circumstances which cannot be proved as such unless alleged in the information. Even in cases where such circumstances are proved, the death penalty cannot be imposed where the information failed to allege them.** To impose the death penalty on the basis of a qualifying circumstance which has not been

alleged in the information would violate the accused's constitutional and statutory right to be informed of the nature and cause of the accusation against him.

**While the informations in this case alleged that accused-appellant is the uncle of the two victims, they did not state that he is their relative within the third civil degree of consanguinity or affinity.** The testimonial evidence that accused-appellant's wife and Luisa de Guzman are sisters is immaterial. The circumstance that accused-appellant is a relative of the victims by consanguinity or affinity within the third civil degree must be alleged in the information. **In the case at bar, the allegation that accused-appellant is the uncle of private complainants was not sufficient to satisfy the special qualifying circumstance of relationship. It was necessary to specifically allege that such relationship was within the third civil degree. Hence, accused-appellant can only be convicted of simple rape on two counts, for which the penalty imposed is *reclusion perpetua* in each case.**<sup>34</sup>

Similarly in this case, the Information merely alleged that "the accused is an uncle by affinity of the latter," failing to clearly state that appellant herein is AAA's *relative within the third civil degree* of consanguinity or affinity, as expressly required by the aforecited ruling. Appellant herein cannot, therefore, be properly convicted of rape in its qualified form resulting in a higher award of damages.

Hence, in view of the failure of the Information to expressly allege the qualifying circumstance of relationship, as well as the absence of any discussion as to the existence of such qualifying circumstance that would warrant the imposition of the death penalty, the Court finds the award of damages in the amount of ₱75,000.00 as civil indemnity and ₱75,000.00 as moral damages improper. Accordingly, both awards of civil indemnity and moral damages are reduced to ₱50,000.00 each, in line with existing jurisprudence.<sup>35</sup> The exemplary damages in the amount of ₱30,000.00 awarded by the CA, however, is maintained. Moreover, said amounts shall earn interest at the rate of 6% *per annum* from date of finality of this judgment until fully paid.<sup>36</sup>

<sup>34</sup> *People v. Roxás*, G.R. No. 200793, June 4, 2014, 725 SCRA 181, 197-198. (Citations omitted; emphases ours)

<sup>35</sup> *Id.* at 199, citing *People v. Manigo*, G.R. No. 194612, January 27, 2014, 714 SCRA 551.

<sup>36</sup> *Id.*



**WHEREFORE**, premises considered, the Court **AFFIRMS** the Decision dated February 27, 2013 of the Court Appeals in CA-G.R. CR-HC No. 00176-MIN insofar as it (1) found accused-appellant Edgardo Perez y Alavado guilty beyond reasonable doubt of the crime of rape sentencing him to suffer the penalty of *reclusion perpetua*, and (2) ordered said accused-appellant to pay AAA the amount of ₱30,000.00 as exemplary damages, with **MODIFICATION** as to the following amounts: (a) ₱50,000.00 as civil indemnity; (b) ₱50,000.00 as moral damages, plus 6% interest *per annum* of all the damages awarded from finality of decision until fully paid.

**SO ORDERED.**



**DIOSDADO M. PERALTA**  
Associate Justice

**WE CONCUR:**



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



**MARIANO C. DEL CASTILLO**  
Associate Justice



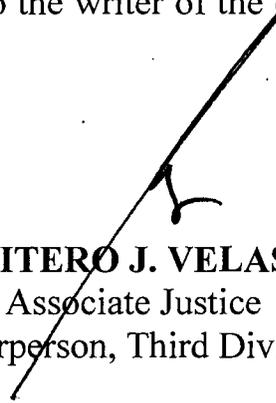
**JOSE PORTUGAL PEREZ**  
Associate Justice



**BIENVENIDO L. REYES**  
Associate Justice

**ATTESTATION**

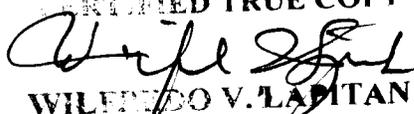
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**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. LADITAN**  
Division Clerk of Court  
Third Division

MAR 17 2016