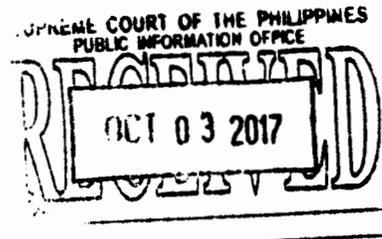




Republic of the Philippines  
**Supreme Court**  
 Manila



**FIRST DIVISION**

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

**G.R. No. 215730**

- versus -

Present:

SERENO, *C.J., Chairperson,*  
 LEONARDO-DE CASTRO,  
 DEL CASTILLO,  
 TIJAM, *and*  
 REYES, *\* JJ.*

**MELCHOR PANES y MAGSANOP,**  
*Accused-Appellant.*

Promulgated:

**SEP 11 2017**

X-----X

**DECISION**

**DEL CASTILLO, J.:**

Melchor Panes y Magsanop (appellant) appeals from the Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05909 dated March 19, 2014, finding him guilty of three (3) counts of qualified rape, the dispositive portion of which reads:

WHEREFORE, premises considered, the instant appeal is DENIED. The assailed Decision dated October 25, 2012 of the RTC, Branch 70, Iba, Zambales in Criminal Cases Nos. RTC-4420-I, RTC-4421-I, and RTC-4422-I is hereby AFFIRMED with MODIFICATION that the award of exemplary damages is increased to ₱30,000.00 for each count of Qualified Rape.

No costs.

SO ORDERED.<sup>2</sup>

\* Per September 6, 2017 raffle vice J. Jardeleza who recused due to prior action as Solicitor General.  
<sup>1</sup> CA rollo, pp. 103-126; penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Eduardo B. Peralta, Jr.  
<sup>2</sup> Id. at 125.

***Factual Antecedents***

On May 18, 2005, the Office of the Provincial Prosecutor of Zambales indicted the appellant for qualified rape under three separate Informations. Docketed as Criminal Case No. RTC-4420-I, Criminal Case No. RTC-4421-I and Criminal Case No. RTC-4422-I, the accusatory portion of each Information states

**Criminal Case No. RTC-4420-I<sup>3</sup>**

That on or about the 22<sup>nd</sup> day of September 2003, in Sitio Tumangan, Brgy. San Juan, Municipality of Botolan, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with lewd design, through threat, force, influence and violence, did then and there willfully, unlawfully and feloniously have sexual intercourse with and carnal knowledge of his own daughter, 13-year old minor ["AAA"], to the damage and prejudice of said minor ["AAA"].

CONTRARY TO LAW.

**Criminal Case No. RTC-4421-I<sup>4</sup>**

That on or about the 15th day of October 2004, at about 12:00 midnight in Sitio Tumangan, Brgy. San Juan, Municipality of Botolan, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with lewd design, through threat, force, influence and violence, did then and there willfully, unlawfully and feloniously have sexual intercourse with and carnal knowledge of his own daughter, 13-year old minor ["AAA"], to the damage and prejudice of said minor ["AAA"].

CONTRARY TO LAW.

**Criminal Case No. RTC-4422-I<sup>5</sup>**

That in or about the month of September 2003, in Sitio Tumangan, Brgy. San Juan, Municipality of Botolan, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with lewd design, through threat, force, influence and violence, did then and there willfully, unlawfully and feloniously have sexual intercourse with and carnal knowledge of his own daughter, 13-year old minor ["AAA"], to the damage and prejudice of said minor ["AAA"].

CONTRARY TO LAW.



<sup>3</sup> Records, Vol. I, p. 2.

<sup>4</sup> Records, Vol. II, p. 2.

<sup>5</sup> Records, Vol. III, p. 2.

All three cases were consolidated and heard by Branch 70 of the RTC of Iba, Zambales. During arraignment, appellant pleaded “not guilty” to all three charges.<sup>6</sup>

During the preliminary conference, the parties stipulated on the identity of the appellant; the identity of the private complainant “AAA;” that “AAA” is the daughter of the appellant; that “AAA” was born on January 16, 1991, as shown in her birth certificate; and that before the institution of these criminal cases, appellant and “AAA” and her siblings were living together under one roof at Sitio Tumangan, San Juan, Botolan, Zambales.<sup>7</sup>

Trial on the merits ensued.

“AAA” testified on the three occasions when she was ravished by her father. She narrated that on September 22, 2003, after her father assisted her mother in giving birth, the former went upstairs where she was sleeping together with her siblings. Sensing that somebody was holding her thigh, “AAA” woke up and saw her father. Appellant held her thigh, removed her panty, and then embraced her. “AAA,” although afraid, tried to remove appellant’s hold on her thigh but was unsuccessful. Appellant then undressed and proceeded to have carnal knowledge of her. “AAA” felt pain.

Three days later, appellant again raped “AAA.” According to “AAA,” she and her father were on their way home and while passing by a creek, appellant pushed her towards a big rock, removed her clothes, inserted his penis into her vagina, then made push and pull movements. “AAA” was shocked as she was not expecting her father to rape her in such a place.

The third ravishment was committed inside their house. Appellant first embraced “AAA” then pushed her to the floor. “AAA” tried to resist but her effort proved futile. Appellant succeeded in removing her panty and inserted his penis into her vagina.

The trial court found “AAA’s” testimony to be candid and straightforward, even during cross-examination. It also held that it was unlikely for “AAA” to fabricate such a serious charge against her own father. On the other hand, the RTC did not lend credence to appellant’s denial and alibi because aside from being a weak defense, appellant did not offer any other evidence to substantiate the same.



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<sup>6</sup> Records, Vol. I, p. 17.

<sup>7</sup> Id. at 19.

Against this backdrop, the RTC ruled for the prosecution, finding no merit at all in the appellant's plea of denial, thus —

In [r]ape cases, the relationship of the victim to the accused and the minority of the victim are special qualifying circumstances which must be alleged and proved by the prosecution. These were clearly established by the prosecution by the presentation of the birth certificate of the minor victim showing that she was born on 16 January 1991 and her father is Melchor Panes and this was not rebutted by the defense.

When the victim of rape is under 18 years of age and the offender is a parent, such as in these cases, the death penalty shall be imposed. However, in view of the enactment of R.A. No. 9345, an [A]ct prohibiting the imposition of death penalty, accused Panes can only be sentenced to *reclusion perpetua* for each count of qualified rape under Art. 266-B of the Revised Penal Code.

Consistent with prevailing jurisprudence, accused should likewise be held liable for each count of qualified rape, to pay the complaining witness the amount of [P]75,000.00 as civil indemnity and the amount of [P]75,000.00 as moral damages.

Exemplary damages in the amount of [P]25,000.00 for each count of qualified rape must also be awarded in view of the special qualifying circumstance[s] of minority and relationship as a measure to help deter fathers with perverse tendencies and aberrant sexual behavior for preying upon and sexually abusing their daughters (People vs. Luisito Baun, G.R. No. 167503, 10 August 2008).<sup>8</sup>

Inevitably, the RTC disposed as follows —

IN VIEW THEREOF, accused MELCHOR PANES y MAGSANOP is found GUILTY beyond reasonable doubt of three (3) counts of qualified rape and is sentenced to suffer the penalty of *Reclusion Perpetua* for each count and without possibility of parole.

Further, accused is ordered to pay private complainant civil indemnity of Php75,000.00 for each case, Php75,000.00 as moral damages for each case and exemplary damages in the amount of Php25,000.00 for each case.<sup>9</sup>

Dissatisfied with the RTC's verdict, the appellant went up to the CA on this sole assignment of error —

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THREE (3) COUNTS OF QUALIFIED RAPE

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<sup>8</sup> Id. at 430.

<sup>9</sup> Id. at 430-431.



DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.<sup>10</sup>

The CA denied the appeal, refuting point-by-point the arguments advanced in support thereof by the appellant, viz.:

The appeal lacks merit.

x x x x

In seeking his acquittal, accused-appellant Panes contends in the instant appeal that: private complainant AAA's testimony is unconvincing, speculative, and incredible; there were times when private complainant AAA failed to answer the questions of the prosecutor; the examining physician found no external laceration, swelling, or hematoma on private complainant AAA's external genitalia; and, there is doubt as to whether she fully understood the meaning of what she testified on.

After a careful and thorough review of the facts of the case, as well as the law and jurisprudence pertinent thereto, this Court affirms accused-appellant Panes' conviction for three (3) counts of Qualified Rape which he committed against his own daughter, private complainant AAA.

x x x x

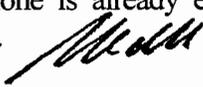
The three (3) counts of Qualified Rape for which accused-appellant Panes was convicted transpired on: (1) September 22, 2003, when her mother BBB had recently given birth; (2) a few days after September 22, 2003, near the creek, and, (3) in the evening of October 15, 2004, after a quarrel between private complainant AAA's parents.

x x x x

The testimony of private complainant AAA that she was raped x x x coincides with the findings of Dr. Fernando Igrobay in his Medicolegal Report dated November 14, 2003, wherein he found old lacerations around the inner vaginal wall at all positions. x x x

x x x x

The rule is well-settled that youth and immaturity are badges of truth and sincerity. It is highly improbable for an innocent girl such as private complainant AAA, who is very naïve [in] the ways of this world, to fabricate a charge so humiliating not only to herself but to her family. With that in mind, this Court finds no cogent reason to discredit the above-quoted testimony of private complainant AAA. The fact remains that there was a categorical declaration from the victim that she was ravished by her father several times. It should be emphasized that this alone is already enough to sustain the charges against accused-appellant Panes.



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<sup>10</sup> CA rollo, p. 42.

X X X X

Accused-appellant Panes points out that there were times when private complainant AAA failed to answer questions from the prosecution when she was asked regarding the subject incidents. Be that as it may, this Court finds that such failure to answer when private complainant AAA initially testified in this case is not fatal to the prosecution and does not destroy her credibility. Since human memory is fickle and prone to the stresses of emotions, accuracy in a testimonial account has never been used as a standard in testing the credibility of a witness.

It may be well to note that the alleged reluctance of private complainant AAA to testify only happened during the initial stage of her direct examination. Needless to state, her age, level of intelligence, and mental capacity should be taken into account, not to mention psychological stress. Private complainant AAA is a child who stopped in her studies and reached only Grade III. Further, it is not uncommon for a young rural lass such as private complainant AAA to be initially hesitant to disclose how she was ravished, which is a painful experience. Throughout her entire testimony, private complainant AAA kept mentioning that she was afraid of her father. It is not farfetched to say that in trying to recall what happened, the fear and trauma which she experienced for so many years having lived under the same roof as his [sic] tormentor, was suddenly relived, especially as accused-appellant Panes was brought face to face with her when she testified. Besides, there was only a mere failure to answer the initial questions propounded, which should not be equated with glaring contradictions and inconsistencies. Indeed, rape is a harrowing experience which the victim might in fact be trying to forget, more so in this case as private complainant AAA's violator is her own father.

X X X X

Relatedly, anent intimidation as an element of the crime of Rape, such must be viewed in the light of the perception of the victim at the time of the commission of the crime. The Supreme Court has previously observed that victims of tender age are easily intimidated and cowed into silence even by the mildest threat against their lives. Here, private complainant AAA disclosed that her father held her by the neck and threatened to kill her. Accused-appellant Panes, at times, held a knife. Private complainant AAA described her father as having red eyes, drunk, and had a sharp look at her whenever they were in their house. It is thus evident that she was in an intimidating environment as she lived with her debaucher.

X X X X

On another point, accused-appellant Panes, in his *Sinumpaang Salaysay* as well as his testimony, harps on the defense that he could not have raped private complainant AAA on October 15, 2004 as all of his children were there in the house. The thrust of accused-appellant Panes' argument, however, has long been rejected in jurisprudence. Time and again, it has been said that lust is no respecter of place and time. It is not necessary that the place where the rape is committed be isolated. Rapists are not deterred from committing their odious acts by the presence of people nearby. Neither the crampedness of the room, nor the presence of other people therein, nor the high risk of being caught, has been held sufficient and effective obstacle to deter the commission of rape. There have

been too many instances when rape was committed under circumstances as indiscreet and audacious as a room full of family members sleeping side by side.

X X X X

Anent the *Sinumpaang Salaysay* purportedly executed by BBB, CCC, and private complainant AAA's siblings, the same are devoid of any weight or probative value. Despite being faced with three (3) counts of qualified rape, each punishable by *reclusion perpetua* without the benefit of parole, quite telling is the fact that none of these supposed affiants, who are relatives of accused-appellant Panes, was ever presented in court to testify and corroborate his already weak defense.

It should be emphasized that BBB herself assisted her daughter and even signed private complainant AAA's *Sinumpaang Salaysay*. BBB's sudden turnaround that she merely made up the story that her husband raped her daughter is flimsy and tenuous. It is a mere afterthought which should not be given probative value. Indeed, retractions are generally unreliable and are looked upon with disfavor by the courts. x x x

X X X X

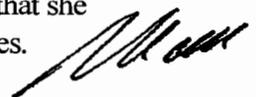
This Court could only imagine private complainant AAA's hardship and misery, that after being raped several times by her own father, her mother, BBB, from whom she should draw strength, abandoned her in her quest for justice. To the mind of this Court, that private complainant AAA remained unwavering and determined despite the withdrawal of her family's support, speaks volumes of her credibility.

X X X X

Accused-appellant Panes' contention that no external laceration, swelling, or hematoma was found on private complainant AAA's genitalia deserves scant consideration. To reiterate, in the Medicolegal Report dated November 14, 2003, Dr. Fernando Igrobay noted old lacerations around the inner vaginal wall at all positions. At that time, private complainant AAA was examined for five (5) rape incidents that transpired from July 2003 to November 2003. Dr. Ernesto Domingo later observed a healed laceration at 9:00 o'clock position and that private complainant AAA's physical virginity was lost. Contrary to the stance of accused-appellant Panes, these medical findings are in fact consistent with private complainant AAA's allegations that she was raped by her father on the alleged dates.

In any case, it bears emphasis that hymenal laceration is not an element of rape. Otherwise stated, the presence of lacerations in the victim's vagina is not necessary to prove rape. It is not necessary to show that the victim had a reddening of the external genitalia or sustained a hematoma on other parts of her body to sustain the possibility of a rape charge.

Anent the qualifying circumstances of minority and relationship, both were averred in the informations and admitted by the defense. Private complainant AAA's Birth Certificate, duly presented in evidence, shows that she was born on January 16, 1991 and that her father is accused-appellant Panes.



Furthermore, this Court affirms the award of civil indemnity and moral damages as decreed by the lower court. However, the award of exemplary damages should be increased to ₱30,000.00 for each count, to conform with recent jurisprudence.<sup>11</sup>

Dissatisfied with the CA's pronouncement, appellant filed a Notice of Appeal.<sup>12</sup> On April 15, 2015, the Court resolved to require the parties to submit their respective supplemental briefs.<sup>13</sup> However, in separate Manifestations,<sup>14</sup> both parties opted to adopt the briefs they submitted before the appellate court.

### Our Ruling

The appeal lacks merit.

The CA's verdict is in full accord with the evidence on record. It is beyond cavil that appellant had carnal knowledge of "AAA" on three separate occasions and the same were committed through force, threat, or intimidation. Appellant also used his moral ascendancy to cow "AAA" to submit to his bestial desires. It is also undisputed that it was properly alleged in the three Informations and proved during trial that appellant is the father of "AAA," a 13-year-old minor at the time of the rape incidents. Undoubtedly, appellant committed the crime of qualified rape (three counts). Both the trial court and the CA therefore properly sentenced him to suffer the penalty of *reclusion perpetua* for each count of qualified rape but without eligibility of parole.

However, the amount of damages awarded must be modified. In line with prevailing jurisprudence, the awards of civil indemnity, moral damages, and exemplary damages are increased to ₱100,000.00 each.<sup>15</sup> In addition, all damages awarded shall earn interest at the rate of 6% *per annum* from date of finality of this Decision until full payment.<sup>16</sup>

**WHEREFORE**, the appeal is **DISMISSED**. The March 19, 2014 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 05909 finding appellant Melchor Panes y Magsanop **GUILTY** of three (3) counts of Qualified Rape and sentencing him to suffer the penalty of *reclusion perpetua* for each count is **AFFIRMED with MODIFICATIONS** that the amounts of civil indemnity, moral damages, and exemplary damages, are each increased to ₱100,000.00 for each count, all with interest at the rate of 6% *per annum* from date of finality of this Decision until full payment.

<sup>11</sup> Id. at 109-125.

<sup>12</sup> *Rollo*, p. 26.

<sup>13</sup> Id. at 31.

<sup>14</sup> Id. at 32-41.

<sup>15</sup> *People v. Jugueta*, G.R. No. 202124, April 5, 2016, 788 SCRA 331, 382-383.

<sup>16</sup> Id. at 388.

**SO ORDERED.**

  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

WE CONCUR:

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

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

  
**NOEL GIMENEZ TIJAM**  
*Associate Justice*

  
**ANDRES B. REYES, JR.**  
*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*