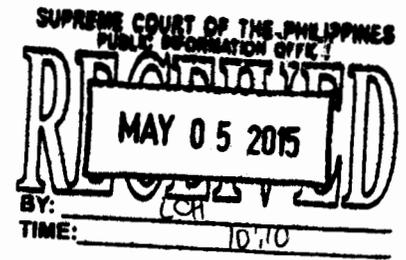




REPUBLIC OF THE PHILIPPINES
 SUPREME COURT
 Manila
 SECOND DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 11 March 2015 which reads as follows:

G.R. No. 210874: PEOPLE OF THE PHILIPPINES V. PEDRO MACARINE

X-----X

The 1st Assistant Provincial Prosecutor charged accused Pedro Macarine before the Regional Trial Court of Surigao City with rape of a minor and mental retardate in Criminal Case No. 7130.¹

BBB testified that on September 19, 2004 at about 6:00 p.m., while she was looking for her daughter who failed to go home after being sent to fetch her younger brother, BBB heard someone clearing his throat.² She moved closer to the banana plants³ where she saw Pedro Macarine (Pedro) having sexual intercourse with her daughter AAA.⁴ BBB got a coconut palm and hit Pedro's back with it.⁵ He did not stand up immediately.⁶ She threw stones at him, after which he ran away while carrying his pants.⁷ She followed him to his house where she could no longer find him.⁸ She immediately reported the incident to a barangay councilwoman.⁹ She also reported it to the barangay captain.¹⁰ On November 24, 2004, she reported the incident to the police.¹¹ BBB further testified that her daughter is mentally retarded.¹²

Pedro denied the charges against him. He testified that on November 10, 2004 at about 6:00 p.m., while he was on his way to the seashore to ask for fish from fishermen, he passed by AAA who joined him on his walk.¹³ His son Randy and daughter-in-law Tata were about 10 arm's length behind them.¹⁴ When they reached the seashore, BBB suddenly appeared and

¹ RTC records, pp. 1-2, Information dated August 22, 2005.
² *Rollo*, p. 4.
³ TSN, March 21, 2006, p. 23.
⁴ *Id.* at 10. *See also* TSN, June 6, 2006, pp. 5-6.
⁵ *Id.* at 12.
⁶ *Id.*
⁷ *Id.*
⁸ TSN, June 6, 2006, p. 12.
⁹ *Id.* at 13 and 15-16.
¹⁰ *Id.* at 16.
¹¹ *Id.* at 14 and 16.
¹² TSN, March 21, 2006, pp. 5-8.
¹³ TSN, May 22, 2008, pp. 5, 12-13.
¹⁴ *Id.* at 13-14.

- more -

accused him of raping her daughter.¹⁵ He replied that he did not rape AAA because it was she who volunteered to go with him to the seashore.¹⁶

When asked by the court if he had a previous misunderstanding with BBB, Pedro answered in the negative.¹⁷

On August 5, 2011, the Regional Trial Court rendered a Decision,¹⁸ the dispositive portion of which reads:

WHEREFORE, the Court finds accused PEDRO MACARINE, GUILTY beyond reasonable doubt of the crime of RAPE as defined and penalized under Article 266-A in relation to Article 266-B (2nd paragraph) of the Revised Penal Code and hereby sentences him to suffer the penalty of RECLUSION PERPETUA together with all the accessory penalties provided by law; to pay the victim [AAA] the sum of SEVENTY FIVE THOUSAND (P75,000.00) PESOS as moral damages; another sum of SEVENTY FIVE THOUSAND (P75,000.00) PESOS as civil indemnity; exemplary damages of TWENTY FIVE THOUSAND (P25,000.00) PESOS; and to pay the costs.

In the service of his sentence[,] accused shall be credited with the full period of his preventive imprisonment pursuant to Article 29 of the Revised Penal Code as amended by R.A. 6127.

Let Commitment Order ISSUE for the transfer of the accused from the Provincial Jail, Surigao City to the Bureau of Corrections, Muntinlupa City pursuant to Circular No. 4-92-A amending Circular No. 4-92 of the Supreme Court of the Philippines dated April 20, 1992 regarding the transfer of national prisoners to the Bureau of Corrections in Muntinlupa City.

SO ORDERED.¹⁹

On November 4, 2013, the Court of Appeals affirmed²⁰ the trial court's judgment but increased the award of exemplary damages to P30,000.00 and specified that Pedro was not eligible for parole:

WHEREFORE, the instant appeal is DENIED. The Decision of the Regional Trial Court is [a]ffirmed and modified only as to: (1) [t]he award of exemplary damages is increased to P30,000 and (2) Pedro Macarine is not eligible for parole.²¹

¹⁵ Id. at 14.

¹⁶ Id.

¹⁷ Id. at 19.

¹⁸ RTC records, pp. 208–214. The Decision was penned by Acting Presiding Judge Victor A. Canoy.

¹⁹ Id. at 213–214.

²⁰ CA *rollo*, pp. 67–76. The Decision was penned by Associate Justice Henri Jean Paul B. Inting and concurred in by Associate Justices Romulo V. Borja (Chair) and Jhosep Y. Lopez of the Special Twenty-second Division of the Court of Appeals Cagayan de Oro.

²¹ Id. at 75.

The records of this case were elevated to this court on January 24, 2014,²² pursuant to the Resolution²³ of the Court of Appeals dated December 2, 2013, which gave due course to Pedro's Notice of Appeal.

At issue is the credibility of BBB, AAA's mother and whether accused-appellant Pedro Macarine may be convicted of rape without the testimony of AAA.

Appellate courts will not disturb the credence accorded by the trial court to the testimonies of witnesses unless it is shown that the trial court overlooked or arbitrarily disregarded facts and circumstances of significance to the case.²⁴ None of the exceptions apply to the case at bar.

We find no cogent reason to doubt the veracity of BBB's testimony. It has been held that no mother in her right mind would expose her young daughter to the disgrace and trauma resulting from a prosecution for rape if not for her genuine desire to incarcerate the person responsible for her daughter's defilement.²⁵ Accused-appellant further declared that he had no misunderstanding with BBB, thus showing the absence of any ill motive on her part in making such accusations.

It is of no moment that the prosecution failed to present AAA to testify.²⁶ The incident was witnessed by BBB. Her positive testimony carried greater weight than accused-appellant's mere denial²⁷ especially since the denial was unsubstantiated and focused on what transpired on November 10, 2004 while the crime happened on September 19, 2004. BBB

²² Rollo, p. 1.

²³ CA rollo, p. 80.

²⁴ *People v. Miranda*, 556 Phil. 238 (2007) [Per J. Tinga, Second Division]; *People v. Macapal, Jr.*, 501 Phil. 675 (2005) [Per J. Carpio Morales, Third Division]; *People v. Fabia*, 412 Phil. 261 (2001) [Per J. Panganiban, Third Division]; *People v. Dela Paz, Jr.*, 359 Phil. 409 (1998) [Per J. Kapunan, Third Division]; *People v. Estares*, 374 Phil. 202 (1997) [Per J. Davide, Jr., First Division]; *People v. Pamor*, G.R. No. 108599, October 7, 1994, 237 SCRA 462 [Per J. Davide, Jr., First Division].

²⁵ *People v. Pelagio*, 594 Phil. 464 (2008) [Per J. Austria-Martinez, En Banc]; *People v. Reyes*, 541 Phil. 674 (2007) [Per J. Carpio Morales, En Banc], citing *People v. Cariñaga*, 456 Phil. 944 (2003) [Per Curiam, En Banc]; *People v. Tagud, Sr.*, 425 Phil. 928 (2002) [Per J. Carpio, En Banc]; *People v. Quilatan*, 395 Phil. 444 (2000) [Per Curiam, En Banc]; *People v. Ducta*, 392 Phil. 815 (2000) [Per J. Vitug, Third Division]; *People v. Yparraguire*, 390 Phil. 366 (2000) [Per J. Ynares-Santiago, First Division]; *People v. Romua*, 339 Phil. 198 (1997) [Per J. Puno, Second Division]; *People v. San Juan*, 337 Phil. 375 (1997) [Per J. Panganiban, Third Division]; *People v. Mariano*, 209 Phil. 651 (1983) [Per J. Escolin, Second Division].

²⁶ *People v. Miranda*, 556 Phil. 238 (2007) [Per J. Tinga, Second Division]; *People v. Dela Paz, Jr.*, 359 Phil. 409 (1998) [Per J. Kapunan, Third Division]; *People v. Estares*, 374 Phil. 202 (1997) [Per J. Davide, Jr., First Division]; *People v. Estrella*, 247 Phil. 69 (1988) [Per J. Paras, Second Division]; *People v. Mariano*, 209 Phil. 651 (1983) [Per J. Escolin, Second Division]. In *People v. Romua*, 339 Phil. 198 (1997) [Per J. Puno, Second Division], *People v. Race, Jr.*, G.R. No. 93143, August 4, 1992, 212 SCRA 90 [Per J. Davide, Jr., Third Division], and *People v. Ytac*, 184 Phil. 529 (1980) [Per J. De Castro, First Division], accused was convicted of raping a mentally retarded woman (girl) on the basis of circumstantial evidence.

²⁷ *People v. Bon*, 536 Phil. 897 (2006) [Per J. Tinga, En Banc]; *People v. Macapal, Jr.*, 501 Phil. 675 (2005) [Per J. Carpio Morales, Third Division]; *People v. Fabia*, 412 Phil. 261 (2001) [Per J. Panganiban, Third Division]; *People v. Estares*, 374 Phil. 202 (1997) [Per J. Davide, Jr., First Division].

was categorical and coherent in stating, both on direct²⁸ and cross-examinations,²⁹ that accused-appellant was committing the sexual act against AAA when BBB found them under the banana plants.

BBB's testimony was corroborated by medical findings. The public health nurse who conducted the physical examination on AAA testified that "[her] two fingers can easily be inserted into the vaginal orifice . . . meaning the hymen was already lacerated"³⁰ or "broken."³¹ This physical evidence of trauma on AAA's genitals and BBB's testimony produced a moral conviction that accused-appellant committed the crime charged.

It was further shown that AAA is incompetent and suffering from severe mental retardation.³² The psychiatrist testified that AAA was incapable to stand trial because she has acute stress disorder and severe mental retardation.³³ Accused-appellant's bare denial that he did not know that AAA is mentally retarded is unbelievable. The severity of AAA's mental retardation would have been obvious to any person more so to accused-appellant who was a neighbor of AAA for 15 years and who admittedly³⁴ knew her when she was still young. Conformably, the crime committed falls under Article 266-A, paragraph 1(b) in relation to Article 266-B, paragraph 2 of the Revised Penal Code. The penalty is *reclusion perpetua* in lieu of death. Accused-appellant is not eligible for parole pursuant to Republic Act No. 9346.

Hence, this court resolves to adopt the findings of fact and conclusions of law of the Court of Appeals.

However, we increase the awards for moral damages, civil indemnity, and exemplary damages to ₱100,000.00 each, pursuant to recent jurisprudence.³⁵

WHEREFORE, the November 4, 2013 Decision of the Court of Appeals in CA-G.R. CR-HC No. 00999-MIN, which found accused-appellant Pedro Macarine guilty beyond reasonable doubt of qualified rape and sentenced him to suffer the penalty of *reclusion perpetua* without eligibility for parole, is **AFFIRMED** but with **MODIFICATIONS** to the amount of damages awarded. Pedro Macarine is ordered to pay AAA

²⁸ TSN, March 21, 2006, pp. 10-12.

²⁹ TSN, June 6, 2006, pp. 4-10.

³⁰ TSN, July 18, 2007, p. 15.

³¹ Id.

³² RTC records, p. 97, Medical Certificate dated March 27, 2007.

³³ TSN, September 18, 2007, p. 5.

³⁴ TSN, May 22, 2008, pp. 20-21.

³⁵ *People v. Quintos*, G.R. No. 199402, November 12, 2014

<<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/february2014/185838.pdf>>
[Per J. Perlas-Bernabe, Second Division].

₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages, all with interest at the rate of 6% per annum from the date of finality of this judgment until full payment. (Carpio, J., on leave; Velasco, Jr., J., designated acting member per S.O. No. 1938 dated March 11, 2015.)

SO ORDERED.

Very truly yours,

MA. LOURDES O. PERFECTO
 MA. LOURDES O. PERFECTO
 Division Clerk of Court *by 4/17*

OFFICE OF THE SOLICITOR GENERAL (reg)
 134 Amorsolo Street
 1229 Legaspi Village
 Makati City

PUBLIC ATTORNEY'S OFFICE (reg)
 (ATTY. ALDOUS JANUARIUS S. BANA)
 Head, Regional Special and Appealed Cases
 3rd Floor, R and E Daba Building
 #65 Vamenta Boulevard corner Bougainvillea Street
 Carmen, 9000 Cagayan de Oro City

THE DIRECTOR (reg)
 Bureau of Corrections
 1770 Muntinlupa City

PEDRO MACARINE (reg)
 Accused-Appellant
 c/o The Director
 Bureau of Corrections
 1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
 Regional Trial Court, Branch 30
 Surigao City
 Crim. Case No. 7130

COURT OF APPEALS (reg)
 Mindanao Station
 Cagayan de Oro City
 CA-G.R. CR H.C. No. 00999-MIN

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