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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
MAR 09 2018

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

- versus -

JOSEPH AGALOT *Y* RUBIO,
Accused-Appellant.

G.R. No. 220884

Present:

VELASCO, JR., *J.*,
Chairperson,
BERSAMIN,
LEONEN,
MARTIRES, and
GESMUNDO, *JJ.*

Promulgated:

February 21, 2018

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DECISION

MARTIRES, *J.*:

This resolves the appeal of accused-appellant Joseph Agalot *y* Rubio from the 13 July 2015 Decision[1] of the Court of Appeals *(CA)*, Twenty-Second Division, in CA G.R. CR-H.C. No. 01204-MIN which affirmed the 24 April 2013 Judgment[2] of the Regional Trial Court *(RTC)*, Branch 7, Dipolog City, in Criminal Case No. 11118 finding him guilty of Rape in relation to Republic Act *(R.A.)* No. 7610, as amended.

THE FACTS

Accused-appellant was charged with rape in relation to R.A. No. 7610 committed as follows:

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1 *Rollo*, pp. 3-19. Penned by Associate Justice Rafael Antonio M. Santos and concurred in by Associate Justices Edgardo A. Camello and Henri Jean Paul B. Inting.

2 Records, pp.117-128. Penned by Judge Rogelio D. Laquihon.

> That on April 7, 2002 at about 3:00 o'clock in the afternoon, at Sitio Bacanan, Maria Cristina, Dapitan City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with lewd design and by means of force and intimidation did then and there willfully, unlawfully, and feloniously have carnal knowledge with one AAA, a girl 12 years of age without her consent and against her will.
>
> CONTRARY TO LAW.[3]

When arraigned, accused-appellant pleaded not guilty; hence, trial on the merits ensued.

To prove its case, the prosecution presented AAA and Dr. Ramonita Mandin *(Dr. Mandin)* of the Dr. Jose Rizal Memorial Hospital, Dapitan City.

For the defense, accused-appellant and Nonito Palpagan *(Palpagan)* testified.

Version of the Prosecution

When her parents separated, AAA,[4] who was only six years old, was left by her father at the house of his sister BBB and her spouse CCC to take care of their crippled grandson, DDD. Accused-appellant is the father of DDD.[5]

On 7 April 2002 at about 3:00 p.m., AAA, then already twelve years old, was left at home with accused-appellant, DDD, and her nephews and nieces. AAA was taking care of the child of accused-appellant's sister when accused-appellant told her to get a calendar from his brother's house. AAA complied but unknown to her accused-appellant had followed her to his brother's house. Accused-appellant then told AAA to go upstairs but when she refused, he dragged her upstairs, which incident was witnessed by EEE, a niece. When the accused-appellant and AAA were inside a room on the second floor, DDD told the accused-appellant that he would tell CCC about this.[6]

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3 Id. at 1.

4 The true name of the victim has been replaced with fictitious initials in conformity with Administrative Circular No. 83-2015 (Subject: *Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances*). The confidentiality of the identity of the victim is mandated by Republic Act (R.A.) No. 7610 ("*Special Protection of Children Against Abuse, Exploitation and Discrimination Act*"); R.A. No. 8508 ("*Rape Victim Assistance and Protection Act of 1998*"); R.A. No. 9208 ("*Anti-Trafficking in Persons Act of 2003*"); R.A. No. 9262 ("*Anti-Violence Against Women and their Children Act of 2004*"); and R.A. No. 9344 ("*Juvenile Justice and Welfare Act of 2006*").

5 TSN, 10 December 2002, p. 8.

6 Id. at 3-5 and 13.

The accused-appellant, then armed with a hunting knife, made AAA lie down and if she refused, he threatened that he would stab her. After AAA lay down, accused-appellant removed his clothes, undressed her, and mounted her. While holding the knife, he inserted his penis into her vagina and made a push and pull movement. AAA cried because she felt pain. After having carnal knowledge of AAA, accused-appellant left.[7]

AAA told BBB and CCC that their son, accused-appellant, raped her but they did not believe her. AAA proceeded to accused-appellant's sister, FFF, and told her what had happened. FFF and her husband accompanied AAA to the hospital for a medical examination.[8]

The physical examination conducted on AAA by Dr. Mandin showed the following:

> P.E.- Linear abrasion at midclavicular line, 4th ICS, left
>
> Perineal Exam:
> Vulva – Erythema noted, at rt. and left labia majora
> Abrasion noted at 4 o'clock position
> Admits examining finger (little finger) with pain
> Cervical swab sent for spermatozoa examination
> RESULT: Negative[9]

Version of the Defense

According to the accused-appellant, on 7 April 2002, at about 3:00 p.m., he was in his house together with his two children, nephews, nieces, and AAA. He was then cooking bananas when he asked AAA to fetch water. She complied but when it took her a long time to come back, he went out and found her at the basketball court where she was playing with her slippers. He got a guava branch which he used to whip her but because she still did not want to go home, he dragged her towards the house.[10]

For his part Palpagan testified that CCC was his friend thus, he knew accused-appellant. On 7 April 2002 at about 1:00 p.m., he and the accused-appellant rode a *habalhabal* going to the cockpit. Upon arriving there, he went inside while the accused-appellant stayed outside. At around 5:00 p.m. and after having won at the cockfight, he, together with the accused-appellant and Bernardo Cadoc, proceeded to Bagting to buy chicken feeds and thereafter to a videoke house for drinks. They were done drinking at 9:00 p.m. and by 12:00 midnight they went to the house of his uncle,

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7 Id. at 5-7.
8 Id. at 7.
9 Records, p. 31, Exh. "A."
10 TSN, 22 March 2005, pp. 5-6.

Melchor Palpagan *(Melchor),* with the intent to continue their drinking spree. A few minutes thereafter, the policemen came and arrested the accused-appellant.[11]

The Ruling of the RTC

The RTC held that the prosecution was able to prove that the accused-appellant had carnal knowledge of AAA against her will or without her consent through force. It held the fact that AAA testified that she felt pain when she was raped by the accused-appellant could only mean there was penetration by the penis of her vagina. Moreover, AAA's testimony was corroborated by the findings of Dr. Mandin who conducted the medical examination within twenty-four hours from the time the incident took place. The RTC further held that the prompt filing of the case against the accused-appellant was an indication that AAA's accusation was true. AAA's testimony was consistent throughout the trial and replete with details which only a real victim of sexual assault could narrate.[12]

On the one hand, accused-appellant simply denied the accusation against him contrary to the testimony of Palpagan. The RTC resolved the case against accused-appellant as follows:

> WHEREFORE, judgment is hereby rendered finding accused Joseph R. Agalot guilty beyond reasonable doubt as principal by direct participation of the crime of simple rape committed against AAA under paragraph (1)(a), Art. 266-A of the Revised Penal Code, as amended. Consequently, he is hereby sentenced to suffer the penalty of *reclusion perpetua*. He is further ordered to pay the private complainant the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱25,000.00 as exemplary damages. With costs against the accused.
>
> SO ORDERED.[13]

Aggrieved with the decision of the RTC, the accused-appellant appealed to the CA.

The Ruling of the CA

The CA ruled that the appeal lacked merit. It held that all the elements of the offense charged were sufficiently proven by the prosecution. It held that the evidence on record supports the judgment of conviction of the accused-appellant of the offense charged. Thus, the dispositive portion of the CA's decision reads:

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11 TSN, 29 June 2010, pp. 3-6.
12 Records, pp.122-125.
13 Id. at 128.

WHEREFORE, the foregoing considered, the appeal is hereby DENIED. The assailed Judgment of the trial court is AFFIRMED *in toto*.

SO ORDERED.[14]

ISSUE

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

OUR RULING

The appeal is without merit.

The findings of the trial court when affirmed by the appellate court are binding with the Court.

It is well-settled that the factual findings and evaluation of witnesses' credibility and testimony should be entitled to great respect unless it is shown that the trial court may have overlooked, misapprehended, or misapplied any fact or circumstance of weight and substance.[15] The assessment of the credibility of witnesses is a task most properly within the domain of trial courts.[16] The rule is even more strictly applied if the appellate court has concurred with the trial court.[17] As amply explained by the Court:

> Time and again, we have held that when it comes to the issue of credibility of the victim or the prosecution witnesses, the findings of the trial courts carry great weight and respect and, generally, the appellate courts will not overturn the said findings unless the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which will alter the assailed decision or affect the result of the case. This is so because trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying, their demeanor and behavior in court. Trial judges enjoy the advantage of observing the witness' deportment and manner of testifying, her "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath" - all of which are useful aids for an accurate determination of a witness' honesty and sincerity. Trial judges,

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[14] *Rollo*, p. 19.

[15] *People v. Francica*, G.R. No. 208625, 6 September 2017.

[16] *People v. Gerola*, G.R. No. 217973, 19 July 2017.

[17] *People v. Labraque*, G.R. No. 225065, 13 September 2017.

> therefore, can better determine if such witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies. Again, unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case, its assessment must be respected, for it had the opportunity to observe the conduct and demeanor of the witnesses while testifying and detect if they were lying. The rule finds an even more stringent application where the said findings are sustained by the Court of Appeals.[18]

Strictly conforming with the three (3) guiding principles in reviewing rape cases, *viz: (a)* an accusation of rape can be made with facility, and while the accusation is difficult to prove, it is even more difficult for the person accused, although innocent, to disprove; *(b)* considering the intrinsic nature of the crime, only two persons being usually involved, the testimony of the complainant should be scrutinized with great caution; and *(c)* the evidence for the prosecution must stand or fall on its own merit, and cannot be allowed to draw strength from the weakness of the evidence for the defense,[19] the Court undertook a scrupulous review of the records of this case but found nothing that would validly support a conclusion that the trial and the appellate courts had overlooked, misapprehended, or misapplied any fact or circumstance of weight and substance that would justify it not to accord weight and respect to these courts' factual findings.

The elements of rape were sufficiently proven by the prosecution.

For a charge of rape under Article 266-A(1)[20] of Republic Act *(R.A.)* No. 8353[21] to prosper, it must be proven that: (1) the offender had carnal knowledge of a woman, and (2) he accomplished such act through force or intimidation, or when she was deprived of reason or otherwise unconscious, or when she was under 12 years of age or was demented. The gravamen of rape under Article 266-A (1) is carnal knowledge of a woman against her will or without her consent.[22] On the one hand, jurisprudence[23] imparts the following definitions of "force" and "intimidation," to wit:

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18 *People v. Gerola*, supra note 16.

19 *People v. Rubillar*, G.R. No. 224631, 23 August 2017.

20 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.

21 Entitled "An Act Expanding the Definition of the Crime of Rape, Reclassifying the same as a Crime Against Persons, Amending for the Purpose Act No. 3815, as amended, otherwise known as the Revised Penal Code, and for Other Purposes" dated 30 September 1997.

22 *People v. Corpuz*, G.R. No. 208013, 3 July 2017.

23 *People v. Tionloc*, G.R. No. 212193, 15 February 2017.

> Force, as an element of rape, must be sufficient to consummate the purposes which the accused had in mind. On the other hand, intimidation must produce fear that if the victim does not yield to the bestial demands of the accused, something would happen to her at that moment or even thereafter as when she is threatened with death if she reports the incident. "Intimidation includes the moral kind as the fear caused by threatening the girl with a knife or pistol." (citations omitted)

That the offender had carnal knowledge of AAA and that he was able to accomplish his act through force and intimidation was established through the following testimony of AAA, to wit:

> Q. At about 3:00 o'clock in the afternoon of April 7, 2002, what happened?
> A. At that time I was taking care of the baby in the cradle, after that, he told me to get the calendar from the other house.
>
> Q. You mean, there is another house aside from the house you are staying?
> A. Yes, sir.
>
> Q. How far is the house from BBB?
> A. Very near.
>
> Q. Can you point from where you are sitting?
> A. More or less 15 meters away.
>
> Q. And by the way, you said you were taking care of the child, rocking the cradle, whose baby was that?
> A. The baby of the sister of Joseph.
>
> x x x x
>
> Q. You said he commanded you to get the calendar from the other house, did you heed his request?
> A. Yes, sir.
>
> Q. **When you were there what happened?**
> A. **He wanted me to go upstairs.**
>
> Q. **Did you go upstairs?**
> A. **No, sir.**
>
> Q. **Why?**
> A. **He wanted me to go upstairs but I don't want to go with him but he dragged me towards the back of the house.**
>
> x x x x
>
> Q. So you go to the house, where did you proceed when he brought you upstairs?
> A. Inside the room.
>
> x x x x

Q. You said he brought you there, did you consent that you should be brought there?
A. If I will not follow, I [was] also afraid of him.

Q. **Why?**
A. **Because he has a knife.**

Q. **He has a knife?**
A. **Yes, sir.**

Q. **He forcibly brought you there?**
A. **Yes, sir.**

Q. **Did he hold your hand?**
A. **Yes, sir.**

x x x x

Q. **When you were inside the room, what did he do to you?**
A. **He let me lie down.**

Q. **Did you heed his command?**
A. **If I will not follow his order, he [will] really stab me.**

Q. **Did he say to you that if you will not follow, he will stab you?**
A. **Yes, sir.**

Q. Because of that, you lie down?
A. Yes, sir.

Q. Then what did he do next?
A. He took off his clothes.

Q. What else did he take off?
A. He took off his pants and briefs.

Q. After he took off his pants and brief, what did he do to you?
A. He also undressed me.

Q. What were you wearing at that time?
A. Shirt.

Q. He took off your panty?
A. Yes, sir.

Q. Did he succeed in removing your panty?
A. Yes, sir.

Q. **After that, what did he do?**
A. He mounted me.

Q. **What else did he do?**
A. **He placed his penis inside my vagina.**

Q. **What did you feel then?**
A. **I felt pain.**

Q. **Why?**
A. **I felt pain on my vagina because he inserted his penis inside my vagina.**

Q. **You mean to say that he was able to penetrate?**
A. **Yes, sir.**

Q. **When you felt that his organ was able to enter your private part, what did he do?**
A. **He made a push and pull movement.**

Q. **How long did he do that when you say that he made a push and pull movement?**
A. **It took him a long time to make a push and pull movement and afterwards, he went out.**

Q. **You mean, he was able to have his organ penetrated in your private part?**
A. **Yes, sir.**

Q. How about when he was making a push and pull movement?
A. I also cried because it was very painful.

Q. Were you able to say something?
A. I did not say anything because he did not allow me to say anything.

Q. **When he was mounting you and let his penis enter your private part, where was his knife at that time?**
A. **He was holding it.**[24] (emphases supplied)

The basic rule is that when a victim's testimony is credible and sufficiently establishes the elements of the crime, it may be enough basis to convict an accused of rape.[25] The records reveal that the testimony of AAA, though she was only a child, was full of details which she credibly narrated because these were the truth. Mindful that the identity of the offender is crucial in the success of the prosecution of an offense,[26] the Court notes AAA's unshakable and consistent positive identification of the accused-appellant as the one who raped her despite the gruelling cross-examination by the defense.

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24 TSN, 10 December 2002, pp. 4-7.
25 *People v. Deniega*, G.R. No. 212201, 28 June 2017.
26 *People v. Corpuz*, 714 Phil. 337, 344 (2013).

Dr. Mandin testified that when she did a perineal examination of AAA she noted erythema or redness caused by force or pressure on her right and left labia majora, and abrasion of the vulva at 4 o'clock position. Upon internal examination, the examining finger was admitted with pain.[27] Settled is the rule that a rape victim's account is sufficient to support a conviction for rape if it is straightforward, candid, and corroborated by the medical findings of the examining physician,[28] as in the present case.

Moreover, no woman, least of all a child, would concoct a story of defloration, allow examination of her private parts and subject herself to public trial or ridicule if she has not, in truth, been a victim of rape and impelled to seek justice for the wrong done to her being.[29] "When the offended party is of tender age and immature, courts are inclined to give credit to her account of what transpired, considering not only her relative vulnerability but also the shame to which she would be exposed if the matter to which she testified is not true. Youth and immaturity are generally badges of truth and sincerity."[30]

AAA's credibility was further fortified by her prompt report to BBB and CCC, and FFF and her husband, of the accused-appellant's carnal knowledge of her. She even readily submitted herself to a medical examination. Extant also from the records is AAA's sworn statement[31] which was taken before the Dapitan City Police Station detailing the gruesome acts committed against her by the accused-appellant. These facts confirm that AAA did not have the luxury of time to fabricate a rape story.[32] A young girl's revelation that she had been raped, coupled with her voluntary submission to medical examination and willingness to undergo public trial where she could be compelled to give out the details of an assault on her dignity, cannot be so easily dismissed as mere concoction.[33]

Significantly, nothing from the records would indicate that AAA had ill motive in testifying against the accused-appellant, her first cousin. For sure, AAA was indebted to the family of the accused-appellant as she had been staying with them since she was six years old, albeit she was tasked in return to take care of DDD and her young nephews and nieces. There is thus reason to apply the well-settled jurisprudence that where no compelling and cogent reason is established that would explain why the complainant was so

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27 TSN, 10 December 2012, pp. 5-7.
28 *People v. Lumaho*, 744 Phil. 233, 243 (2014).
29 *People v. Tubillo*, G.R. No. 220718, 21 June 2017.
30 *People v. Tuballas*, G.R. No. 218572, 19 June 2017.
31 Records, p. 3.
32 *People v. Gunsay*, G.R. No. 223678, 5 July 2017.
33 *People v. Tuballas*, supra note 30.

driven as to blindly implicate an accused, the testimony of a young girl having been the victim of a sexual assault cannot be discarded.[34]

The defense raised by the accused-appellant was inherently weak.

The defense of alibi and denial proffered by the accused-appellant were inherently weak and which cannot prevail over the positive identification by AAA that it was the accused-appellant who raped her. His denial, which was not substantiated by clear and convincing evidence, is negative and self-serving evidence undeserving of weight in law.[35]

Alibi is one of the weakest defenses not only because it is inherently frail and unreliable, but also because it is easy to fabricate and difficult to check or rebut.[36] For the defense of alibi to prosper, the accused-appellant must prove that he was somewhere else when the offense was committed and that he was so far away that it was not possible for him to have been physically present at the place of the crime or at its immediate vicinity at the time of its commission.[37]

The Court readily notes the inconsistencies in the testimony of accused-appellant and his witness Palpagan as to his whereabouts in the afternoon of 7 April 2002. The accused-appellant testified that he was at home with his two children and nephews and nieces as well as AAA whom he asked to fetch water. Palpagan on the one hand stated that the accused-appellant was with him at a cockpit and that they had a drinking spree until 9:00 p.m. which they continued until 12:00 midnight at the house of Melchor. These blatant inconsistencies easily put to naught the alibi tendered by the accused-appellant to disentangle himself from the consequences of his acts, as he himself failed to prove that it was impossible for him to have been physically present at the scene of the crime at the time of its commission.

To extricate himself from liability, the accused-appellant asserted that AAA never made any effort to ask or shout for help from her companions.[38] The assertion of the accused-appellant is without merit.

AAA testified that she did not shout for help because only DDD, who is crippled, and her nephews and nieces, who were small children, were at

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34 *People v. Tabayan*, 736 Phil. 543, 557 (2014).
35 *Quimvel v. People*, G.R. No. 214497, 18 April 2017.
36 *People v. Amar*, G.R. No. 223513, 5 July 2017.
37 *People v. Primavera*, G.R. No. 223138, 5 July 2017.
38 CA *rollo*, p. 36.

home.[39] Surely, even if she shouted for help her nephews and nieces would not have understood the situation she was in or knew how they could have helped her. Likewise, accused-appellant was armed with a knife and had threatened AAA that he would stab her if she resisted.[40] It must be emphasized that enlightened precedent teaches that the workings of the human mind placed under emotional stress are unpredictable, and people react differently – some may shout, others may faint, and still others may be shocked into insensibility even if there may be a few who may openly welcome the intrusion.[41] Confronted with the risk of being stabbed by the accused-appellant and feeling helpless as there was no one who could have helped her that time, AAA miserably endured the hideous acts committed against her by the accused-appellant.

According to the accused-appellant, the testimony of AAA had glaring inconsistencies which rendered it incredible. He averred that AAA testified that DDD had not noticed them because DDD was inside the room; but AAA later stated that DDD had told the accused-appellant that he would report him to CCC.[42] The claim of the accused does not deserve any weight.

Noteworthy is that other than this alleged inconsistency, accused-appellant was not able to proffer any other contradicting statements from AAA. However, a reading of the testimony of AAA will show that what DDD was not able to witness was the fact that the accused-appellant dragged AAA to the second floor. DDD was inside a room that time and it was EEE who witnessed the incident. It was when the accused-appellant and AAA were already inside the room that DDD told his father that he would report him to CCC. Clearly, there was no inconsistency in AAA's testimony.

Granting for the sake of argument that there was an inconsistency in AAA's testimony, it must be stressed that the supposed inconsistency, not being an element of the crime, does not diminish the credibility of AAA's declarations.[43] In the same vein, jurisprudence dictates that inconsistencies in the testimony of witnesses with respect to minor details and collateral matters do not affect either the substance of their declaration, their veracity, or the weight of their testimony.[44] Most significantly, "(I)naccuracies and inconsistencies are expected in a rape victim's testimony. Rape is a painful experience which is oftentimes not remembered in detail. It causes deep psychological wounds that scar the victim for life and which her conscious and subconscious mind would opt to forget."[45]

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39 TSN, 10 December 2002, p.14.
40 Id.
41 *People v. Amar,* supra note 36.
42 CA *rollo*, p. 36.
43 *People v. Divinagracia, Sr.*, G.R. No. 207765, 26 July 2017.
44 *People v. Gerola*, supra note 16.
45 *People v. Tuballas*, supra note 30.

The accused-appellant pathetically tried to find issue as to the medical finding that the erythema and the abrasion on AAA's vulva could have been caused by pressure and that the cervical swab was negative for spermatozoa.[46] It is true that the erythema and the abrasion on the vulva could have been caused by pressure from some other object, but this does not likewise discount the truth that the cause thereof could be the penetration of the penis. Similarly, the absence of semen in AAA's vaginal area does not rule out a finding of rape. The presence or absence of spermatozoa is immaterial because the presence of spermatozoa is not an element of rape.[47] It must be remembered that it is the credible disclosure of AAA that the accused-appellant raped her that is the most important proof of the commission of the crime.[48]

Considering that under Art. 266 (B) of R.A. No. 8353, the penalty to be imposed upon accused-appellant is *reclusion perpetua,* he shall no longer be eligible for parole, as provided for in Sec. 3 of R.A. No. 9346,[49] pursuant to R.A. No. 4180, otherwise known as the Indeterminate Sentence Law, as amended.

Following the decision in *People v. Jugueta,*[50] the Court modifies the award by the trial court of the civil indemnity and damages to AAA as follows: civil indemnity of ₱75,000.00; moral damages of ₱75,000.00; and exemplary damages of ₱75,000.00. The civil indemnity and the moral and exemplary damages shall earn interest at the rate of six percent (6%) per annum from the date of finality of this judgment until fully paid.

The Court commiserates with the misfortune that befell AAA. When she was only six years old, her parents separated and she was made to live with her aunt. At this tender age, AAA should have been enjoying her childhood and busying herself with her studies; instead she was made to take care of her crippled nephew in exchange for a roof over her head. At the age of twelve, she was only in grade three and was taking care of her young nephews and nieces. It was also at this age that she was robbed of her virginity, probably, considering her situation, the only precious possession she dearly held in her life. What made her tribulation worse was that her wrongdoer was her cousin, whose crippled child she had been taking care of since she was six years old. The Court admires AAA, who despite her troubles and lonely life, had the courage to fight for her right and seek justice for the wrong committed against her.

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46 CA *rollo*, p. 36.
47 *People v. Manalili*, 716 Phil. 763, 774 (2013).
48 *People v. Agudo*, G.R. No. 219615, 7 June 2017.
49 Entitled "An Act Prohibiting the Imposition of Death Penalty in the Philippines" dated 24 June 2006.
50 G.R. No. 202124, 5 April 2016, 788 SCRA 331.

WHEREFORE, the appeal is **DISMISSED**. Accused-appellant Joseph Agalot *y* Rubio is hereby found **GUILTY** beyond reasonable doubt of Rape under Art. 266-A 1(a) of the Revised Penal Code, as amended, and is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole. He is further ordered to pay AAA ₱75,000.00 as civil indemnity; ₱75,000.00 as moral damages; and ₱75,000.00 as exemplary damages. The civil indemnity and moral and exemplary damages shall earn interest at the rate of six percent (6%) per annum from the date of finality of this judgment until fully paid.

SO ORDERED.

SAMUEL R. MARTIRES
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

LUCAS P. BERSAMIN
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

ALEXANDER G. GESMUNDO
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.

ANTONIO T. CARPIO
Acting Chief Justice

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EDO V. LAPITAN
Division Clerk of Court
Third Division

MAR 09 2018