



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,      G.R. No. 252351  
*Plaintiff-appellee,*

Members:

PERLAS-BERNABE, *Chairperson*  
LAZARO-JAVIER,  
INTING,\*  
LOPEZ, M.,  
ROSARIO, *JJ.*

- versus-

XXX,  
*Accused-appellant.*

Promulgated:

JUL 07 2021

X-----X

**DECISION**

**LAZARO-JAVIER, J.:**

**The Case**

This appeal seeks to reverse the Decision<sup>1</sup> dated August 28, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 10516 entitled "*People of the Philippines v. XXX*" affirming the verdict of conviction against appellant XXX for qualified rape under Articles 266-A and 266-B of the Revised Penal Code (RPC) and violation of Section 10 (A), Article VI of Republic Act No. 7610 (RA 7610).

\* J. Inting designated as additional member per S.O. 2823-L dated May 7, 2021.

<sup>1</sup> Penned by Now Supreme Court Associate Justice Josep Y. Lopez and concurred in by Associate Justices Stephen C. Cruz and Perpetua Susana T. Atal Pafio: *rollo*, pp. 3-19.

### The Charge

In Criminal Case No. 04-2755, appellant XXX was charged with rape, as follows:

#### Criminal Case No. 04-2755

That on or about the 11<sup>th</sup> day of March 2004 at around 7 o'clock in the evening, at Brgy. [REDACTED], in the municipality of [REDACTED], Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with lewd designs, by means of force, violence and intimidation, did then and there, willfully, unlawfully and feloniously have carnal knowledge of one [REDACTED], a minor, 15 years of age, against her will.

Rolando is the stepfather of [REDACTED].

CONTRARY TO LAW.<sup>2</sup>

In Criminal Case No. 04-2754, he was charged with violation of Section 10 (A), Article VI of RA 7610 under the following Information:

#### Criminal Case No. 04-2754

That on or about the 27<sup>th</sup> day of March 2004, at Brgy. [REDACTED], Municipality of [REDACTED], Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously attack, assault, and slap one [REDACTED], a minor, 15 years of age, inflicting injury on her face, conditions prejudicial to the development of said child.

CONTRARY TO LAW.<sup>3</sup>

The cases were raffled to the Regional Trial Court (RTC)-Branch 64, [REDACTED], Quezon.

On arraignment, appellant pleaded not guilty to both charges.<sup>4</sup>

Trial ensued. AAA,<sup>5</sup> her mother BBB, her aunt DDD, barangay *tanod* Gilbert Gandia and Dr. Wennie Parado-Alcantara (Dr. Parado-Alcantara) testified for the prosecution while appellant was the sole witness for the defense.

<sup>2</sup> CA rollo, p. 55.

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

<sup>4</sup> *Id.* at 47.

<sup>5</sup> The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used, in accordance with *People v. Cabalquinto* [533 Phil. 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

### Version of the Prosecution

AAA testified that her father died while she was still a baby. Not long after, her mother, BBB, met appellant and they lived in together. AAA was only eight (8) months old at that time. Her mother and appellant bore six (6) children. She treated appellant like her own father until the latter molested her when she was fifteen (15) years old.<sup>6</sup>

On March 11, 2004, around 7 o'clock in the evening, she and her eleven (11) year old sister were at the living room when appellant arrived from a drinking spree. AAA instructed her sister to go to sleep as the latter still had to go to school the following day. They proceeded to the bedroom at the second floor but appellant asked her to go down and give him a massage. At first, AAA refused but she reluctantly obeyed when appellant told her she had no other choice but to follow him. At the living room, appellant suddenly switched off the lights and started kissing and caressing AAA's breasts. When she resisted, appellant punched her twice in her left torso. Appellant then instructed her to go to sleep. He, however, followed her to the bedroom, laid beside her and started taking her clothes off. Appellant continued even as AAA's one-year-old sister who was then sleeping adjacent to AAA, woke up. Appellant warned AAA that he would kill AAA, her mother and her siblings if she would make any sound and if she resisted. Appellant thereafter inserted his penis into her vagina. He was making pumping motions when AAA's mother BBB arrived from peddling *balut*. Appellant immediately stopped, got dressed, and went down. AAA followed him but she did not tell BBB her ordeal because she was afraid that appellant would make good his threat to kill her, her siblings and her mother.<sup>7</sup>

On March 13, 2004, AAA, afraid that appellant would rape her again, did not go home after school. She, instead went to her aunt, CCC's, house and narrated to the latter her harrowing experience with appellant. CCC brought AAA to BBB's sister DDD who then informed BBB about what happened. CCC accompanied AAA to the police station to report the rape incident on March 22, 2004.<sup>8</sup>

Dr. Parado-Alcantara's Medico Legal Report on the examination of AAA revealed the following findings:

#### DIAGNOSIS/FINDINGS:

- Normal looking external genitalia
- Hymenal lacerations 2, 5, 9 o'clock positions
- Admits 1 finger with no resistance<sup>9</sup>

<sup>6</sup> *Rollo*, p. 5.

<sup>7</sup> *Id.* at 4-5.

<sup>8</sup> *Id.* at 5.

<sup>9</sup> *Id.* at 6.

On March 27, 2004, AAA, accompanied by another aunt of hers, FFF and two barangay *tanods* went to AAA's house to get her belongings. It was appellant who opened the door. AAA asked him if she could get her belongings. Appellant, upon noticing that AAA was accompanied by barangay officials, asked AAA "*Bakit ngayon ka lang?*" and thereafter slapped AAA's left cheek which caused the latter to fall on her knees. Appellant was about to hit her again but was prevented by the barangay officials.<sup>10</sup>

Appellant was then handcuffed and brought to the police station where he was detained.<sup>11</sup>

Dr. Parado-Alcantara testified that contusions resulting from hematoma usually do not immediately appear and it takes two to three days before they become visible. Based on her physical examination of AAA, she noted the following results:

DIAGNOSIS/FINDINGS:

- Contusions hematoma left maxillary area
- Tenderness left cheek

Under normal condition without subsequent complication unless deeper involvement might be present but not clinically apparent at the time of examination, said physical injuries will require a medical treatment for a period of less than nine (9) days.<sup>12</sup>

### Version of the Defense

Appellant vehemently denied the accusations against him. He narrated that when he arrived home around 8 o'clock in the evening of March 11, 2004, AAA and her siblings were home while BBB was out peddling *balut*.

On March 11, 2004, AAA ran away from home because he scolded her for not eating at home. He tried to look for her but he could not find her so he was taken aback when she suddenly showed up with men whom he did not know. He admitted to have slapped her because of this.<sup>13</sup>

When AAA together with barangay officials went to his house on March 24, 2004 to get AAA's belongings, he thought that he was being arrested for slapping AAA. He was shocked when he was informed at the police station that he was being charged with rape.<sup>14</sup>

---

<sup>10</sup> *Id.* at 5.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 7.

<sup>13</sup> *Id.* at 8.

<sup>14</sup> *Id.*

He suspects that it was a certain “*kambal*” who actually raped AAA. Even before the alleged date of the rape incident or on March 11, 2004, AAA already had a “traumatic experience” with this *Kambal* who caused her vaginal injuries. A complaint was lodged before the barangay but it was settled when *Kambal* handed BBB ₱500.00 for AAA’s medication. While he could not supply any proof, he insisted that it was *Kambal* who raped AAA and that he did not know why he was the one being accused of the crime. He even treated AAA as his own daughter.<sup>15</sup>

### The Ruling of the Trial Court

By Decision<sup>16</sup> dated January 15, 2018, the trial court found appellant guilty of rape and violation of Section 10 (A), Article VI of RA 7610, *viz.*:

WHEREFORE, accused XXX of Brgy. [REDACTED], Quezon is hereby found GUILTY beyond reasonable doubt of the crime of Rape in Criminal Case No. 04-2755, and taking into consideration the age of the victim and his relationship with her, he is hereby sentenced to suffer the penalty of *Reclusion Perpetua* and for the accused to pay the private complainant ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages and ₱50,000.00 as exemplary damages; and in Criminal No. 04-2754 for violation of Section 10 (a), Article VI of RA 7610, accused is hereby sentenced applying the Indeterminate Sentence Law, considering the aggravating circumstance of disregarding of the respect due to the offended party on ground of her age, to suffer FOUR (4) YEARS, TWO (2) MONTHS AND ONE (1) DAY OF PRISION CORRECTIONAL as minimum to TEN (10) YEARS AND ONE (1) DAY OF PRISION MAYOR as maximum and to pay the private complainant moral damages in the amount of ₱20,000.00, civil indemnity in the amount of ₱30,000.00 and exemplary damages in the amount of ₱20,000.00.

SO ORDERED.<sup>17</sup>

The trial court found AAA to have positively identified appellant as the person who had carnal knowledge of her against her will on the night of March 11, 2004. While there were inconsistencies in her testimony as to the exact part of the house she was raped, whether in the bedroom or downstairs, such inconsistencies will not necessarily impair AAA’s credibility. For victims may not be expected to be errorless in recounting the details of a harrowing experience. More so in light of AAA’s testimony here that appellant had been caressing and embracing her when they were downstairs and in the bedroom where he eventually had carnal knowledge of her.<sup>18</sup>

The trial court further concluded that in lieu of actual force and intimidation, appellant used his moral ascendancy on AAA to consummate

<sup>15</sup> *Id.*

<sup>16</sup> Penned by Acting Presiding Judge Adolfo V. Encomienda; CA *rollo*, pp. 47-53.

<sup>17</sup> *Rollo*, p. 4.

<sup>18</sup> CA *rollo*, p. 65.

the crime of rape.<sup>19</sup> Also, the fact that AAA's younger sister was just beside her sleeping does not mean appellant did not rape AAA on the night in question. For rape can be committed even in places where people congregate and even inside a house where there are other occupants other than the assailant and the victim.<sup>20</sup>

As for violation of Section 10 (A), Article VI of RA 7610, the trial court notes appellant's own admission that he slapped AAA in the face in the presence of the AAA's aunt and barangay *tanods* as he claimed to have been enraged when AAA did not come home for days without asking his permission and without telling him her whereabouts.<sup>21</sup>

### The Proceedings Before the Court of Appeals

On appeal, appellant reiterated that the trial court erred in rendering a verdict of conviction since there were material inconsistencies which created doubt as to the number of times AAA was raped by him. AAA first testified that she was raped twice, once at the first floor of the house and the other inside the bedroom immediately after the first one but later on corrected herself in court to say that she was raped only once. Also, given the small bedroom space they had at home where six other children sleep, it would be improbable for him to commit the bestial act since any sudden movement would have awakened them. It also defies common human experience that he raped AAA in the room where his children were sleeping when he could do so with more ease in his own room.<sup>22</sup>

On violation of RA 7610, appellant averred that the prosecution fell short in proving that he acted with intent to debase, degrade, or demean the intrinsic worth and dignity of AAA when he slapped her on March 27, 2004. It was only a natural reaction for him to slap AAA considering that she had not come home and showed up only days after in the company of men he could not even identify.<sup>23</sup>

The Office of the Solicitor General (OSG) defended the verdict of conviction and countered that the prosecution was able to prove that appellant raped AAA. AAA positively identified appellant as the one who sexually ravished her. The matters being raised by appellant are too trivial to warrant a reversal of the verdict of conviction.<sup>24</sup>

Appellant is equally guilty of violation of Section 10 (A), Article VI of RA 7610. It matters not whether he simply wanted to discipline AAA at the time he slapped her because she did not come home for days. What is material is the effect of the act on the minor – physically and psychologically. It is

---

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Rollo*, p. 9.

<sup>23</sup> *Id.* at 10.

<sup>24</sup> *CA rollo*, p. 85.

evident that appellant's intention was not noble since he did not slap her for the reason that she ran away from home, instead, he did so because he became aware that AAA had already told other people about the rape incident.<sup>25</sup>

### The Ruling of the Court of Appeals

The body of the assailed Decision<sup>26</sup> dated August 28, 2019 of the Court of Appeals bore its factual findings and conclusions in Criminal Case No. 04-2755:

That Accused-Appellant is the stepfather of the victim further aggravates the rape. The crime of Qualified Rape is committed when the following concur:

1. Sexual congress
2. With a woman
3. Done by force and without consent;
4. The victim is under eighteen years of age at the time of the rape;
5. The offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the **common law spouse of the parent of the victim.**

There is no doubt on the relationship between the Accused-Appellant and Private Complainant. Both of them admitted that he is the live-in partner of her mother; even BBB confirmed their common-law relationship in court. Accused-Appellant is Private Complainant's stepfather who had considerable moral ascendancy over (sic) him. This alone sufficiently explains why Private Complainant did not offer a more physical resistance particularly because it is a settled rule that in cases where the rape is committed by a close kin, such as the common-law spouse of the victim's mother, it is not necessary that actual force or intimidation be employed; moral ascendancy takes the place of violence or intimidation.

x x x x

Since the penalty of death cannot be imposed in view of Republic Act No. 9346, then the court *a quo* correctly sentenced Accused-Appellant to suffer the penalty of *reclusion perpetua* without eligibility of parole. However, there is a need to modify the amounts of damages awarded. Pursuant to prevailing jurisprudence, We hold that Private Complainant is entitled to ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages, for the (sic) three counts of rape.

x x x x

<sup>25</sup> *Id.* at 89.

<sup>26</sup> Penned by now Supreme Court Associate Justice Josep Y. Lopez and concurred in by Associate Justices Stephen C. Cruz and Perpetua T. Atal-Paño; *rollo*, pp. 3-19.

and in Criminal Case No. 04-2754, viz.:

x x x x

The finding that Accused-Appellant XXX is guilty beyond reasonable doubt for violation of Section 10 (a) of Republic Act No. 7610 in Criminal Case No. 042754 is likewise AFFIRMED with the MODIFICATION that he is sentenced to suffer the penalty of imprisonment of four (4) years, nine (9) months and eleven (11) days of *prision correctional*, as minimum, to six (6) years, eight (8) months and one (1) day of *prision mayor*, as maximum. He is likewise directed to pay the amount of ₱30,000.00 as civil indemnity to Private Complainant [REDACTED].

Interest of 6% *per annum* is imposed on all damages awarded from date of finality of this judgment until fully paid.

SO ORDERED.<sup>27</sup>

In the dispositive portion, however, the Court of Appeals, in Criminal Case No. 04-2755, decreed differently. Instead of convicting appellant of qualified rape, it convicted him of simple rape only and imposed *reclusion perpetua*, instead of *reclusion perpetua*, without eligibility for parole. Even then, it increased the award of civil indemnity, moral damages, and exemplary damages to ₱100,000.00 each, thus:

**WHEREFORE**, premises considered, the Decision dated 15 January 2018 of the Regional Trial Court, Branch 64, of [REDACTED], Quezon in Criminal Case No. 04-2755 is AFFIRMED with (sic) the MODIFICATION. Accused-Appellant XXX is found guilty beyond reasonable doubt of Rape and is sentenced to suffer the penalty of *reclusion perpetua*. He is ordered to pay to Private Complainant [REDACTED] the following amounts:

1. ₱100,000.00 as civil indemnity;
2. ₱100,000.00 as moral damages; and
3. ₱100,000.00 as exemplary damages.

In contrast, the Court of Appeals disposed of Criminal Case No. 04-2754 conformably with its factual findings and conclusion as borne in the body of its Decision dated August 28, 2019, thus:

The finding that Accused-Appellant XXX is guilty beyond reasonable doubt for violation of Section 10 (a) of Republic Act No. 7610 in Criminal Case No. 042754 is likewise AFFIRMED with the MODIFICATION that he is sentenced to suffer the penalty of imprisonment of four (4) years, nine (9) months and eleven (11) days of *prision correctional*, as minimum, to six (6) years, eight (8) months and one (1) day of *prision mayor*, as maximum. He is likewise directed to pay the amount of ₱30,000.00 as civil indemnity to Private Complainant [REDACTED].

---

<sup>27</sup> *Id.* at 18-19.



Interest of 6% *per annum* is imposed on all damages awarded from date of finality of this judgment until fully paid.

SO ORDERED.<sup>28</sup>

### The Present Appeal

Appellant now seeks affirmative relief from the Court and prays anew for his acquittal. In compliance with Resolution<sup>29</sup> dated October 7, 2020, appellant and the OSG both manifested<sup>30</sup> that, in lieu of supplemental briefs, they were adopting their respective briefs filed before the Court of Appeals.

### Issues

1. What is the effect of the variance between the body and dispositive portion of the assailed decision on appellant's criminal liability, impossible penalty, and civil liability in Criminal Case No. 04-2755?
2. Is appellant guilty of simple rape or qualified rape?
3. Is appellant guilty of violation of Section 10 (A), Article VI of RA 7610?

### Ruling

***The body of a decision prevails over the dispositive portion where it is clear that there was an evident error made in the dispositive portion of the decision***

Foremost, it is noted that while in the body of the assailed decision of the Court of Appeals, appellant was held guilty of qualified rape and meted the penalty of *reclusion perpetua* without eligibility for parole, the dispositive portion, however, convicted appellant of simple rape only, provides for the penalty of *reclusion perpetua*, omitting the phrase "without eligibility for parole."

While the general rule is that the *fallo* prevails over the body of the decision, this rule does not apply where it is clear from the body of the decision that there was a glaring error made in the dispositive portion, in which case, the body of the decision will control.<sup>31</sup>

***ABC v. People***<sup>32</sup> is instructive:

---

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 25-26.

<sup>30</sup> *Id.* at 28-30 and 33-34.

<sup>31</sup> See *Tadeo-Matias v. Republic*, 612 Phil. 984, 996-997 (2018).

<sup>32</sup> G.R. No. 241591, July 8, 2020.

As correctly ruled by the CA, the clear findings of the Family Court is that the prosecution failed to prove beyond reasonable doubt the guilt of petitioner in his indictment for Criminal Case No. 37119-R which charged him for his act of insertion of a finger into the victim's anal orifice; and that only one instance of Sexual Assault was established which pertained to Criminal Case No. 37120-R committed by petitioner by his insertion of a finger into AAA's genitalia. Thus, it is only just and proper to correct the dispositive portion to reflect the exact findings and conclusions of the Family Court as the Court already settled in *Cobarrubias*, viz.:

The general rule is that where there is a conflict between the *fallo*, or the dispositive part, and the body of the decision or order, the *fallo* prevails on the theory that the *fallo* is the final order and becomes the subject of execution, while the body of the decision merely contains the reasons or conclusions of the court ordering nothing. However, where one can clearly and unquestionably conclude from the body of the decision that there was a mistake in the dispositive portion, the body of the decision will prevail.

In *Cobarrubias*, there was a clerical error in the *fallo* or the dispositive portion of Presiding Judge Florentino M. Alumbres' Order dated March 20, 2001, which should have dismissed Criminal Case No. 94-5038 for Homicide instead of Criminal Case No. 94-5037 for Illegal Possession of Firearms, as discussed in the body of the order. Accordingly, it was ruled therein that it was only just and proper to correct the dispositive portion to reflect the exact findings and conclusions of the trial court.

This exception applies to the present case. The Court of Appeals extensively discussed how AAA's minority and her relationship with appellant *i.e.* appellant being the common law spouse of AAA's mother were used to qualify the offense from simple rape to qualified rape. It also discussed at length why in view of Republic Act No. 9346 (RA 9346),<sup>33</sup> appellant may only be meted the penalty of *reclusion perpetua* without eligibility for parole instead of death. It further increased the award of damages to conform with the prescribed amounts set by prevailing jurisprudence for the crime of qualified rape.

Verily, while the dispositive portion bears appellant's conviction only for simple rape and the imposition of *reclusion perpetua*, sans the phrase "without eligibility for parole", we consider this to be mere typographical errors. For the body of the decision clearly pronounced appellant guilty of "Qualified Rape" which carries the penalty of *reclusion perpetua* without eligibility for parole.

This notwithstanding, however, we cannot sustain the foregoing verdict of conviction for qualified rape, and consequently, the imposition of *reclusion perpetua*, without eligibility for parole.

---

<sup>33</sup> AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES.

***Appellant is guilty of simple rape  
under Articles 266-A of the  
Revised Penal Code***

Rape is defined and penalized under Article 266-A of the RPC, thus:

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.

For a charge of rape to prosper under Article 266-A of the Revised Penal Code, as amended, the prosecution must prove that (1) the offender had carnal knowledge of a woman; and (2) **he accompanied such act through force, threat, or intimidation**, or when she was deprived of reason or otherwise unconscious, or when she was under twelve years of age or was demented.

AAA positively identified appellant as the one who sexually ravished her on the night of March 11, 2004. She narrated in detail how appellant, while they were downstairs, caressed her breasts and hips and then embraced her. Thereafter, appellant directed her to go to the bedroom at the second floor of the house but he followed her just the same. There, he undressed AAA and succeeded in having sexual intercourse with her. The trial court gave full credence to the testimony of AAA who narrated her ordeal in a straightforward and candid manner. Being a girl of tender years who barely understood sex and sexuality, it was unlikely of her to concoct a tale of defloration, allow the examination of her private parts, and undergo the rigors of public trial unless she was actually raped.<sup>34</sup>

Indeed, the credible testimony of the rape victim is sufficient to sustain a verdict of conviction. More so, when the victim's testimony firmly conformed with the medical findings of the doctor who examined her, as here. On this score, we refer to the Medical Certificate dated March 19, 2004 stating that AAA sustained both remote and recent evidence of blunt and penetrating injuries in her hymen.<sup>35</sup>

---

<sup>34</sup> CA rollo, p. 49.

<sup>35</sup> *Id.* at 102.

Appellant had moral ascendancy over AAA since she was only eight (8) months old when he and her mother started living in together and it was he who sent her to school and spent for her needs.<sup>36</sup> She testified that while appellant is not her biological father, she considered him to be her own father. Both the trial court and the Court of Appeals correctly found that in lieu of force and intimidation, appellant used and took advantage of his moral ascendancy over AAA to consummate the crime.

In any case, the testimony of AAA prevailed over appellant's bare denial which, as found by the trial court, is inherently weak. Although appellant pointed to one "*kambal*" who had caused the "vaginal injuries" of AAA, he was not even able to establish the real identity of this person, if at all he existed. In fine, his story about "*kambal*" is obviously a mere fictional creation to get himself off the hook, so to speak.

As for the supposed inconsistencies in the testimony of AAA pertaining to the exact place in the house where she got raped, the same relate on trivial matters which do not negate the fact that appellant did rape AAA. In any event, appellant's claim that he could not have raped AAA inside the bedroom she shared with her siblings who were also sleeping there, must fail. For it is settled that lust is no respecter of time and place.

Article 266-B of the RPC provides for the instances when rape is qualified, hence, punishable by death, viz.:

Article 266-B. *Penalty.* – x x x

x x x x

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

- 1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim; x x x

Rape is qualified when: a) the victim is under eighteen (18) years of age; and b) committed by the victim's parent, ascendant, step-parent, guardian, or relative by consanguinity or affinity within the third civil degree, or by the common-law spouse of the victim's parent. In order for an accused to be convicted of qualified rape, it is essential that these special qualifying circumstances of minority and relationship are properly alleged in the Information and duly proven during the trial.<sup>37</sup> This is to comply with the constitutional right of the accused to be properly informed of the nature and cause of the accusation against him. The purpose is to allow the accused to prepare fully for his defense to prevent surprises during the trial.<sup>38</sup>

<sup>36</sup> *Id.* at 65.

<sup>37</sup> *People v. XXX*, G.R. No. 240441, December 4, 2019.

<sup>38</sup> *People v. XYZ*, G.R. No. 244255, August 26, 2020.

Here, the Information for qualified rape alleged the circumstance of minority “██████████, a minor, 15 years of age”; and relationship “██████████ is the stepfather of ██████████.”

The prosecution adduced in evidence the birth certificate<sup>39</sup> of AAA showing that she was born on November 23, 1988, which means that she was only fifteen years old when she got raped on March 11, 2004. On the other hand, the testimonial evidence of the prosecution and the defense both disproved the allegation that appellant is the stepfather of AAA. In truth, he and AAA’s mother are not married. They are just common law spouses.

*People v. Escultor*<sup>40</sup> clarified the meaning of stepfather and stepdaughter *vis-a-vis* an indictment for qualified rape and the effect on the criminal liability of the accused should the Information allege that he is the stepfather of the victim but the evidence show that he is not married to the mother of the victim as they are just common law spouses, thus:

Nevertheless, the death penalty is not the correct penalty for the two counts of rape committed by appellant because the two informations in Criminal Case No. CEB-BRL-478 and CEB-BRL-479 failed to correctly state appellant’s relationship with Jenelyn. To justify the death penalty, the prosecution must specifically allege in the information and prove during the trial the qualifying circumstances of the minority of the victim and her relationship to the offender. The information must jointly allege these qualifying circumstances to afford the accused his right to be informed of the nature and cause of the accusation against him. Sections 8 and 9 of Rule 110 of the Revised Rules of Criminal Procedure expressly mandate that the qualifying circumstance should be alleged in the information.

Although the prosecution proved that appellant was the common-law spouse of (AAA’s) mother, what appears in the informations is that the victim is the stepdaughter of appellant. A stepdaughter is the daughter of one’s spouse by a previous marriage. For appellant to be the stepfather of (AAA), he must be legally married to (AAA’s) mother. However, appellant and the victim’s mother were not legally married but merely lived in common-law relation. The two informations failed to allege specifically that appellant was the common-law spouse of the victim’s mother. Instead, the two informations erroneously alleged the qualifying circumstance that appellant was the stepfather of the victim. Hence, appellant is liable only for two counts of simple statutory rape punishable with reclusion perpetua for each count.

Here, since the Information erroneously alleged that appellant is the stepfather of AAA, appellant is only liable for simple rape and not for qualified rape, as found by the courts below.

*People v. Bayya*<sup>41</sup> nonetheless ordained that relationship and minority in qualified rape partake of the nature of a special qualifying circumstance which has the effect of increasing the prescribed penalty by degrees. When

<sup>39</sup> *Id.* at 47.

<sup>40</sup> 473 Phil. 717, 737-738 (2004).

<sup>41</sup> 384 Phil. 519, 527-528 (2000).

either one of the said circumstances is omitted or lacking, that which is pleaded in the Information and proven by the evidence may be considered merely as a generic aggravating circumstance which shall entitle the victim to the award of exemplary damages. *People v. Arcillas*<sup>42</sup> further elucidated:

The minority of AAA was sufficiently alleged in the information that stated that she was "a 13-year-old girl." The Prosecution established that her age when the rape was committed on May 12, 2000 was thirteen years and two months by presenting her birth certificate revealing her date of birth as March 15, 1987. As to her relationship with Arcillas, the information averred that he was "then the step-father of AAA." It turned out, however, that he was not her stepfather, being only the common-law husband of BBB. The RTC itself found that he and BBB were only "live-in partners." In addition, AAA's birth certificate disclosed that her father was CCC, who had been married to BBB, who was widowed upon the death of CCC in 1996. No evidence was adduced to establish that BBB and Arcilla legally married after CCC's death.

x x x x

x x x The CA and the RTC should have recognized the entitlement of AAA to exemplary damages on account of the attendance of her minority and the common-law relationship between him and her mother. It did not matter that such qualifying circumstances were not taken into consideration in fixing his criminal liability, because the term aggravating circumstances as basis for awarding exemplary damages under the Civil Code was understood in its generic sense. As the Court well explained in *People v. Catubig*:

The term "aggravating circumstances" used by the Civil Code, the law not having specified otherwise, is to be understood in its broad or generic sense. The commission of an offense has a two-pronged effect, one on the public as it breaches the social order and the other upon the private victim as it causes personal sufferings, each of which is addressed by, respectively, the prescription of heavier punishment for the accused and by an award of additional damages to the victim. The increase of the penalty or a shift to a graver felony underscores the exacerbation of the offense by the attendance of aggravating circumstances, whether ordinary or qualifying, in its commission. Unlike the criminal liability which is basically a State concern, the award of damages, however, is likewise, if not primarily, intended for the offended party who suffers thereby. It would make little sense for an award of exemplary damages to be due the private offended party when the aggravating circumstance is ordinary but to be withheld when it is qualifying. Withal, the ordinary or qualifying nature of an aggravating circumstance is a distinction that should only be of consequence to the criminal, rather than to the civil, liability of the offender. In fine, relative to the civil aspect of the case, an aggravating circumstance, whether ordinary or qualifying, should entitle the offended party to an award of

---

<sup>42</sup> 692 Phil. 40, 52-53 (2012).

11

exemplary damages within the unbridled meaning of Article 2230<sup>43</sup> of the Civil Code.

Here, although the allegation of relationship as a qualifying circumstance was not proved, taking into consideration, however, the fact that the other qualifying circumstance of minority was both sufficiently alleged in the Information and proved, AAA is entitled to the award of exemplary damages in accordance with *Bayya* and *Arcillas*.

In accordance with *People v. Jugueta*,<sup>44</sup> however, courts automatically award exemplary damages in favor of rape victims in the amount of ₱75,000.00 for simple rape to serve as a deterrent against the repetition of this socially deleterious act.

***Appellant is liable under Section 10 (a), Article VI, of RA 7610***

Appellant was charged, tried, and found guilty of violating Section 10 (a), Article VI, of RA 7610, viz.:

SEC. 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development.

- (a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or to be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of *prision mayor* in its minimum period.

Under Section 3 (b) paragraph 2 of RA 7610, child abuse may be committed by deeds or words which debase, degrade or demean the intrinsic worth and dignity of a child as a human being.

In *Torres v. People*,<sup>45</sup> the Court held that the act of whipping a child on the neck with a t-shirt in public, is an act which debases, degrades and demeans the intrinsic worth and dignity of a child. It is not only a form of cruelty but also a humiliating and traumatizing experience for all persons regardless of ages.

As keenly observed by the courts below, the act of appellant in slapping AAA in front of the latter's aunt and two barangay *tanods* debased, degraded, or demeaned AAA's intrinsic worth and dignity as a human being. It was an act of cruelty which certainly humiliated and traumatized this fifteen-year-old girl.

<sup>43</sup> ART. 2230. In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.

<sup>44</sup> 783 Phil. 806, 846 (2016).

<sup>45</sup> 803 Phil. 480, 487 (2017).

Too, the Court of Appeals keenly observed that appellant slapped AAA obviously to make an impression to the barangay *tanods* and the aunt of AAA that he was but a concerned father wanting to discipline his child. It was clear that when appellant saw the persons in the company AAA when she came home, he readily suspected they already knew about the rape incident and instantly got in a state of panic not knowing how to possibly cover his misdeeds. It could also be his way to silence or scare off AAA from further speaking against him.

### Penalties and Civil Liability

The crime of simple rape is punishable by *reclusion perpetua* in accordance with Article 266-B of the RPC.

As for appellant's civil liability, the awards of civil indemnity, moral damages, and exemplary damages is fixed at ₱75,000.00 each in accordance with *People v. Jugueta*.<sup>46</sup> These amounts shall earn six percent (6%) interest *per annum* from finality of this decision until fully paid.<sup>47</sup>

Going now to violation of Section 10 (a), Article VI of RA 7610, the prescribed penalty is *prision mayor* in its minimum period. This penalty is derived from, and defined in, the RPC. Although RA 7610 is a special law, the rules in the RPC for graduating penalties by degrees or determining the proper period should be applied. Thus, where the special law adopted penalties from the RPC, the Indeterminate Sentence Law will apply just as it would in felonies.<sup>48</sup>

In the absence of any modifying or aggravating circumstances, the Court of Appeals correctly sentenced appellant to four (4) years, nine (9) months and eleven (11) days of *prision correccional*, as minimum, to six (6) years, eight (8) months and one (1) day of *prision mayor*, as maximum.

The award of civil indemnity in the amount of ₱30,000.00, as decreed by both courts below is consistent with prevailing jurisprudence.<sup>49</sup>

In addition, the Court awards moral damages in the amount of ₱10,000.00 in line with *Patulot v. People*,<sup>50</sup> and a ₱15,000.00 fine pursuant to Section 31(f), Article XII of RA 7610.<sup>51</sup>

<sup>46</sup> *People v. Jugueta*, *supra* note 44.

<sup>47</sup> *Posadas v. Court of Appeals*, G.R. No. 228223, June 10, 2019; *People v. Ronquillo*, 818 Phil. 641, 649-650 (2017).

<sup>48</sup> *Sanchez v. People*, 606 Phil. 768, 780 (2009).

<sup>49</sup> *Fernandez v. People*, G.R. No. 217542, November 18, 2018; *Sanchez v. People*, G.R. No. 179090, June 5, 2009.

<sup>50</sup> G.R. No. 235071, January 7, 2019.

<sup>51</sup>

#### ARTICLE XII Common Penal Provisions

Section 31. Common Penal Provisions. —

x x x x

(f) A fine to be determined by the court shall be imposed and administered as a cash fund by the Department of Social Welfare and Development and disbursed for the rehabilitation of each child victim, or any immediate member of his family if the latter is the perpetrator of the offense.



**ACCORDINGLY**, the appeal is **DISMISSED**. The Decision dated August 28, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 10516, is **AFFIRMED with MODIFICATION**.

Appellant **XXX** is found **GUILTY** of:

1. **SIMPLE RAPE** in **Criminal Case No. 04-2755**. He is sentenced to *reclusion perpetua*. 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;
2. **CHILD ABUSE** under **Section 10 (A), Article VI, of Republic Act No. 7610 in Criminal Case No. 04-2754**. He is sentenced to four (4) years, nine (9) months and eleven (11) days of *prision correccional*, as minimum, to six (6) years, eight (8) months and one (1) day of *prision mayor*, as maximum. He is furthered **ORDERED** to **PAY AAA ₱30,000.00** as civil indemnity, ₱10,000.00 as moral damages.

In addition, he is **ORDERED** to **PAY** a fine in the amount of ₱15,000.00.

These amounts, except for the fine, shall earn six percent (6%) interest *per annum* from finality of this decision until fully paid.

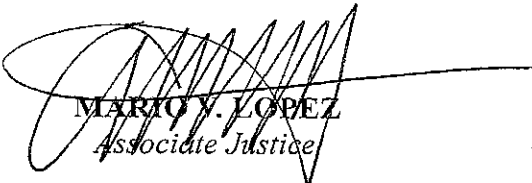
**SO ORDERED.**

  
**AMY C. LAZARO-JAVIER**  
*Associate Justice*

**WE CONCUR:**

  
**ESTELA M. PERLAS-BERNABE**  
*Chairperson*


  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

  
**MARIO V. LOPEZ**  
*Associate Justice*

  
**RICARDO E. ROSARIO**  
*Associate Justice*

**ATTESTATION**

I attest that the conclusion 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.

  
**ESTELA M. PERLAS-BERNABE**  
 Senior Associate Justice  
 Chairperson

**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.

  
**ALEXANDER G. GESMUNDO**  
 Chief Justice

