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SUPREME COURT OF THE PHILIPPINES  
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Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 212631

Present:

SERENO, C.J., Chairperson,  
LEONARDO-DE CASTRO,  
BERSAMIN,  
PERLAS-BERNABE, and  
CAGUIOA, JJ.

Promulgated:

NOV 07 2016

DANDITO LASTROLLO y DOE,  
Accused-Appellant.

X-----X

DECISION

CAGUIOA, J.:

On appeal is the October 17, 2013 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05449, which affirmed with modification the January 5, 2012 Judgment<sup>2</sup> of the Regional Trial Court (RTC), Branch 34, Iriga City, in Criminal Case No. IR-6782, finding appellant Dandito Lastrollo y Doe (Dandito) guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua*.

The Facts

On July 22, 2004, an Information was filed charging Dandito of the crime of rape defined and penalized by Article 335 of the Revised Penal Code (RPC) as amended by Republic Act No. (RA) 7659, RA 8353 and in relation to RA 7610, committed as follows:

That [sometime] within the months of November and December, 2003, in barangay [CCC], Nabua, Camrines Sur, Philippines, and within the jurisdiction of the Honorable Court, the said accused, with intent to lie, by means of force, intimidation and influence, did then and there willfully,

<sup>1</sup> *Rollo*, pp. 2-19. Penned by Associate Justice Pedro B. Corales and concurred in by Associate Justices Sesinando E. Villon and Florito S. Macalino.

<sup>2</sup> CA *rollo*, pp. 47-54. Penned by Presiding Judge Manuel M. Rosales.

unlawfully and feloniously lie and succeeded in having carnal knowledge with [AAA<sup>3</sup>], minor, sixteen (16) years old and suffering from mental illness, against her will and consent, to her damage and prejudice.

#### ACTS CONTRARY TO LAW.<sup>4</sup>

Upon arraignment, Dandito pleaded not guilty to the offense charged.<sup>5</sup>

During pre-trial, the parties made the following stipulations:

1. That accused Dandito is the same accused who was arraigned and pleaded not guilty to the crime as charged;
2. That the victim and the accused are residents of the same barangay;
3. That the wife of the accused and the father of the private complainant are siblings.<sup>6</sup>

Thereafter, trial on the merits ensued with the prosecution presenting three (3) witnesses: the victim AAA, her mother BBB and Dr. Gilda Gonzales (Dr. Gonzales). On the other hand, Dandito, his wife Remedios, and his employer, Nestor Ramos (Nestor), testified for the defense.

The parties' evidence, as summarized by the CA in the assailed Decision, are as follows:

#### The Version of the Prosecution

AAA was only 17 years old when she testified in court. According to her mother, AAA has abnormalities. She only attended one (1) day in the first (1<sup>st</sup>) grade because she was teased for being "abnormal". When brought to a mental hospital for psychiatric evaluation, Dr. Imelda C. Escuadra (Dr. Escuadra), MD, FPPA, Medical Specialist II in Bicol Medical Center, Naga City issued a medical certificate stating that AAA had "Moderate Mental Retardation (Mental age 7 to 8 years old)."

Sometime in November and December 2003, AAA went to the land of May Aida Niebres which is located at the back of their own house in Brgy. CCC. As she was picking banana blossoms, someone suddenly pulled down her pants. She looked behind and saw her uncle Dandito carrying a bolo. AAA asked him to let her go, but Dandito threatened to hack her with his bolo and told her to lie down on the grass beside the banana tree. Thereafter, he inserted his penis inside AAA's vagina. AAA felt pain. Before leaving, Dandito told AAA not to tell her mother about what happened, otherwise he would kill her.

<sup>3</sup> The victim's name and personal circumstances or any other information tending to establish or compromise her identity as well as those of her immediate family are withheld per *People v. Cabalquinto*, 533 Phil. 703 (2006).

<sup>4</sup> Records, p. 1.

<sup>5</sup> Minutes of the Session held on December 11, 2006, id. at 50.

<sup>6</sup> Pre-Trial Order, id. at 74.



Dandito raped *AAA* for the second time while the latter was at home cooking. He suddenly entered the house and closed the door. He covered *AAA*'s mouth with his hand, pulled down *AAA*'s pants and underwear, and let *AAA* lie down in their living room. Afterwards, Dandito inserted his penis inside *AAA*'s vagina and again, she felt pain. Like the first incident, Dandito threatened to kill *AAA* if she tells her mother her harrowing experience at the hand of accused-appellant.

On both occasions, Dandito was armed with a bolo and *AAA* did not shout or move away from him out of fear. She did not also tell her ordeal to her mother, until it was discovered that she was already pregnant.

On March 15, 2004, *BBB* noticed that her daughter *AAA* was vomiting. When she asked *AAA*, the latter was unable to answer and remained quiet. Suspicious, on March 18, 2004, *BBB* brought *AAA* to the clinic of Dr. Gonzales in Nabua, Camarines Sur.

Using the pregnancy and palpitation test, Dr. Gonzales found that *AAA* was about four (4) months pregnant. She estimated that *AAA* had sexual congress at around November or December 2003. She then issued a medical certificate stating therein her findings.

When asked by her mother [who impregnated her], *AAA* answered "*Pay Dito*" referring to Dandito x x x. They then proceeded to the police headquarters of Nabua, Camarines Sur to file a complaint against [Dandito].

*AAA* gave birth prematurely, but her baby subsequently died.<sup>7</sup>

#### **The Version of the Defense**

Dandito interposed the defense of denial and alibi. He admitted that [his] wife and *AAA*'s father are siblings and that his family is residing in *Brgy. CCC*. Their house is located opposite *AAA*'s house and about two (2) minutes away by bicycle and one (1) hour by foot.

According to Dandito, at the time of the alleged rape, he was working as a fish gatherer in Bato Lake, Bato, Camarines Sur. He had several employers thereat including his brother Martin and a certain "*Manong Andres*". While working in Bato Lake, he stayed in a nipa hut near the irrigation pump. Since he does not usually go home, his wife regularly went to Bato Lake to get his salary. His travel time from Bato Lake to *Brgy. CCC* is more than an hour if he rides his bicycle but less than an hour if on board a passenger jeepney or any motorized vehicle.

Nestor claimed that Dandito was the caretaker of his farm in Bato Lake from 1995 until the latter's arrest sometime in 2007. Dandito religiously complied with their Agreement that he would not leave Nestor's pump station because there were valuable equipment stored thereat. There were only three (3) instances when Dandito asked permission, but during the period of November and December 2003 Dandito stayed in the farm and worked with him. Nestor also testified that Dandito, with his family, was already residing in Tagpulo, Bato, Camarines Sur about one (1) kilometer away from the farm. However, he is not aware that Dandito had a house in *Brgy. CCC*.

<sup>7</sup> *Rollo*, pp. 4-5.



Remedios corroborated the testimony of her husband. She admitted that AAA's house is around 20 meters away from their house in Brgy. CCC. She maintained that from 1998 until 2003, Dandito never visited their house in Brgy. CCC.<sup>8</sup>

### *Ruling of the RTC*

On January 5, 2012, the RTC rendered Judgment convicting Dandito of one (1) count of simple rape, the dispositive portion of which reads as follows:

WHEREFORE, for all of the foregoing, accused Dandito Lastrollo y [Doe], having been found guilty of the crime of Rape beyond reasonable doubt, as defined and penalized under Art. 266-A and 266-B of the Revised Penal Code amending Art. 335 by Republic Act 8353, he is hereby sentenced to suffer the penalty of imprisonment of reclusion perpetua; to indemnify by way of civil indemnity [AAA] the amount of Fifty Thousand Pesos (Php 50,000.00) and moral damages of Fifty Thousand Pesos (Php 50,000.00) and to pay the cost.

The herein accused shall be entitled to be credited for the whole period served during his preventive imprisonment.

SO ORDERED.<sup>9</sup>

The RTC gave full weight and credence to AAA's positive and categorical testimony as to the sexual abuse committed upon her by the accused.<sup>10</sup> According to the RTC, Dandito was positively identified by AAA and no evidence of ill motive was shown which could have prompted AAA to point at her uncle as the person who sexually abused her.<sup>11</sup> Furthermore, the RTC emphasized that AAA, a minor and suffering from moderate mental retardation, could not have concocted a story of rape against an older relative bearing in mind the cultural reverence and respect for elders that are deeply ingrained in Filipino children without mentioning the stigma and embarrassment to which she will be subjected in a public trial.<sup>12</sup> However, the RTC did not appreciate AAA's minority as a special qualifying circumstance because the prosecution failed to adduce sufficient evidence of AAA's age.<sup>13</sup>

As to the defense of alibi, the RTC found it intrinsically weak because Dandito failed to show convincing proof that it was physically impossible for him to be at the place of the incident.<sup>14</sup>

Aggrieved, Dandito appealed to the CA.<sup>15</sup>

<sup>8</sup> Id. at 6-7.

<sup>9</sup> Supra note 2, at 54.

<sup>10</sup> Id. at 52.

<sup>11</sup> Id. at 53.

<sup>12</sup> Id.

<sup>13</sup> Id. at 54.

<sup>14</sup> Id. at 53.

<sup>15</sup> Notice of Appeal, records, p. 93; Brief for the Accused-Appellant dated December 5, 2012, CA *rollo*, pp. 29-45.



*Ruling of the CA*

In the assailed Decision,<sup>16</sup> the CA agreed with the RTC's finding on AAA's credibility, and held that rape was sufficiently proven by AAA's testimony.<sup>17</sup> Although Dandito tried to discredit AAA's recollection of the rape incident by pointing to the alleged lack of details thereof, the CA ruled that there is nothing in AAA's testimony that defies logic or is contrary to the ordinary experience of man.<sup>18</sup> The fear instilled by Dandito upon AAA's mind explains AAA's reluctance to tell anyone, even her mother, of the suffering she experienced at the hands of her uncle.<sup>19</sup>

Moreover, the CA found Dandito's defense of alibi unavailing as it failed to pass the tests of impossibility and credibility. In essence, the CA held that Dandito failed to prove that it was impossible for him to be in AAA's residence at any time during the alleged date of the commission of rape.<sup>20</sup>

While the CA did not consider as aggravating circumstances AAA's minority<sup>21</sup> and mental illness,<sup>22</sup> as these were not proven during trial, it nonetheless awarded exemplary damages because of the aggravating circumstance of relationship that was duly proven.<sup>23</sup>

Thus, on October 17, 2013, the CA rendered the assailed decision, affirming the RTC's decision with modification, the decretal portion of which reads:

**WHEREFORE**, the appeal is **DENIED**. The January 5, 2012 Judgment of the Regional Trial Court, Branch 34, Iriga City in Criminal Case No. IR-6782 is **AFFIRMED** with **MODIFICATIONS**. As modified, in addition to the damages awarded by the Regional Trial Court, accused-appellant **DANDITO LASTROLLO Y DOE** is hereby ordered to pay the victim ₱30,000.00 exemplary damages. The damages awarded to the victim shall be subject to interest rate of 6% per annum from the finality of this Decision until fully paid.

**SO ORDERED.**<sup>24</sup>

Hence, this appeal.<sup>25</sup>

In its January 14, 2015 Resolution,<sup>26</sup> this Court required the parties to file their supplemental briefs; but both parties manifested<sup>27</sup> that they would

<sup>16</sup> Supra note 1.

<sup>17</sup> Id. at 9.

<sup>18</sup> Id. at 14-15.

<sup>19</sup> Id.

<sup>20</sup> Id. at 16.

<sup>21</sup> Id. at 17.

<sup>22</sup> Id. at 10-11.

<sup>23</sup> Id. at 18.

<sup>24</sup> Id. at 19.

<sup>25</sup> CA *rollo*, pp. 112-113.

<sup>26</sup> *Rollo*, pp. 30-31.

<sup>27</sup> Id. at 36-38 and 41-43.



no longer file the pleadings and opted to replead and adopt the arguments submitted before the CA.

### *Issue*

Consequently, the only issue for the Court's consideration is whether the CA erred in affirming Dandito's guilt beyond reasonable doubt.

### *The Court's Ruling*

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

#### ***Credibility of the victim and her testimony.***

Dandito was charged with one count of simple rape as defined under Article 266-A of the RPC, which pertinently reads:

**ART. 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;

x x x x

For a charge of rape under the abovementioned provision to prosper, the prosecution must prove that (1) Dandito had carnal knowledge of AAA; and (2) he accompanied such act by force, threat or intimidation.

The Court agrees with the findings of both the RTC and CA that carnal knowledge through threat or intimidation was established beyond reasonable doubt by the lone testimony of the victim herself. In her testimony, AAA positively identified Dandito as the man who pulled down her pants, let her lie down and inserted his penis to her vagina. AAA also categorically stated that during the incident, Dandito, who was carrying a bolo, threatened to kill her if she would tell her mother of what happened. We quote pertinent portions of AAA's testimony:

Q You said you were raped by your uncle at the land of Aida Niebres in [CCC], Nabua, in what particular place were you raped by the accused in this land of Aida Niebres?

A At the back of our house.

Q How did the accused rape you during that time, at the back of your house?



A While I was getting the heart of the banana, all of a sudden my pants were pulled down, and when I turned my back, it was Dandito Lastrollo.

Q All right, after Dandito Lastrollo pulled your pants, while you were to get the banana blossoms, what did he do next, if any?

A **I told him to let me go because I will go home, but he threatened me to hack me. And then, he let me lie down on the grass by the banana and, then, he inserted his penis into my vagina and I felt pain. It was very painful.**

Q After Dandito Lastrollo, the accused, inserted his penis to your vagina, what did he do next, if any?

A **He told me that if I will tell my mother, he would kill me.**

x x x x

Q [AAA], you said a while ago that you were abused by Dandito Lastrollo for two (2) times, you already narrated the first incident. When was the second time that the accused, Dandito Lastrollo, abused you or raped you?

A I was cooking in our house when he suddenly entered and closed the door. He covered my mouth with his hand and, then, he removed my pants.

Q [AAA], after he removed your pants, what did he do next, if any?

A **He let me lie down in our sala and, then, he inserted his penis into my vagina.**

x x x x

Q And after that, what happened next, if any?

A **He told me that if I will tell my mother, he would kill me.<sup>28</sup>**  
(Emphasis supplied)

In an attempt to exculpate himself from liability, Dandito questions AAA's credibility. According to Dandito, AAA's narration of the rape incident was too general and lacks specific details on the sexual positions showing how the supposed defloration took place, as well as, AAA's feelings and actions during the sexual intercourse, which seriously cast doubts on AAA's credibility and her claim of rape.

In *People v. Sanchez*,<sup>29</sup> the Court summarized well-established guidelines laid down by jurisprudence in addressing the issue of credibility of witnesses on appeal, *viz*:

**First**, the Court gives the highest respect to the RTC's evaluation of the testimony of the witnesses, considering its unique position in

<sup>28</sup> TSN, November 13, 2007, pp. 4-6.

<sup>29</sup> 681 Phil. 631 (2012).



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>30</sup>

In the present case, the RTC found AAA's testimony positive and categorical; that notwithstanding her immaturity with below normal understanding, AAA "testified x x x in plain language as to the sexual abuse committed upon her by the accused through force and under threat of physical harm".<sup>31</sup> The CA confirmed AAA's credibility stressing that "AAA's testimony was clear and straightforward, albeit in a simple language, and she remained steadfast even during cross-examination."<sup>32</sup>

Dandito, in turn, failed to point to any significant fact or circumstance which would justify the reversal of the foregoing findings on AAA's credibility. The details that were allegedly lacking in AAA's testimony do not affect the credibility and truthfulness of her story. The Court's pronouncement in *People v. Saludo*,<sup>33</sup> is instructive:

Rape is a painful experience which is oftentimes not remembered in detail. For such an offense is not analogous to a person's achievement or accomplishment as to be worth recalling or reliving; rather, it is something which causes deep psychological wounds and casts a stigma upon the victim, scarring her psyche for life and which her conscious and subconscious mind would opt to forget. Thus, 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>34</sup>

Dandito also finds fault in AAA's behavior after the incident, claiming that it is unnatural for someone whose dignity was supposedly ravaged to not show fear, remorse, hate or anxiety or to delay reporting the rape to the authorities.

The Court is not persuaded.

AAA's deportment after the rape does not impair her credibility nor does it negate the occurrence of the crime. There is no established singular

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<sup>30</sup> Id. at 635-636.

<sup>31</sup> CA *rollo*, p. 52.

<sup>32</sup> *Rollo*, p. 14.

<sup>33</sup> 662 Phil. 738 (2011).

<sup>34</sup> Id. at 753.



reaction to rape by all victims of this crime.<sup>35</sup> In *People v. Pareja*,<sup>36</sup> the Court ruled that:

Victims of a crime as heinous as rape, cannot be expected to act within reason or in accordance with society's expectations. It is unreasonable to demand a standard rational reaction to an irrational experience, especially from a young victim. One cannot be expected to act as usual in an unfamiliar situation as it is impossible to predict the workings of a human mind placed under emotional stress. Moreover, it is wrong to say that there is a standard reaction or behavior among victims of the crime of rape since each of them had to cope with different circumstances.<sup>37</sup>

It has likewise been judicially settled that delay in reporting an incident of rape is not an indication of fabrication and does not necessarily cast doubt on the credibility of the complainant.<sup>38</sup> This is because the victim may choose to keep quiet rather than expose her defilement to the harsh glare of public scrutiny. Only when the delay is unreasonable or unexplained may it work to discredit the complainant.<sup>39</sup>

It must be remembered here that AAA was raped by her own uncle, and threatened that she would be killed if she told her mother about what happened. A rape victim's actuations are often overwhelmed by fear rather than by reason. It is from this fear that the perpetrator builds a climate of extreme psychological terror which effectively numbs the victim to silence.<sup>40</sup> Here, the fear instilled upon AAA by Dandito's threats to her life is even more magnified by the moral ascendancy that he has over her; not to mention the proximity of their homes, which make such threat imminent and real. Thus, delay in reporting the incident is justified in this case.

#### ***Defense of denial and alibi.***

Dandito raises the defense of denial and alibi, claiming that the trial court erred in disregarding his claim that from 1998 to 2003, including the dates alleged in the Information, he did not leave his workplace at Bato Lake, Camarines Sur, which was allegedly corroborated by the testimonies of his wife and his employer.

The Court is not swayed.

For alibi to prosper, the accused must prove (a) that he was present at another place at the time of the perpetration of the crime, and (b) that it was physically impossible for him to be at the crime scene during its

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<sup>35</sup> *People v. Ramos*, G.R. No. 200077, September 17, 2014, 735 SCRA 466, 488.

<sup>36</sup> 724 Phil. 759 (2014).

<sup>37</sup> Id. at 778-779.

<sup>38</sup> *People v. Basallo*, 702 Phil. 548, 574 (2013).

<sup>39</sup> *People v. Navarette, Jr.*, 682 Phil. 651, 667 (2012).

<sup>40</sup> *People v. Lantano*, 566 Phil. 628, 632 (2008).



commission.<sup>41</sup> Physical impossibility refers to distance and the facility of access between the scene of the crime and the location of the accused when the crime was committed. In other words, the accused must demonstrate that he was so far away and could not have been physically present at the scene of the crime and its immediate vicinity when the crime was committed.<sup>42</sup>

In this case, however, Dandito miserably failed to do so. By his own admission, the distance between his workplace, where Dandito allegedly stayed from 1998 to 2003, and AAA's house in Brgy. CCC, where the rape incidents were committed, could be traversed within an hour by bicycle or less than an hour by motorized vehicle.<sup>43</sup> Thus, it was not physically impossible for Dandito to have been at the scene of the crime when the rape against AAA was committed.

Dandito's alibi is further belied by his testimony on sur-rebuttal where he revealed that he actually goes home once a month to bring fish to his children and then goes back to Bato Lake after an hour.<sup>44</sup>

Verily, this Court has repeatedly ruled that both denial and *alibi* are inherently weak defenses that cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime. Thus, as between a categorical testimony, which has a ring of truth on one hand, and a mere denial and *alibi* on the other, the former is generally held to prevail.<sup>45</sup>

All told, the CA did not err in affirming the RTC's decision finding Dandito guilty beyond reasonable doubt of the crime of rape.

### ***Penalty, Civil Indemnity and Damages***

As for the imposable penalty, Article 266-B of the RPC provides that the crime of simple rape shall be punished by *reclusion perpetua* but death penalty shall be imposed "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."

In the instant case, while Dandito admitted that AAA is his niece, the Information failed to allege that they are relatives within the third civil degree of affinity. Our pronouncement in *People v. Libo-on*<sup>46</sup> is instructive:

<sup>41</sup> *People v. Federico De La Cruz y Santos*, G.R. No. 207389, February 17, 2016, p. 7.

<sup>42</sup> *People v. Bravo*, 695 Phil. 711, 728 (2012).

<sup>43</sup> TSN, August 10, 2009, pp. 5-8.

<sup>44</sup> TSN, July 19, 2011, p. 6.

<sup>45</sup> *People v. Gersamio*, G.R. No. 207098, July 8, 2015, 762 SCRA 390, 407.

<sup>46</sup> 410 Phil. 378 (2001).



It is well-settled that this attendant circumstance, as well as the other circumstances introduced by Republic Act Nos. 7659 and 8493 are in the nature of qualifying circumstances. These attendant circumstances are not ordinary aggravating circumstances which merely increase the period of the penalty. Rather, these are special qualifying circumstances which must be specifically pleaded or alleged with certainty in the information; otherwise, the death penalty cannot be imposed.

In this regard, we have previously held that if the offender is merely a relation — not a parent, ascendant, step-parent, or guardian or common-law spouse of the mother of the victim — it must be alleged in the information that he is “a relative by consanguinity or affinity (as the case may be) within the third civil degree.” Thus, in the instant case, the allegation that accused-appellant is the uncle of private complainant is not specific enough to satisfy the special qualifying circumstance of relationship. The relationship by consanguinity or affinity between appellant and complainant was not alleged in the information in this case. Even if it were so alleged, it was still necessary to specifically allege that such relationship was within the third civil degree.<sup>47</sup>

As regards AAA’s minority, while the Information sufficiently alleged AAA’s minority, records are devoid of any proof of AAA’s age at the time of the incident.

In *People v. Buado, Jr.*,<sup>48</sup> the Court reiterated the following guidelines in appreciating age as an element of the crime or as an aggravating or qualifying circumstance:

In order to remove any confusion that may be engendered by the foregoing cases, we hereby set the following guidelines in appreciating age, either as an element of the crime or as a qualifying circumstance.

1. The best evidence to prove the age of the offended party is an original or certified true copy of the certificate of live birth of such party.
2. In the absence of a certificate of live birth, similar authentic documents such as baptismal certificate and school records which show the date of birth of the victim would suffice to prove age.
3. If the certificate of live birth or authentic document is shown to have been lost or destroyed or otherwise unavailable, the testimony, if clear and credible, of the victim's mother or a member of the family either by affinity or consanguinity who is qualified to testify on matters respecting pedigree such as the exact age or date of birth of the offended party pursuant to Section 40, Rule 130 of the Rules on Evidence shall be sufficient under the following circumstances:

- a. If the victim is alleged to be below 3 years of age and what is sought to be proved is that she is less than 7 years old;

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<sup>47</sup> Id. at 406-407.

<sup>48</sup> 701 Phil. 72 (2013), citing *People v. Pruna*, 439 Phil. 440, 470-471 (2002).



b. If the victim is alleged to be below 7 years of age and what is sought to be proved is that she is less than 12 years old;

c. If the victim is alleged to be below 12 years of age and what is sought to be proved is that she is less than 18 years old.

4. In the absence of a certificate of live birth, authentic document, or the testimony of the victim's mother or relatives concerning the victim's age, the complainant's testimony will suffice provided that it is expressly and clearly admitted by the accused.

5. It is the prosecution that has the burden of proving the age of the offended party. The failure of the accused to object to the testimonial evidence regarding age shall not be taken against him.

6. The trial court should always make a categorical finding as to the age of the victim.<sup>49</sup>

Here, the prosecution did not offer in evidence AAA's birth certificate or any authentic document showing her birth date; neither did the prosecution present any witness to testify on AAA's age at the time of the commission of the crime. While AAA stated that she was 17 years old at the time of the taking of her testimony, the same will not suffice because it was not clearly and expressly admitted by the accused.

In sum, considering that the qualifying circumstances of minority and third degree relationship were not duly established, the RTC and the CA were correct in convicting Dandito of simple rape and imposing the penalty of *reclusion perpetua*.

As to the award of damages, the Court deems it proper to modify the CA's award pursuant to the Court's recent ruling in *People v. Jugueta*.<sup>50</sup> Therefore, AAA is entitled to ₱75,000.00 as civil indemnity; ₱75,000.00 as moral damages; and ₱75,000.00 as exemplary damages. All damages awarded shall earn interest at the rate of 6% *per annum* from date of finality of this judgment until fully paid.

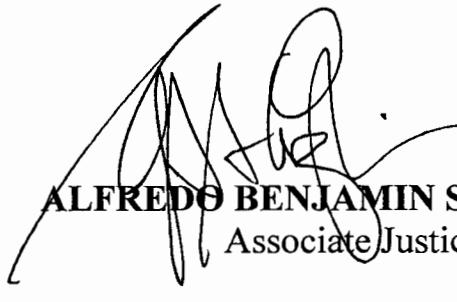
**WHEREFORE**, in view of the foregoing, the appeal is **DISMISSED** for lack of merit. The Decision dated October 17, 2013 of the Court of Appeals in CA-G.R. CR-HC No. 05449 is **AFFIRMED with MODIFICATIONS** as to the civil damages: (1) Seventy-Five Thousand Pesos (₱75,000.00) as civil indemnity, (2) Seventy-Five Thousand Pesos (₱75,000.00) as moral damages, and (3) Seventy-Five Thousand Pesos (₱75,000.00) as exemplary damages. All monetary awards shall earn interest at the legal rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.

<sup>49</sup> Id. at 93.

<sup>50</sup> G.R. No. 202124, April 5, 2016.



**SO ORDERED.**

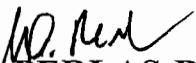
  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

WE CONCUR:

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

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

#### **CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, 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