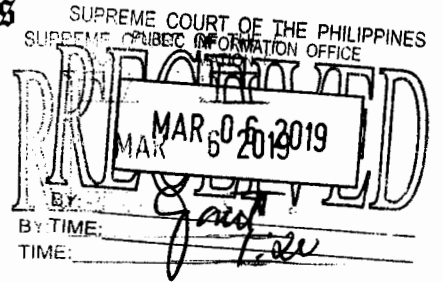




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 230723

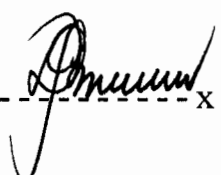
Present:

- versus -

BERSAMIN, C.J.,
DEL CASTILLO,
JARDELEZA,
GESMUNDO, and
CARANDANG, JJ.

JUPITER VILLANUEVA y
BAUTISTA @ “Peter”,
Accused-Appellant.

Promulgated:
FEB 13 2019

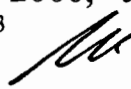
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DECISION

DEL CASTILLO, J.:

On appeal is the Decision¹ dated August 31, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07482, which affirmed with modification, the Decision² dated October 9, 2014 of the Regional Trial Court (RTC), Branch 72, of Antipolo City in Criminal Case No. 06-32222, finding accused-appellant Jupiter Villanueva y Bautista @ “Peter” (accused-appellant) guilty beyond reasonable doubt of the crime of Forcible Abduction with Rape, in relation to Section 5(b) of Republic Act (RA) No. 7610 and Section 5(a) of RA 8369.

Antecedent Facts

On August 2, 2006, accused-appellant was charged under the following Information:³ 

¹ *Rollo*, pp. 2-15; penned by Associate Justice Agnes Reyes-Carpio and concurred in by Associate Justices Romeo F. Barza and Leoncia R. Dimagiba.
² *Records* (Vol. 1), pp. 141-151; penned by Judge Ruth D. Cruz-Santos.
³ *Id.* at 1-2.

That on or about the 27th day of July 2006 until 28th day of July 2006, in the City of Antipolo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a bladed weapon, conspiring and confederating together with several persons whose true names, identities and present whereabouts are still unknown[,] and all of them mutually helping and aiding x x x one another, by means of force, violence and intimidation, did, then and there willfully, unlawfully and feloniously abduct and take away by means of a tricycle one [AAA],⁴ a fifteen (15) year old minor, against the latter's will and consent and bring her to a house and then and there kiss her on her neck while forcing her to drink water and at the same time slap her; that on the occasion of the said Forcible Abduction, with lewd designs and by means of force, violence and intimidation, did, then and there willfully, unlawfully and feloniously have sexual intercourse with said minor, against the latter's will and consent.

CONTRARY TO LAW.
Antipolo City, 2 August 2006.⁵

Accused-appellant, assisted by his counsel *de officio*, pleaded not guilty during his arraignment. During the pre-trial conference, the parties stipulated on the identity of accused-appellant, as well as the jurisdiction of the trial court. Thereafter, trial on the merits ensued.⁶

The prosecution presented the testimonies of (1) AAA, (2) AAA's aunt, BBB, (3) PC/Insp. Marianne Ebdane ("PC/Insp. Ebdane"), the Medico-Legal Officer of the Philippine National Police (PNP) Crime Laboratory Office, Camp Crame, Quezon City, and (4) SPO1 Ma. Theresa A. Bautista ("SPO1 Bautista") of the Women's Child Protection Desk of the Antipolo Police Station.⁷

The CA adopted the summary of the Office of the Solicitor General (OSG) of the prosecution's version of the incidents in the assailed Decision, to *wit*:

On July 27, 2006 at around 4 o'clock in the afternoon, private complainant AAA went to Gate [2], San Isidro, Antipolo City to buy a gift for her mother. While she was walking, two (2) men, whose faces were covered with a black cloth and wearing a cap, approached her and poked a

⁴ "The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. 7610, An Act Providing for Stronger Deterrence And Special Protection Against Child Abuse, Exploitation And Discrimination, Providing Penalties for its Violation, And for Other Purposes; Republic Act No. 9262, An Act Defining Violence Against Women And Their Children, Providing For Protective Measures For Victims, Prescribing Penalties Therefor, And for Other Purposes; and Section 40 of A.M. No. 04-10-11-SC, known as the Rule on Violence against Women and Their Children, effective November 15, 2004." *People v. Dumadag*, 667 Phil. 664, 669 (2011).

⁵ Records (Vol. 1), p. 1.

⁶ *Id.* at 141.

⁷ *Id.* at 142-146.

knife at her side. Intimidated, she was forced to walk along with them. Said men also told her not to say anything because two other men were coming behind her.

While the men who accosted her were talking, unmindful of her actions, AAA looked behind her and noticed two men who were about one and one half meters away from her. One of the men winked and smiled at her. AAA [was] able to stare at said man's face who later turned out to be accused-appellant Jupiter Villanueva.

On their way towards the tricycle, while AAA was being held by her two abductors, a lady noticed the group. AAA uttered the words "*Ate tulong*," but one of the men covered her mouth and said that AAA was his sister.

When she was about to be boarded on the tricycle and before she was blindfolded, she saw accused-appellant on the tricycle.

Thereafter, AAA was blindfolded and forced to board the tricycle. While inside the tricycle, two of AAA's abductors pinned her arms and legs to prevent her from escaping. AAA could hear four distinct voices from the men who were with [her] on board the tricycle, which were the same voices she heard before she boarded said tricycle.

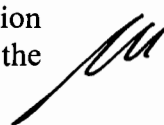
About minutes thereafter, the tricycle stopped. AAA was carried out of the vehicle and was forced to sit between her abductors. In the place where she was brought, she could still hear the same four distinct voices from her abductors. Two of the abductors tried to force themselves upon her by kissing her neck despite her resistance. When AAA felt that another person came in front of her, she kicked that person for which she was slapped on both cheeks by the person beside her. The two men beside her then restrained her arms while the two others forcibly opened her mouth and forced her to drink a bitter liquid substance. When AAA refused to drink the liquid, she was hit in the abdomen twice by one of them. Consequently, AAA felt dizzy and lost consciousness.

In the morning of the following day, AAA woke up and found [herself] inside a tricycle. Her bra was removed an[d] her whole body was aching. She also noticed that she had scratches on her chest. Disoriented, AAA tried to ask the tricycle driver where she was and if he knew the men who abducted her[,] but the tricycle driver just told her to report the incident to the barangay.

AAA was the[n] dropped off near her house. Upon arriving home, she tearfully recounted her harrowing experience to her mother. It was then that she noticed blood in her panties.

On the same day, July 28, 2006, AAA[,] assisted by her mother, went to the PNP Crime Laboratory in Camp Crame, Quezon City for a medico-legal examination.

The results of the medico-legal examination show that AAA's hymen had deep fresh laceration at [the] 6 o'clock position with contusion at the 12 o'clock position. The medico legal report further stated that the



findings show clear evidence of blunt force or penetrating trauma to the hymen.

Thereafter, with the assistance of a social worker, AAA reported the incident to PO2 Anna Lisa Reyes of the Women and Child Protection Desk, Antipolo City Police. On July 29, 2006, AAA was shown photographs from the PNP's Rogues Gallery. She was able to identify one of her abductors, whom the police named as Jupiter Villanueva. She was also able to point to accused-appellant in a police line-up.⁸

The defense, on the other hand, presented accused-appellant as its sole witness, whose testimony was summarized by the Public Attorney's Office in the following manner:

Accused **JUPITER BAUTISTA VILLANUEVA** vehemently denied the accusations against him. Prior to this case, he does not even know who AAA was. On [the] day of the alleged incident, he reported to the rice store at CMCV Plaza Market at around six o'clock in the morning, where he worked as a helper. At around one thirty o'clock in the afternoon, he left his work and proceeded to NGI Market in Parang, Marikina, to meet up with his girlfriend, Cathy Aquino. He arrived at the said market around three o'clock and stayed there until seven thirty o'clock in the evening. Afterwards, they went home. At around nine o'clock in the evening, he went back to his place of work in order to meet with his employer. Subsequently, he learned that the police was looking for him because of an allegation that he raped someone. He came to see PO3 Liza Reyes and was asked if he really raped someone. He denied the accusation and asserted that if he did rape someone, he should have gone into hiding by now. PO3 Reyes informed him about who filed the complaint against him and was instructed to go to the police station. A[t] the police station, the complainant first pointed at someone before pointing at him. The first person pointed at denied the accusation and started to cry while he was startled about the fact that the said complainant pointed at him. Subsequently, he was detained and has been such since 15 August 2006.⁹ (Emphasis in the original)

Ruling of the Regional Trial Court

The RTC convicted accused-appellant in its October 9, 2014 Decision, the decretal portion of which reads:

WHEREFORE, finding the accused **GUILTY** beyond reasonable doubt [for] the crime of Forcible Abduction with Rape in relation to Sec. 5(b) of R.A. 7610 and Sec. 5(a) of R.A. 8369, accused is sentenced to suffer the penalty of Reclusion Perpetua and to pay the victim the amount of ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages.

⁸ *Rollo*, pp. 4-5.

⁹ *Id.* at 5-6.

SO ORDERED.¹⁰ (Emphasis in the original)

The RTC ruled that all the elements in the crime charged were present in this case. It gave credence to the victim's testimony and identification of accused-appellant as one of the malefactors who abducted and raped her. Aside from this, the trial court gave weight to BBB, the victim's aunt who testified that, when she accompanied AAA to the police station, AAA, who was very afraid, kept on shouting "*siya yun, siya yun, siya yun*" while pointing to accused-appellant, after which she lost consciousness. The RTC also found that SPO1 Bautista corroborated the testimony of BBB that AAA pointed to accused-appellant as one of the persons who abducted her. More importantly, the trial court held that AAA's rape was sufficiently established as evidenced by the findings of PC/Insp. Ebdane, the medico-legal officer who conducted the physical examination on AAA after the incident.¹¹

The trial court found accused-appellant's defense of alibi and denial to be weak and marred with inconsistencies. The RTC pointed out that accused-appellant failed to adduce evidence that it was physically impossible for him to have been at the scene of the crime at or about the same time that the abduction and rape happened, especially since he was working as a *trabahador* in a rice store just about 50 meters away from the place where the abduction took place. Despite his claim that he reported for work the day AAA was abducted as well as the day after, accused-appellant failed to present other witnesses to corroborate his defense. Instead, he submitted more alibis that he could no longer contact his employer and that his other witness had passed away due to a heart attack.¹²

The RTC also ruled that, aside from the elements of the crime charged, conspiracy existed in the present case between accused-appellant and the other unknown malefactors.¹³

Accused-appellant filed a Notice of Appeal and elevated the case to the CA.¹⁴

Ruling of the Court of Appeals

In the assailed Decision, the CA affirmed with modification the RTC Decision, to wit:



¹⁰ Records (Vol I), p. 151.

¹¹ Id. at 149-150.

¹² Id. at 150.

¹³ Id. at 151.

¹⁴ Id. at 152-153.

WHEREFORE, premises considered, the instant appeal is **DENIED**. The assailed Decision dated October 9, 2014 rendered by the Regional Trial Court, Branch 72 of Antipolo City, in Criminal Case No. 06-32222, finding Jupiter Villanueva y Bautista @ Peter guilty beyond reasonable doubt of Forcible Abduction with Rape and sentencing him to suffer the penalty of *reclusion perpetua*, is hereby **AFFIRMED with MODIFICATION** in that the award of civil indemnity and moral damages are both increased to ₱75,000.00.


Such award of damages shall earn interest at the rate of 6% per *annum* from the date of finality of the judgment until fully paid.

SO ORDERED.¹⁵ (Emphasis in the original)

The CA upheld the trial court's finding that AAA's testimony on the circumstances surrounding the incident was credible, steadfast, and unflinching. It also agreed with the trial court that AAA was unyielding and resolute in her identification of accused-appellant as one of the men who abducted her. On the other hand, accused-appellant only offered denial and alibi which he failed to bolster with evidence showing that it was physically impossible for him to have been at the scene of the crime when it happened. The CA ruled that the prosecution successfully proved all elements of the crime charged, holding that AAA's abduction was a necessary means to commit rape. It also affirmed the trial court's finding of conspiracy between accused-appellant and the other assailants.¹⁶

As for accused-appellant's assertion that the accusation against him was influenced by police officers, the CA rejected the same and held that the testimonies of the prosecution witnesses sufficiently established that AAA's identification of accused-appellant at the police station was neither influenced nor directed by the police officers.¹⁷

Finally, the CA affirmed the penalty of *reclusion perpetua* imposed by the trial court. However, it increased the awards of civil indemnity and moral damages from ₱50,000.00 to ₱75,000.00 each, and imposed thereon interest at the rate of 6% *per annum* from the date of finality of the judgment until its full payment,¹⁸ in light of this Court's ruling in *People v. Jugueta*.¹⁹

Hence, this appeal. 

¹⁵ *Rollo*, pp. 14-15.

¹⁶ *Id.* at 7-11.

¹⁷ *Id.* at 11-13.

¹⁸ *Id.* at 13-15.

¹⁹ 783 Phil. 806, 848 (2016).

In our Resolution²⁰ dated July 3, 2017, the Court required the parties to submit their respective supplemental briefs within 30 days from notice, if they so desired. The parties separately manifested that they will no longer be filing supplemental briefs.²¹

The Court's Ruling

After a careful review of the records of the case, we find the appeal to be devoid of merit.

Accused-appellant was charged and convicted for forcible abduction with rape, in relation to Section 5(b)²² of RA 7610 and Section 5(a)²³ of RA 8369.

Forcible abduction under Article 342 of the Revised Penal Code (RPC) is committed when the following elements exist: (1) the victim is a woman, regardless of age, civil status, or reputation, (2) she is taken against her will, and (3) the abduction was done with lewd designs.²⁴ The crime is considered complexed by rape under Article 266-A of the RPC when the abductor has carnal knowledge of the abducted woman and there is (1) force or intimidation; (2) the woman is deprived of reason or otherwise unconscious; or (3) she is under 12 years of age or demented.²⁵

In the present case, the elements of the crimes of forcible abduction and rape existed.

²⁰ *Rollo*, pp. 22-23.

²¹ *Id.* at 32-42.

²² **Section 5. Child Prostitution and Other Sexual Abuse.** – Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

x x x x

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or [subjected] to other sexual abuse: *Provided*, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: *Provided*, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be *reclusion temporal* in its medium period[.]

²³ **Section 5. Jurisdiction of Family Courts.** - The Family Courts shall have exclusive original jurisdiction to hear and decide the following cases:

a) Criminal cases where one or more of the accused is below eighteen (18) years of age but not less than nine (9) years of age or where one or more of the victims is a minor at the time of the commission of the offense: *Provided*, That if the minor is found guilty, the court shall promulgate sentence and ascertain any civil liability which the accused may have incurred.

The sentence, however, shall be suspended without need of application pursuant to Presidential Decree No. 603, otherwise known as the "Child and Youth Welfare Code"[.]

²⁴ *People v. Amaro*, 739 Phil. 170, 175 (2014).

²⁵ *Id.*

The trial court found that AAA was able to clearly testify on the events surrounding her abduction at around 4 o'clock in the afternoon of July 27, 2006.²⁶ At that time, the victim was only fifteen (15) years old, as evidenced by her Certificate of Live Birth.²⁷

During her testimony, AAA narrated that on July 27, 2006, while she was walking near Gate 2, San Isidro, Antipolo City, two men whose faces were covered, accosted her and told her not to turn her back or say anything as they had two other male companions behind them. She was able to confirm that two other men were indeed following suit when she stole a look while the men who accosted her were talking. One of the men following them even winked at her as she looked behind. Thereafter, the men covered her eyes and forced her to board the side car of a tricycle where the men pinned her legs and arms down on both sides as the tricycle started to move.²⁸

AAA further testified that, after around 10 minutes of travel, the tricycle stopped and the men brought her out of the tricycle. She was made to sit down in a place and was not even sure if it was a house. All throughout, she could hear the same voices of four men, including those of the men who abducted her. Then, two persons started forcing themselves on her and kissing her neck. She tried to avoid their advances and when she felt someone walking in front of her, she kicked the person, causing the person sitting beside her to slap her twice. Someone then forcibly opened her mouth and made her drink a bitter liquid substance. Afterwards, two persons held down her arms while two others again forced her to drink the bitter liquid. When she refused to drink, someone hit her in the abdomen twice which made her become dizzy and lose consciousness.²⁹

When AAA woke up the following morning at around 5:45 a.m., she found herself inside a moving tricycle being driven by a man she later recognized during a police line-up. Her entire body, more particularly her chest, legs, and thighs, was aching and her bra had been unclasped. She also noticed that she had scratches on her chest and some of her belongings, such as her ring and earring, were missing. She asked the tricycle driver what happened to her, but he did not answer and only told her to report the incident to the barangay. He then dropped her off near her house.³⁰

²⁶ TSN, June 3, 2008, pp. 3-13.

²⁷ TSN, June 8, 2010, pp. 3-4.

²⁸ TSN, June 3, 2008, pp. 3-13.

²⁹ Id. at 14-19.

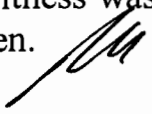
³⁰ Id. at 19-21; TSN, June 8, 2010, pp. 10-17.

Upon reaching the house, AAA's mother met her and slapped her since it was already early morning. This prompted AAA to cry and reveal what had happened to her. Initially, BBB did not believe her, but she later cried with AAA. At this time, AAA noticed that her panty had blood. She was then brought to Camp Crame, where a physical examination was conducted on her. She thereafter went to the Women's Desk of the Antipolo Police Station where she narrated her ordeal and she was made to identify her assailants in a police line-up. During the police line-up, AAA was able to recognize accused-appellant as one of the men following her when she was abducted, as well as the tricycle driver who brought her near her house the following morning.³¹

Based on the foregoing, we find that the RTC and the CA were correct in declaring AAA's testimony as credible and straightforward. Although she was unable to recall the actual act of rape committed upon her, it was confirmed by the PNP Medico-Legal Officer, PC/Insp. Ebdane, during the physical examination conducted on AAA. In her report, PC/Insp. Ebdane declared that there was a deep fresh laceration at the 6:00 o'clock position and a contusion at the 12:00 o'clock position. PC/Insp. Ebdane also found that there were external physical injuries on AAA's right pectoral region, abrasions on the vertebral region and proximal 3rd of her right arm, and a contusion on her deltoid. When asked about the possible causes of the lacerations, PC/Insp. Ebdane deduced that they may have been caused by an erect penis, a finger, or any blunt object which may cause an injury.³²

Time and again, we have held that "the trial court's evaluation and conclusion on the credibility of witnesses in rape cases are generally accorded great weight and respect, and at times even finality, especially after the CA as the intermediate reviewing tribunal has affirmed the findings, unless there is a clear showing that the findings were reached arbitrarily, or that certain facts or circumstances of weight, substance or value were overlooked, misapprehended or misappreciated that, if properly considered, would alter the result of the case."³³

The burden to show clear and convincing reasons for this Court to reverse the unanimous determination of AAA's credibility as a witness was on accused-appellant.³⁴ However, he failed to overcome this burden.



³¹ TSN, June 8, 2010, pp. 17-22.

³² TSN, February 4, 2013, pp. 13-19.

³³ *People v. Domingo*, G.R. No. 225743, June 7, 2017, 827 SCRA 170, 177-178.

³⁴ *Id.* at 178.

During trial, accused-appellant relied on the defenses of alibi and denial. However, denial and alibi are inherently weak defenses which constitute self-serving negative evidence, especially when weighed against the clear, positive, and credible assertions of the victim which are entitled to greater evidentiary weight.³⁵

We agree with the CA when it ruled thus:

On the face of such allegations, [accused-appellant] can only offer denial and the alibi that he was with his girlfriend in Parang, Marikina, which is about two rides away from the place where AAA was abducted. Basic is the rule that for alibi to prosper, the accused must prove that he was somewhere else when the crime was committed and that it was physically impossible for him to have been at the scene of the crime. Physical impossibility refers to the distance between the place where the appellant was when the crime transpired and the place where it was committed, as well as the facility of access between the two places. Where there is the least chance for the accused to be present at the crime scene, the defense of alibi must fail.

Since [accused-appellant] himself admitted that Parang, Marikina is just two rides away and that the store where he worked at was only about 50 meters from the bakery where AAA was abducted at Gate 2, San Isidro, Antipolo, it was thus not physically impossible for him to be at the *locus criminis* at the time of the incident. In addition, positive identification destroys the defense of alibi and renders it impotent, especially where such identification is credible and categorical.³⁶

The CA also correctly rejected accused-appellant's claim that AAA's accusation was influenced by the police. The testimony of AAA, as corroborated by her aunt, BBB, reveals that she immediately recognized accused-appellant as one of the men who were following her during her abduction. Her spontaneous identification of accused-appellant, which was accompanied by hysterical crying and shouting, is a clear indication that it was not subject to any influence from the police officers present.³⁷ Absent any proof that the charge against the accused-appellant was impelled by any ill motive, the Court cannot be swayed from giving full credence to the victim's testimony.³⁸

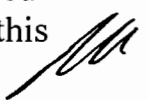
Nevertheless, while the elements of forcible abduction were sufficiently established in the present case, the crime for which accused-appellant must be convicted for should only be rape. Time and again, this

³⁵ *People v. Rupal*, G.R. No. 222497, June 27, 2018.

³⁶ *CA rollo*, p. 118.

³⁷ TSN, December 6, 2010, pp. 16-19.

³⁸ *People v. Zafra*, 712 Phil. 559, 574-575 (2013).



Court has held that forcible abduction is absorbed in the crime of rape when the intent of the abductor is to have carnal knowledge of the victim.³⁹


The elements necessary to sustain a conviction for rape are: (1) that the accused had carnal knowledge of the victim; and (2) that said act was accomplished (a) through the use of force or intimidation, (b) when the victim is deprived of reason or otherwise unconscious, (c) by means of fraudulent machination or grave abuse of authority, or (d) when the victim is under 12 years of age or is demented.⁴⁰

The prosecution sufficiently established that AAA was raped while she was unconscious. Moreover, the abductors' intent to commit such horrific acts on her was made apparent when, upon arriving at the place she was detained, the assailants tried kissing her and slapped her when she resisted. She was only released the following morning after her abductors were done having their way with her. Absent any other overt act which would show otherwise, then it is clear that the main objective of her abductors was to have carnal knowledge of her, for which they should be convicted for the crime of rape.

With regard to the penalty imposed, the CA correctly upheld the trial court's imposition of the penalty of *reclusion perpetua* in accordance with Article 266-B⁴¹ of the RPC.

Finally, we affirm the modifications made by the CA as to the amounts of damages awarded, such that AAA was awarded ₱75,000.00 as civil indemnity and ₱75,000.00 as moral damages, which shall earn interest at the rate of 6% *per annum* awarded from the date of the finality of this Decision until fully paid. However, it must be modified to include an award of ₱75,000.00 as exemplary damages, in consonance with this Court's ruling in *People v. Jugueta*.⁴²

WHEREFORE, the appeal is hereby **DISMISSED**. The Decision dated August 31, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 07482 is **MODIFIED** in that accused-appellant Jupiter Villanueva y Bautista is found **GUILTY** of rape; in addition, AAA is entitled to the amount of ₱75,000.00 as exemplary damages.



³⁹ *People v. Domingo*, supra note 33.

⁴⁰ REVISED PENAL CODE, Article 266-A, as amended by REPUBLIC ACT NO. 8353 (1997).

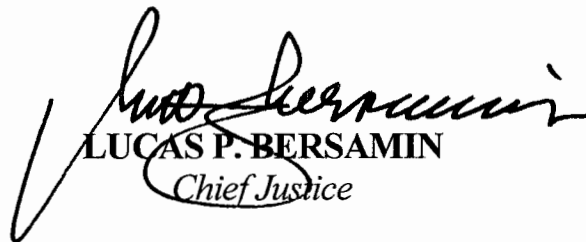
⁴¹ Art. 266-B. *Penalties*. – Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

⁴² Supra note 19.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice

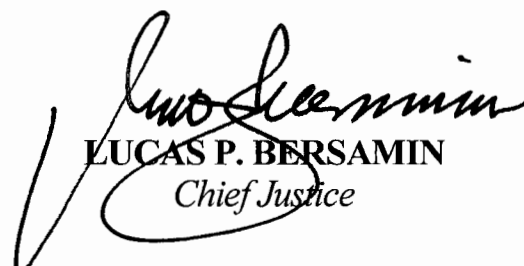

FRANCIS H. JARDELEZA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


ROSMARI D. CARANDANG
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.


LUCAS P. BERSAMIN
Chief Justice