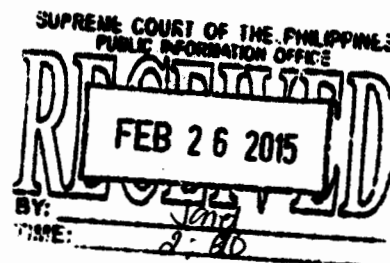




Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **February 2, 2015** which reads as follows:*

**“G.R. No. 209783 (*People of the Philippines v. Ricky De Los Reyes*).**  
– Before this Court is an appeal from the Court of Appeals (CA) Decision<sup>1</sup> dated 31 July 2013, which affirmed the judgement<sup>2</sup> of conviction of the Regional Trial Court (RTC) of Dipolog City, Branch 7, finding appellant guilty of rape.

In brief, the prosecution proved the following facts: In 2000, 16-year-old AAA was working as a helper at her aunt’s house in Dipolog City. She used to wash the clothes of appellant for a fee, since he was the estranged husband of her relative, and his house was adjacent to her aunt’s house.<sup>3</sup>

Upon the instructions of appellant, AAA went to his house on the morning of the last Friday of November 2000 to collect the payment for the laundry service she had rendered for him. When she reached the doorstep, however, appellant forcibly pulled her towards his room, laid her on the bed, and removed her short pants. When he started to remove his clothes, AAA tried to escape, but he caught her and punched her left arm and leg. She could not shout, because appellant covered her mouth with his hand and forced himself on her. Thereafter, he ordered AAA to get dressed and threatened to kill her, should she tell anybody what happened. Because of the incident, AAA abruptly left her aunt’s house and went to Dapitan City. She revealed the incident to her aunt only in June 2001, when the latter confronted her about the rumors in their neighborhood that she had been molested by appellant.<sup>4</sup>

- over – five (5) pages .....

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<sup>1</sup> *Rollo*, pp. 4-10, penned by Associate Justice Oscar V. Badelles with Associate Justices Romulo V. Borja and Renato C. Francisco concurring.

<sup>2</sup> *CA rollo*, pp. 22-39, penned by Judge Rogelio D. Laquihon.

<sup>3</sup> *Id.* at 23.

<sup>4</sup> *Id.* at 24.

The medico-legal examination showed that AAA had old healed hymenal lacerations.<sup>5</sup>

Consequently, appellant was charged with rape. He pleaded not guilty to the charge. During trial, he denied that he committed the rape and posed the defense of alibi. He claimed that on the day when AAA was allegedly raped, he was at his work in a hollow block factory from 7:00 a.m. to 5:00 p.m. He also claimed that AAA's aunt harboured a grudge against him for his refusal to reconcile with his wife.<sup>6</sup>

The RTC found appellant guilty beyond reasonable doubt of the crime of rape and sentenced him to suffer the penalty of *reclusion perpetua*. In addition, he was ordered to pay AAA civil indemnity and moral damages, each in the amount of ₱50,000.<sup>7</sup>

The RTC disregarded the contention of appellant that the following defects in AAA's testimony warranted his acquittal, specifically: (1) AAA testified that she was raped on the last Friday of November 2000, but the Information alleged that the crime was committed on 25 November 2000; (2) it was not proven that appellant was physically stronger or bigger than AAA; (3) there was no proof that AAA had put up a tenacious resistance; and (4) the 6-month delay in AAA's disclosure of the alleged rape was unjustified and unnatural. Instead, the RTC ruled that the cited discrepancies in AAA's testimony were immaterial. According to the trial court, it is settled that the exact date of the commission of the crime of rape and physical resistance are not essential elements of the offense.<sup>8</sup> As to the perceived delay in reporting the crime, the RTC ruled that it was justified and reasonable, since the silence of AAA was compelled by appellant's threats to her life. Thus, it still found testimony categorical, forthright and credible notwithstanding its imperfections.<sup>9</sup>

On appeal, appellant reiterated his arguments against AAA's credibility and further argued that the RTC Decision was invalid, because the judge who wrote it was not the same one who had personally heard the testimony of the witnesses. The RTC Decision, however, was affirmed *in toto* by the CA.<sup>10</sup> After noting that the trial court's Decision was amply supported by the stenographic notes and the rest of the evidence on record, the CA sustained

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<sup>5</sup> Id. at 25.

<sup>6</sup> Id. at 26-27.

<sup>7</sup> Id. at 39.

<sup>8</sup> Id. at 32-35.

<sup>9</sup> Id. at 36-38.

<sup>10</sup> *Rollo*, p. 10.

the lower court's findings on the credibility of AAA. The CA ruled that the validity of the RTC Decision was not impaired by the fact that its writer was not the same one who had presided at the trial, since it was not shown that there was grave abuse of discretion in the appreciation of the facts.<sup>11</sup>

The sole issue for resolution is whether the prosecution was able to prove appellant's guilt beyond reasonable doubt.

The Court has carefully reviewed the case records and finds appellant's conviction proper. There is a need, however, to modify the amount of damages awarded to make it consistent with prevailing jurisprudence.

For sure, the well-settled general rule that the trial court's findings as to the credibility of witnesses deserve respect from the appellate courts cannot be unqualifiedly applied.<sup>12</sup> This caveat applies especially in cases like this, in which the judge who wrote Decision was not the one who presided in the trial. This is because the writer of the decision was in no better position than the appellate courts in that they lacked the opportunity to observe the witnesses' demeanor when they testified.<sup>13</sup>

But as the CA has correctly observed, the validity of a decision is not necessarily impaired by the fact that the *ponente* only took over from a colleague who had earlier presided at the trial unless there is a clear showing of grave abuse of discretion in the appreciation of the facts.<sup>14</sup> The Court finds that the courts *a quo* correctly appreciated the facts. Their decisions are fully supported by evidence on record including the transcript of stenographic notes, which are extant and complete.

The Court has repeatedly held that the exact date when the victim was sexually abused is not an essential element of the crime of rape, for the gravamen of the offense is carnal knowledge of a woman.<sup>15</sup> True, the allegation in the Information that the rape was committed on 25 November 2000, which was a Saturday, was inconsistent with AAA's testimony. Such inconsistency, however, was only minor and did not destroy the credibility of the entire testimony of AAA. As the trial court has correctly observed, the inaccuracy in her account is attributable to the fickleness of human memory, considering that she actually testified only on 23 September 2003, or more than 2 years and 9 months since the rape happened.

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<sup>11</sup> Id. at 9.

<sup>12</sup> *People v. Gecomo*, 324 Phil 297 (1996).

<sup>13</sup> *People v. Asuncion*, 411 Phil 305 (2001) citing *People v. Gecomo*, supra.

<sup>14</sup> *Flores v. People*, G.R. No. 181354, 27 February 2013, 692 SCRA 127; See also *Sison v. People*, G.R. No. 187229, 22 February 2012, 666 SCRA 645.

<sup>15</sup> *People v. Ventura, Sr.*, G.R. No. 205230, 12 March 2014.

Moreover, the law does not impose a burden on the rape victim to prove resistance. The only thing that the prosecution needs to prove, which it did in this case, is the use of force or intimidation by the accused in having sexual intercourse with the victim.<sup>16</sup> For rape to exist, it is not necessary that the force or intimidation be so great or be of such character as could not be resisted — it is only necessary that the force or intimidation be sufficient to consummate the purpose which the accused had in mind. Force is sufficient if it produces fear in the victim, such as when the latter is threatened with death,<sup>17</sup> which was true in this case.

The law on the prescription of crimes would be meaningless if it is conceded that delay in the prosecution of crimes would be fatal to the State and to the offended parties. In fixing the different prescriptive periods on the basis of the gravity of the penalty prescribed, the law takes into account or allows reasonable delays in the prosecution thereof. On several occasions, the Court has held that a delay of 17 days, 35 days, or even six (6) months, in reporting an attack on one's honor does not detract from the veracity of her charge.<sup>18</sup> In this case, AAA's failure to report the incident immediately is attributable to the death threats made by appellant. Many rape victims prefer to bear the ignominy and pain, rather than reveal their shame to the world or risk the offenders' making good their threats to kill or hurt their victims.<sup>19</sup>

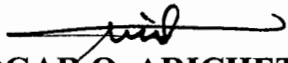
The Court, however, finds error in the damages awarded by both lower courts. It is settled that the victim in simple rape is entitled to a civil indemnity of ₱50,000, moral damages of ₱50,000, and exemplary damages of ₱30,000.<sup>20</sup>

**WHEREFORE**, the Court of Appeals Decision dated 31 July 2013 in CA-G.R. CR-H.C. No. 00813-MIN affirming the conviction of appellant Ricky de los Reyes is **AFFIRMED with MODIFICATION**. Appellant is ordered to pay AAA the amounts of ₱50,000 as civil indemnity, ₱50,000 as moral damages, and ₱30,000 as exemplary damages, plus interest of 6% per annum from the finality of this Decision.

No costs.

**SO ORDERED.”**

Very truly yours,

  
**EDGAR O. ARICHETA**  
Division Clerk of Court

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<sup>16</sup> *People v. Jastiva*, G.R. No. 199268, 12 February 2014.

<sup>17</sup> *People v. Lucena*, G.R. No. 190632, 26 February 2014.

<sup>18</sup> *Supra* note 12.

<sup>19</sup> *Supra*.

<sup>20</sup> See *People v. Dioquino*, G.R. No. 191390, 2 April 2014.

The Solicitor General (x)  
Makati City

Court of Appeals  
9000 Cagayan de Oro City  
(CA-G.R. CR H.C. No. 00813-MIN)

The Hon. Presiding Judge  
Regional Trial Court, Br. 7  
7100 Dipolog City  
(Crim. Case No. 10664)

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