Republic of the Philippines
Supreme Court
Manila

EN BANC

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

- versus -

ALEXANDER OLPINDO *y* REYES,
Accused-Appellant.

G.R. No. 252861

Present:

GESMUNDO, *C.J.*,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,
LOPEZ, J.,
DIMAAMPAO, and
MARQUEZ, *JJ.*

Promulgated:

February 15, 2022

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DECISION

GESMUNDO, *C.J.*:

The rule on automatic review of death penalty cases under Rule 122 of the Rules of Court was rendered ineffective by the enactment of Republic Act *(R.A.)* No. 9346[1] which prohibited the imposition of death penalty. While R.A. No. 9346 is in effect, no criminal case may be elevated *motu proprio* by

[1] An Act Prohibiting the Imposition of Death Penalty in the Philippines, June 24, 2006.

the Regional Trial Court *(RTC)* or the Court of Appeals *(CA)* for automatic review.

This is an Appeal[2] from the November 22, 2019 Decision[3] of the CA in CA-G.R. CR HC No. 08984 which affirmed the December 1, 2016 Decision[4] of the RTC of San Jose City, Branch 38 in Criminal Case No. 1307-08-SJC, finding Alexander Olpindo *y* Reyes *(accused-appellant)* guilty of Rape as defined and penalized under Article 266-A, paragraph 1, in relation to Art. 266-B of the Revised Penal Code *(RPC)*.

Antecedents

On October 6, 2008, accused-appellant was charged with the crime of rape in relation to R.A. No. 7610, in an information which reads:

> That on or about February 27, 2008, in the City of San Jose, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the said accused, by means of force, violence and intimidation, did then and there, willfully, unlawfully, and feloniously [had] carnal knowledge or sexual intercourse with [AAA],[5] a 14 year-old minor, without her consent and against the will of the latter, which act debases, degrades and demeans the dignity of [AAA] and impairs her normal growth and development, to her damage and prejudice.
>
> CONTRARY TO LAW.[6]

After evading arrest, accused-appellant was eventually apprehended on December 4, 2012. During arraignment, accused-appellant pleaded not guilty.[7] Thereafter, trial on the merits ensued.

Version of the Prosecution

On February 27, 2008, at around 7:00 p.m., AAA, then 14 years old, and her sister, BBB, were on their way home from the city public market, when a tricycle driven by accused-appellant stopped in front of them.

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[2] *Rollo*, pp. 25-27; see December 18, 2019 Notice of Appeal.
[3] Id. at 3-24; penned by Associate Justice Pablito A. Perez, with Associate Justices Franchito N. Diamante and Louis P. Acosta, concurring.
[4] CA *rollo*, pp. 50-57; penned by Presiding Judge Leo Cecilio D. Bautista.
[5] The real name of the child victim shall not be disclosed to protect her privacy and, instead, fictitious initials shall be used in accordance with the Supreme Court Amended Administrative Circular No. 83-2015 dated September 5, 2017, reiterating and supplementing the Guidelines in Administrative Matter No. 12-7-15-SC dated September 4, 2012.
[6] Records, p. 1.
[7] CA *rollo*, p. 51.

Accused-appellant and his sister Mary Ann Olpindo *(Mary Ann)*, who was on board the tricycle, asked AAA to send BBB home as they allegedly had something important to tell her. AAA refused but BBB got scared so she ran away and went home to ask for help.[8] Thereafter, accused-appellant and Mary Ann forced AAA aboard the tricycle. Accused-appellant drove to *Barangay* X with Mary Ann sitting beside AAA to prevent her from escaping. Mary Ann allegedly got off the tricycle before reaching *Barangay* X, but AAA was unable to ask for help since the tricycle was moving fast.[9]

Upon arrival at *Barangay* X, accused-appellant forcibly took AAA to an uninhabited place. He tied her hands with rope, slammed her to the floor, then removed her short pants and underwear. He took off his clothes and thereafter inserted his penis into her vagina and made up and down movements. AAA felt pain and cried.[10]

After satisfying his lust, accused-appellant withdrew his penis, untied AAA, and got dressed. He told her not to tell anyone about the incident. AAA, however, reported the incident to her aunt the following day.[11]

The prosecution offered for stipulation the proposed testimony of Dr. Janine Duran *(Dr. Duran)*, who examined AAA and consequently prepared a medico-legal report. In its May 10, 2016 Order,[12] the RTC admitted the following as Dr. Duran's testimony:

> 1.) That she is a Licensed Physician connected with PJGMRMC, Cabanatuan City during the time [AAA] underwent medical examination;
>
> 2.) That she is an expert to perform the necessary medical examination she conducted on the subject minor victim;
>
> 3.) That she reduced her findings into writing as shown by the Medico-Legal Report marked as Exhibit "B"; and
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> 4.) That she can identify the said Medico-Legal Report which she prepared.[13]

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[8] Records, p. 109.
[9] *Rollo*, pp. 4-5.
[10] Id. at 5.
[11] Id.
[12] Records, p. 97.
[13] Id.

Version of the Defense

Accused-appellant testified that on February 27, 2008, at around 7:00 p.m., he was at the city public market waiting for his girlfriend, AAA. After AAA boarded his tricycle, Mary Ann, accused-appellant's sister who also worked at the public market, boarded the tricycle. He dropped them off near their respective houses. AAA's grandmother saw him dropping them off. Afterwards, he plied his tricycle for passengers the whole night.[14]

On that same night, accused-appellant narrated that after parking his tricycle in front of the church, police officers arrived and asked around for the driver of a tricycle with body number 626. When accused-appellant admitted being the owner of the said tricycle, the police officers invited him to the police station. At the police station, accused-appellant saw AAA's mother and grandmother waiting for him. Upon seeing him, AAA's grandmother approached and slapped him several times. Initially, he did not know the nature of the complaint against him. When he was informed about the alleged rape, he denied the same. He claimed that he had sexual intercourse with AAA multiple times, but with her consent because they were in a relationship for about five months already. Prior to that, they had already known each other for a long time because they were neighbors.[15]

During cross-examination, accused-appellant added that he and AAA were already cohabiting in his place and that AAA's grandmother, who strongly opposed their relationship, was the one who forced AAA to charge him with rape.[16]

The defense offered for stipulation the proposed testimony of one Fedelita Colorena, which states:

> 1.) That she knows that [AAA] and the accused [have] a relationship and that they are neighbors;
>
> 2.) That she was also working in the public market and on 27 February 2008, [AAA], together with the [accused's] sister, Mary Ann Olpindo, was fetched by the accused;
>
> 3.) That the accused did not force [AAA] to board in his tricycle; and
>
> 4.) That when they went away on 27 February 2008, they were all happy.[17]

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[14] *Rollo*, p. 6.
[15] Id.
[16] Id.
[17] Records, p. 103.

Ruling of the RTC

In its decision, the RTC found accused-appellant guilty of rape considering that the prosecution had sufficiently proven all the elements of the said crime. It also ruled that accused-appellant's flight for more than four years from the filing of the information before his arrest, indicates his guilt. Further, the "sweetheart theory" proffered by accused-appellant had no sufficient basis, and was deemed to be self-serving and uncorroborated. The dispositive portion of the decision reads:

> WHEREFORE, premises considered, the Court hereby renders judgment finding accused ALEXANDER OLPINDO y REYES GUILTY beyond reasonable doubt of the crime of rape, and hereby sentenced to suffer the penalty of *reclusion perpetua*.
>
> The Court hereby ORDERS the accused to pay AAA the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱30,000.00 as exemplary damages.
>
> SO ORDERED.[18]

CA Ruling

In its decision, the CA first noted that accused-appellant failed to file a notice of appeal and that, in its December 15, 2016 Order,[19] the RTC, citing *People v. Mateo*[20] *(Mateo)*, forwarded the records of the case to the CA for automatic review. The CA opined that the RTC decision, which imposed the penalty of *reclusion perpetua* and not death, was not subject to automatic review and, thus, had already become final and executory after accused-appellant did not file a notice of appeal. However, the CA proceeded to review the records of the case as if a notice of appeal was timely filed. It explained that the gravity of the crime committed, as well as the fact that the life and liberty of the accused are at stake, necessitated a review of the factual issues in order to minimize the possibility of errors of judgment.

Nonetheless, the CA still affirmed the ruling of the RTC and gave credence to the testimony of AAA. It held that the straightforward testimony of AAA, coupled with the medical findings on her physical condition, was sufficient to convict accused-appellant of rape. Moreover, the positive identification of AAA prevailed over accused-appellant's defense of denial and alibi. The CA observed that the damages awarded must be increased

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[18] CA *rollo*, p. 57.
[19] Records, p. 123.
[20] 477 Phil. 752 (2004).

according to *People v. Jugueta*,[21] but it did not modify the damages, reiterating that the RTC decision had already attained finality. The *fallo* reads:

> **WHEREFORE**, premises considered, the appeal by accused-appellant ALEXANDER OLPINDO y REYES is **DISMISSED**.
>
> **SO ORDERED**.[22]

Aggrieved, accused-appellant appealed before the Court.

Issues

Accused-appellant submits the following errors on the part of the CA:

> I.
> THE COURT *A QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED NOTWITHSTANDING THE PRIVATE COMPLAINANT'S QUESTIONABLE BEHAVIOR AND THE PALPABLE [INCONSISTENCIES], AND INCREDIBILITY OF HER TESTIMONY WHICH PUT GRAVE AND SERIOUS DOUBTS ON HER CREDIBILITY.
>
> II.
> THE COURT *A QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT AS THERE IS NO CONCLUSIVE FINDING OF RAPE.
>
> III.
> THE COURT *A QUO* GRAVELY ERRED IN DISREGARDING THE ACCUSED-APPELLANT'S DEFENSE OF DENIAL AND FOR SOLELY RELYING ON THE PROSECUTION'S VERSION.[23]

In its September 21, 2020 Resolution,[24] the Court required the parties to submit their respective supplemental briefs, if they so desired. In its December 23, 2020 Manifestation and Motion,[25] the Office of the Solicitor General *(OSG)* manifested that it would no longer file a supplemental brief considering that it had thoroughly discussed the assigned errors in its appellee's brief. In his January 4, 2021 Manifestation in Lieu of Supplemental

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[21] 783 Phil. 806 (2016).
[22] *Rollo*, p. 23.
[23] CA *rollo*, pp. 27-28.
[24] *Rollo*, pp. 30-31.
[25] Id. at 35-38.

Brief,[26] accused-appellant averred that he would no longer file a supplemental brief to avoid repetition of the arguments raised in his appellant's brief.

In his Appellant's Brief[27] before the CA, accused-appellant questions the credibility of AAA. He argues that AAA's testimony is too incredible to be given any credence and is full of inconsistencies. He also claims that there was no conclusive finding of rape. Accused-appellant likewise ascribes ill motive to AAA's grandmother, who disapproves of their alleged relationship, and denies resisting authorities.

On the other hand, the OSG argues in its Appellee's Brief[28] that the prosecution had duly established all the elements of rape and that AAA's failure to call for help when accused-appellant sexually abused her is not enough to discredit her testimony. The records show that AAA testified in a forthright manner and remained steadfast even under cross-examination.

Did the CA commit reversible error in affirming accused-appellant's conviction for the crime of rape?

The Court's Ruling

The Court dismisses the appeal.

The present case is not subject to automatic review.

At the outset, the Court deems it necessary to discuss the procedural milieu of this appeal which involves the application of automatic review and intermediate review of criminal cases where the penalty imposed is death, *reclusion perpetua* or life imprisonment.

In its December 15, 2016 Order,[29] the RTC *motu proprio* elevated the case to the CA, citing *Mateo* as basis:

> Pursuant to the ruling of the Supreme Court in *People vs. Mateo* allowing an intermediate review by the Court of Appeals before the case is elevated to the Supreme Court on automatic review in cases where the

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[26] Id. at 40-44.
[27] CA *rollo*, pp. 25-48.
[28] Id. at 71-85.
[29] Records, p. 123.

penalty imposed is *reclusion perpetua*, let the record of this case be forwarded to the Court of Appeals for further proceedings.

SO ORDERED.[30]

This was an erroneous application of the *Mateo* ruling.

Prior to its amendment on September 28, 2004, Section 3, Rule 122 of the Rules of Court provides for a direct appeal to this Court for criminal cases where the RTC imposed the penalty of death, *reclusion perpetua* or life imprisonment, to wit:

> SEC. 3. *How appeal taken.* –
>
> (a) The appeal to the Regional Trial Court, or to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction, shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and by serving a copy thereof upon the adverse party.
>
> (b) The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its appellate jurisdiction shall be by petition for review under Rule 42.
>
> (c) The appeal to the Supreme Court in cases where the penalty imposed by the Regional Trial Court is reclusion perpetua, or life imprisonment, or where a lesser penalty is imposed but for offenses committed on the same occasion or which arose out of the same occurrence that gave rise to the more serious offense for which the penalty of death, reclusion perpetua, or life imprisonment is imposed, shall be by filing a notice of appeal in accordance with paragraph (a) of this section.
>
> (d) No notice of appeal is necessary in cases where the death penalty is imposed by the Regional Trial Court. The same shall be automatically reviewed by the Supreme Court as provided in section 10 of this Rule.
>
> x x x x
>
> SEC. 10. *Transmission of records in case of death penalty.* – In all cases where the death penalty is imposed by the trial court, the records shall be forwarded to the Supreme Court for automatic review and judgment within five (5) days after the fifteenth (15) day following the promulgation

[30] Id.

> of the judgment or notice of denial of a motion for new trial or reconsideration. The transcript shall also be forwarded within ten (10) days after the filing thereof by the stenographic reporter.

On July 7, 2004, the Court *En Banc* promulgated *Mateo* and, pursuant to its rule-making power under Sec. 5, Rule VIII of the Constitution, introduced an intermediate review by the CA of criminal cases where the RTC imposed the penalty of death, *reclusion perpetua* or life imprisonment. The Court emphasized in *Mateo* the need to provide an additional avenue to determine the guilt or innocence of the accused where his life and liberty are at stake, to wit:

> While the Fundamental Law requires a mandatory review by the Supreme Court of cases where the penalty imposed is *reclusion perpetua*, life imprisonment, or death, nowhere, however, has it proscribed an intermediate review. If only to ensure utmost circumspection before the penalty of death, *reclusion perpetua* or life imprisonment is imposed, the Court now deems it wise and compelling to provide in these cases a review by the Court of Appeals before the case is elevated to the Supreme Court. Where life and liberty are at stake, all possible avenues to determine his guilt or innocence must be accorded an accused, and no care in the evaluation of the facts can ever be overdone. A prior determination by the Court of Appeals on, particularly, the factual issues, would minimize the possibility of an error of judgment. If the Court of Appeals should affirm the penalty of death, *reclusion perpetua* or life imprisonment, it could then render judgment imposing the corresponding penalty as the circumstances so warrant, refrain from entering judgment and elevate the entire records of the case to the Supreme Court for its final disposition.[31]

Consequently, the Court issued A.M. No. 00-5-03-SC (*Re: Amendments to the Revised Rules of Criminal Procedure to Govern Death Penalty Cases*) dated September 28, 2004, which resolved to amend, among others, Secs. 3 and 10, Rule 122 of the Rules of Court, as follows:

> SEC. 3. *How appeal taken.* –
>
> (a) The appeal to the Regional Trial Court, or to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction, shall be by notice of appeal filed with the court which rendered the judgment or final order appealed from and by serving a copy thereof upon the adverse party.
>
> (b) The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its

[31] *People v. Mateo*, supra note 20, at 770-771.

> appellate jurisdiction shall be by petition for review under Rule 42.
>
> (c) The appeal in cases where the penalty imposed by the Regional Trial Court is *reclusion perpetua*, or life imprisonment, or where a lesser penalty is imposed but for offenses committed on the same occasion or which arose out of the same occurrence that gave rise to the more serious offense for which the penalty of death, reclusion perpetua, or life imprisonment is imposed, shall be by notice of appeal to the Court of Appeals in accordance with paragraph (a) of this Rule.
>
> (d) No notice of appeal is necessary in cases where the Regional Trial Court imposed the death penalty. The Court of Appeals shall automatically review the judgment as provided in Section 10 of this Rule.
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> x x x x
>
> SEC. 10. *Transmission of records in case of death penalty.* – In all cases where the death penalty is imposed by the trial court, the records shall be forwarded to the Court of Appeals for automatic review and judgment within twenty days but not earlier than fifteen days from the promulgation of the judgment or notice of denial of a motion for new trial or reconsideration. The transcript shall also be forwarded within ten (10) days after the filing thereof by the stenographic reporter. (underscoring supplied)

As correctly explained by the CA, the Court, in *People v. Rocha*,[32] clarified the confusion that might have arisen because of the pronouncement in *Mateo*:

> We had not intended to pronounce in *Mateo* that cases where the penalty imposed is *reclusion perpetua* or life imprisonment are subject to the mandatory review of this Court. In *Mateo*, these cases were grouped together with death penalty cases because, prior to *Mateo*, it was this Court which had jurisdiction to directly review *reclusion perpetua,* life imprisonment and death penalty cases alike. The mode of review, however, was different. *Reclusion perpetua* and life imprisonment cases were brought before this Court via a notice of appeal, while death penalty cases were reviewed by this Court on automatic review.
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> x x x x
>
> After the promulgation of *Mateo* on 7 July 2004, this Court promptly caused the amendment of the foregoing provisions, but retained the

[32] 558 Phil. 521 (2007).

> distinction of requiring a notice of appeal for *reclusion perpetua* and life imprisonment cases and automatically reviewing death penalty cases.[33]

It is clear that despite adding an intermediate review by the CA, the new rule as introduced in *Mateo*, retained the modes of appeal prescribed in the old rule. As the rule now stands, in criminal cases where the penalty imposed by the RTC is *reclusion perpetua* or life imprisonment, an appeal is taken by filing a notice of appeal with the RTC. On the other hand, in criminal cases where the penalty imposed by the RTC is death, the CA shall automatically review the same without need of a notice of appeal.

The difference in the procedural treatment of death penalty cases was explained in the 1910 case of *The United States v. Laguna*,[34] whereby the Court emphasized the need to protect the accused, thus:

> The requirement that the Supreme Court pass upon a case in which capital punishment has been imposed by the sentence of the trial court is one having for its object simply and solely the protection of the accused. **Having received the highest penalty which the law imposes, he is entitled under the law to have the sentence and all the facts and circumstances upon which it is founded placed before the highest tribunal of the land to the end that its justice and legality may be clearly and conclusively determined**. Such procedure is merciful. It gives the accused a second chance for life. Neither the courts nor the accused can waive it. It is a positive provision of the law that brooks no interference and tolerates no evasions.[35] (emphasis supplied)

This is similar to the Court's declaration in *Mateo* that *"[w]here life and liberty are at stake, all possible avenues to determine his guilt or innocence must be accorded an accused."*[36]

However, on June 24, 2006, R.A. No. 9346 was signed into law, prohibiting the imposition of death penalty. The pertinent provisions of the said law states:

> SEC. 1. The imposition of the penalty of death is hereby prohibited. x x x.
>
> SEC. 2. In lieu of the death penalty, the following shall be imposed:

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[33] Id. at 531-532.
[34] 17 Phil. 532 (1910).
[35] Id. at 540.
[36] *People v. Mateo*, supra note 20, at 771.

> (a) the penalty of *reclusion perpetua*, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code; or
>
> (b) the penalty of life imprisonment, when the law violated does not make use of the nomenclature of the penalties of the Revised Penal Code.
>
> SEC. 3. Persons convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to *reclusion perpetua*, by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended.[37]

As a result, trial courts are precluded from imposing the penalty of death and, instead, shall mete out either *reclusion perpetua* or life imprisonment, depending on the nomenclature of penalties used by the law violated. Corollary to this, Secs. 3(d) and 10, Rule 122 of the Rules of Court which prescribe an automatic review by the CA of cases where death penalty is imposed, became ineffective without, however, the Court simultaneously resolving to suspend the aforesaid rule. At present and during such time that R.A. No. 9346 is in effect, an automatic review of criminal cases is no longer available and in no instance should the RTC elevate *motu proprio* the case records to the CA.

Notwithstanding the clarification of the *Mateo* ruling and despite initially recognizing that the case may be dismissed outright, the CA proceeded to review the records of the case as if a notice of appeal was timely filed, thus:

> In this case, the *Decision* dated December 1, 2016 has become final and executory after accused-appellant Olpindo, who was represented at the trial by his counsel *de parte*, Atty. June Elva G. Dumangeng, did not file a notice of appeal. This appeal should thus be dismissed outright as provided under Section 1, Rule 50 of the Rules of Court:
>
> > Section 1. Grounds for dismissal of appeal. – An appeal may be dismissed by the Court of Appeals, on its own or on that of the appellee, on the following grounds:
> >
> > x x x x
> >
> > (b) Failure to file the notice of appeal or the record on appeal within the period prescribed by these Rules;
> >
> > x x x x

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[37] Supra note 1.

> In view however of the gravity of the crime committed by accused-appellant and the penalty imposed on him by the RTC, and in view of the ruling in *Mateo, supra*, that "*[w]here life and liberty are at stake, all possible avenues to determine his guilt or innocence must be accorded an accused, and no care in the evaluation of the facts can ever be undone. A prior determination by the Court of Appeals on, particularly, the factual issues, would minimize the possibility of an error of judgment*", We have assiduously reviewed the records of this case as if an appeal has timely been made by accused-appellant. We find no reversible error in the conviction of the accused-appellant, except in the award of civil liability.[38] (underscoring supplied)

The CA, however, after reviewing the merits of the case, still concluded that the RTC decision had already become final and executory because accused-appellant failed to file a notice of appeal within the period allowed by the Rules:

> However, as discussed, the Decision dated December 1, 2016 has already attained finality and thus has become immutable and may no longer be amended. Olpindo did not file a notice of appeal within the fifteen (15) day period allowed under Section 6, Rule 122 of the Rules of Court.[39]

As a result, the CA dismissed the appeal without modifying the award of damages.

The Court, however, finds it proper to exercise its prerogative to relax the technical rules of procedure in the interests of justice, particularly the right of the accused to life and liberty.

Strict adherence to the procedural rules facilitates the adjudication of cases and avoids unnecessary delay in the administration of justice, but when such would defeat the ends of justice, the Court may allow exceptions to the Rules:

> Time and again, this Court has emphasized that procedural rules should be treated with utmost respect and due regard, since they are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims and in the administration of justice. From time to time, however, the Court has recognized exceptions to the Rules, but only for the most compelling reasons where stubborn obedience to the Rules would defeat rather than serve the ends of justice.[40]

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[38] *Rollo*, pp. 12-13.
[39] Id. at 23.
[40] *Subic Bay Metropolitan Authority v. Commission on Audit*, G.R. No. 230566, January 22, 2019, 891 SCRA 141, 158-159.

In a fairly recent case, the Court exercised its equity jurisdiction and relaxed a rigid application of procedural rules where it would tend to obstruct rather than serve the broader interests of justice:

> It has been held that if a rigid application of the rules of procedure will tend to obstruct rather than serve the broader interests of justice in light of the prevailing circumstances of the case, such as where strong considerations of substantive justice are manifest in the petition, the Court may relax the strict application of the rules of procedure in the exercise of its equity jurisdiction.[41]

In the instant case, accused-appellant's non-filing of a notice of appeal may be excused because the RTC, on its own, elevated the records of the case to the CA based on its erroneous assumption that the verdict of conviction is subject to an automatic intermediate review. To be clear, the RTC order forwarding the records of the case pursuant to the *Mateo* ruling was issued on December 15, 2016, which was 14 days after the RTC promulgated its ruling on December 1, 2016, or within the 15-day reglementary period under Sec. 6, Rule 122 of the Rules of Court[42] for the accused to file a notice of appeal. As initially discussed, the CA could have just treated the automatic review as if a notice of appeal was timely filed by herein accused-appellant considering "*the gravity of the crime committed by accused-appellant and the penalty imposed on him by the RTC.*"[43] This would better serve the interests of justice as it provides an additional layer of protection against a possible erroneous judgment. In *Latogan v. People*,[44] the Court liberally construed the rules in the interests of justice:

> However, procedural rules were precisely conceived to aid the attainment of justice. If a stringent application of the rules would hinder rather than serve the demands of substantial justice, the former must yield to the latter. Section 6, Rule 1 of the Rules of Court enjoins the liberal construction of the Rules of Court in order to promote its objective to assist the parties in obtaining just, speedy, and inexpensive determination of every action and proceeding.[45]

In the absence of a rule on how to treat criminal cases elevated *motu proprio* for automatic review when it is no longer applicable, it is fair to

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[41] *Barayuga v. People*, G.R. No. 248382, July 28, 2020.

[42] RULES OF COURT, Rule 122:

Sec. 6. *When appeal to be taken.* – An appeal must be taken within fifteen (15) days from promulgation of the judgment or from notice of the final order appealed from. This period for perfecting an appeal shall be suspended from the time a motion for new trial or reconsideration is filed until notice of the order overruling the motion has been served upon the accused or his counsel at which time the balance of the period begins to run.

[43] *Rollo*, p. 13.

[44] G.R. No. 238298, January 22, 2020.

[45] Id.

consider the same as if a notice of appeal had been timely filed. In such manner, the accused will be provided with another opportunity to defend his case and convince the courts of his innocence of the accusations against him.

In the instant case, accused-appellant cannot be faulted for not filing a notice of appeal considering that the adverse RTC decision erroneously ordered the records forwarded to the CA for automatic review. The RTC order to elevate the records had initiated the appellate procedure in which accused-appellant had actively participated on the presumption that the *motu proprio* elevation of the records of the case was valid. Consequently, it is premature to say that the appeal was dismissible under Sec. 1, Rule 50 of the Rules of Court on the ground of failure to file a notice of appeal within the prescribed period. It is also hasty to conclude that the RTC judgment of conviction had become immutable when the period to appeal had not lapsed or accused-appellant has not waived in writing his right to appeal. To reiterate, the RTC order forwarding the records of the case to the CA was made within the 15-day reglementary period.

Even assuming that the judgment of conviction had become final and executory because accused-appellant failed to file a notice of appeal before the RTC, the Court has relaxed the rule on immutability of judgments to serve the ends of justice, such as where life and liberty are at stake and the party favored by the relaxation of rules is not at fault. Again, *Latogan v. People*[46] discussed:

> Withal, as in the liberal construction of the rules on notice of hearing, the Court has enumerated the factors that justify the relaxation of the rule on immutability of final judgments to serve the ends of justice, including: (a) matters of life, liberty, honor or property; (b) the existence of special or compelling circumstances; (c) the merits of the case; (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (e) a lack of any showing that the review sought is merely frivolous and dilatory; and (f) the other party will not be unjustly prejudiced thereby.[47]

As a matter of equity, considering that the case was elevated *motu proprio* within the reglementary period to file an appeal and accused-appellant had shown his intent to appeal his conviction by actively participating in the CA proceedings and by timely filing a notice of appeal before the CA, the Court takes cognizance of the instant appeal. This throws the whole case open for review by the Court, including modifying the amount of damages.

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[46] Supra note 44.
[47] Id.

Appeal by certiorari in cases involving reclusion perpetua or life imprisonment.

As the remedies regarding criminal cases where the penalty imposed by the courts are either *reclusion perpetua* or life imprisonment are the subject matter in the case at bench, the Court deems it proper to address the remedy of appeal by *certiorari*.

Sec. 2(c), Rule 41 of the Rules of Court provides that appeal by *certiorari* is a mode of appeal. In all cases where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on *certiorari* in accordance with Rule 45 of the Rules of Court.[48] On the other hand, Sec. 1 of Rule 45 provides that "[a] party desiring to appeal by *certiorari* from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*."[49] Accordingly, appeal by *certiorari* is the mode of appeal; while a petition for review on *certiorari* is the pleading where the said mode of appeal is effectuated.

The Rules of Court states that a review of appeals filed before this Court is not a matter of right, but of sound judicial discretion. The Rules of Court further requires that only questions of law should be raised in petitions filed under Rule 45 since factual questions are not the proper subject of an appeal by *certiorari*. It is not this Court's function to once again analyze or weigh evidence that has already been considered in the lower courts.[50] A question of law exists when there is doubt or controversy as to what the law is on a certain set of facts. In contrast, what is involved is a question of fact when the resolution of the same demands the calibration of evidence, the determination of the credibility of witnesses, the existence and the relevance of the attendant circumstances, and the probability of specific situations.[51]

With respect to criminal cases, Sec. 3(e), Rule 122 of the Rules of Court provides:

> Sec. 3. *How appeal taken.* —
>
> x x x x

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[48] RULES OF COURT, Rule 41, Sec. 2(c).
[49] RULES OF COURT, Rule 45, Sec. 1.
[50] *Spouses Miano v. Manila Electric Company*, 800 Phil. 118, 122 (2016).
[51] *Sarion v. People*, G.R. Nos. 243029-30, March 18, 2021.

> (e) **Except as provided in the last paragraph of Section 13, Rule 124**, all other appeals to the Supreme Court shall be by petition for review on *certiorari* under Rules 45. (emphasis supplied)

On the other hand, Sec. 13(c), Rule 124 of the Rules of Court states:

> Sec. 13. *Certification or appeal of case to the Supreme Court.*
>
> x x x x
>
> (c) In cases where the Court of Appeals imposes reclusion perpetua, life imprisonment or a lesser penalty, it shall render and enter judgment imposing such penalty. The judgment **may** be appealed to the Supreme Court by notice of appeal filed with the Court of Appeals. (emphasis supplied)

There are other related provisions found under Rules 45 and 56 of the Rules of Court. Sec. 9, Rule 45 states:

> Sec. 9. *Rule applicable to both civil and criminal cases.* — The mode of appeal prescribed in this Rule shall be applicable to both civil and criminal cases, except in criminal cases where the penalty imposed is death, *reclusion perpetua* or life imprisonment.

In connection therewith, Sec. 3, Rule 56 provides:

> Sec. 3. *Mode of appeal.* — An appeal to the Supreme Court may be taken only by a petition for review on *certiorari*, except in criminal cases where the penalty imposed is death, *reclusion perpetua* or life imprisonment.

Sec. 3(e), Rule 122 of the Rules of Court states that except as provided in the last paragraph of Sec. 13, Rule 124, all other appeals to the Supreme Court shall be by petition for review on *certiorari* under Rule 45. On the other hand, Sec. 13(c), Rule 124 states that "[i]n cases where the Court of Appeals imposes *reclusion perpetua*, life imprisonment or a lesser penalty, it shall render and enter judgment imposing such penalty. The judgment **may** be appealed to the Supreme Court by notice of appeal filed with the Court of Appeals."[52] Conspicuously, Sec. 13(c), Rule 124 used the word "may" in stating how appeal from the decision of the CA can be taken to the Supreme Court. It is a settled doctrine in statutory construction that the word "**may**" denotes discretion, and cannot be construed as having a mandatory effect.[53] In addition, the said provision does not contain the word "only," which would

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[52] RULES OF COURT, Rule 124, Sec. 13(c).
[53] *Tolentino v. Court of Appeals*, 435 Phil. 39, 47 (2002).

have imposed the essential and exclusive means by which an appeal to the Court may be perfected.[54]

Further, a deeper analysis of Sec. 3(e), Rule 122 of the Rules of Court, in relation to Sec. 13(c), Rule 124, would demonstrate that a petition for review on *certiorari* is simply not allowed in cases of *reclusion perpetua* and life imprisonment when the purpose of the appeal is to open the case for review, including questions of fact.

Sec. 13(c), Rule 124 of the Rules of Court contemplates an appeal of a judgment involving *reclusion perpetua* or life imprisonment by notice of appeal. Thus, the mode of appeal undertaken is an ordinary appeal. As early as the case of *United States v. Clemente*,[55] the Court stated that an appeal taken by the accused from a criminal conviction throws the whole case open for reconsideration by the appellate tribunal. Indeed, when the mode of appeal is through a notice of appeal, it is an appeal in a criminal case that throws the whole case wide open for review; and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision on the basis of grounds other than those that the parties raised as errors.[56]

When ordinary appeal is chosen as the mode of appeal, the Court can review the entire records of the criminal case, including those where the penalty involves *reclusion perpetua* or life imprisonment. Thus, an examination of the entire records of a case may be explored for the purpose of arriving at a correct conclusion.[57] Since the appeal throws the whole case open for review, there were instances of cases on appeal that the Court even imposed a graver penalty than that provided in the assailed judgment.[58]

Accordingly, Sec. 13(c), Rule 124 of the Rules of Court mandates the remedy by filing a notice of appeal, when the purpose of the accused, who is convicted of *reclusion perpetua* or life imprisonment, is to throw the case open for review, which includes questions of fact. This interpretation is consistent with Sec. 9, Rule 45, which states that Rule 45 shall not apply to appeals in criminal cases where the penalty imposed is *reclusion perpetua* or life imprisonment, because those appeals contemplate opening the whole case for review, including questions of fact. Likewise, it is coherent with Sec. 3,

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[54] *Cf. Lopez v. Quezon City Sports Club, Inc.*, 596 Phil. 204, 214 (2009).
[55] 24 Phil. 178 (1913).
[56] *People v. Saludes*, 451 Phil. 719, 728 (2003).
[57] *People v. Brioso*, 788 Phil. 292, 312 (2016)
[58] See *People v. Larrañaga*, 466 Phil. 324, 392-393 (2004), where the trial court originally found the accused guilty of the crime of kidnapping and imposed a penalty of *reclusion perpetua*. On appeal to the Supreme Court, the Court found the accused guilty of the graver crime of special complex crime of kidnapping with homicide and imposed a penalty of death.

Rule 56, because it proscribes a petition for review on *certiorari* except in criminal cases where the penalty imposed is *reclusion perpetua* or life imprisonment, because appeals in these cases include questions of fact.

Notably, Sec. 3(e), Rule 122; Sec. 13(c), Rule 124; Sec. 9, Rule 45; and Sec. 3, Rule 56 of the Rules of Court do not categorically prevent the accused, who was convicted, from filing a petition for review on *certiorari* under Rule 45 based purely on questions of law. Instead, these provisions proscribed the said petition for review on *certiorari* if it raises a question of fact. In such situation, the proper mode of appeal is an ordinary appeal which will throw the whole case open for review by the Court, including questions of fact.

Based on the foregoing, if an accused wants to file a petition for review on *certiorari* to purely raise a question of law before the Supreme Court without absolutely raising any question of fact, when the CA has imposed the penalty of *reclusion perpetua* or life imprisonment, there is no ostensible legal roadblock to such remedy. Indeed, the Supreme Court has the inherent authority and ultimate prerogative, based on its sole discretion, to entertain purely questions of law and to determine whether the applicable laws were properly applied in any pending case.

However, a review of relevant jurisprudence shows that if the accused, who is convicted of a crime penalized by *reclusion perpetua* or life imprisonment, files a petition for review on *certiorari* raising questions of fact, it may still be entertained by the Court if there is compelling reason to evaluate the findings of fact of the courts *a quo*.

In *Dungo v. People*,[59] a petition for review on *certiorari* was filed by the accused even though the CA had imposed the penalty of *reclusion perpetua.* The Court stated that "[a]n accused, nevertheless, is not precluded in resorting to an appeal by *certiorari* to the Court *via* Rule 45 under the Rules of Court. An appeal to this Court by petition for review on *certiorari* shall raise only questions of law. Moreover, such review is not a matter of right, but of sound judicial discretion, and will be granted only when there are special and important reasons."[60] However, in that case, the questions of fact raised by the petition were still entertained because, "due to the novelty of the issue presented, the Court deems it proper to open the whole case for review."[61]

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[59] 762 Phil. 630 (2015).
[60] Id. at 652.
[61] Id.

Similarly, in *People v. Del Rosario*,[62] the CA imposed a penalty of life imprisonment against the accused. However, the accused filed a petition for review on *certiorari* before the Court. In that case, the Court still examined the records of the case because the appeal was meritorious.

Recently, in *Bartolome v. People*,[63] petitioners filed a petition for review on *certiorari* even though the penalty imposed by the CA was *reclusion perpetua.* The Court recognized that a petition for review on *certiorari* may only raise pure questions of law. However, the Court was constrained to review the evidence presented as the guilt of the accused was not proven beyond reasonable doubt.

In contrast, in *Alicando v. People*,[64] the petitioner therein was convicted by the CA of the crime of rape with homicide and which imposed upon him the penalty of *reclusion perpetua.* The petitioner filed a petition for review on *certiorari* before this Court. However, the Court did not grant the petition because it raised questions of fact and the factual findings of the courts *a quo* were neither arbitrary nor unfounded.

In the same manner, in *Macad v. People*,[65] even though the petitioner filed a petition for review on *certiorari* with the Court after the CA imposed the penalty of life imprisonment, it was underscored that only questions of fact may be raised in such an appeal. The Court also highlighted that even if the questions of fact raised by the petitioner are considered by the Court, the petition was still bereft of merit.[66]

There are other cases when a petition for review on *certiorari* is filed against the decision of the CA, which imposes *reclusion perpetua* or life imprisonment, that the Court has treated as an ordinary appeal in the interests of substantial justice.

In *Arambulo v. People*,[67] the petitioner therein filed a petition for review on *certiorari* even though the CA had imposed a penalty of life imprisonment. It was underscored that, in the interests of substantial justice, the Court would treat the instant petition as an ordinary appeal in order to resolve the substantive issue at hand with finality. Likewise, it was stressed that in criminal cases, an appeal throws the entire case wide open for review and that the reviewing tribunal can correct errors, though unassigned in the

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[62] G.R. No. 235658, June 22, 2020.
[63] G.R. No. 227951, June 28, 2021.
[64] 715 Phil. 638 (2013).
[65] 838 Phil. 102 (2018).
[66] Id. at 118.
[67] *Arambulo v. People*, G.R. No. 241834, July 24, 2019, 910 SCRA 548.

appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors.[68]

Similarly, in *Matabilas v. People*,[69] the petition for review on *certiorari* assailing a judgment of the CA imposing life imprisonment was not outrightly dismissed. Instead, it was held that in the interests of substantial justice, the Court would treat the petition as an ordinary appeal in order to finally resolve the substantive issues at hand.

After thorough analysis of the relevant rules and jurisprudence, the Court finds that a petition for review on *certiorari* may be filed by an accused where the penalty imposed is *reclusion perpetua* or life imprisonment, provided that purely a question of law is raised. However, if a petition for review on *certiorari* raises a question of fact, it can be treated as an ordinary appeal based on the interests of substantial justice, which would throw the whole case open for review, including the factual findings of the courts *a quo*.

The prosecution duly proved the elements of rape.

Rape is a crime that is almost always committed in isolation or in secret, usually leaving only the victim to testify about the commission of the crime. As such, the accused may be convicted of rape on the basis of the victim's sole testimony provided such testimony is logical, credible, consistent, and convincing. Moreover, the testimony of a young rape victim is given full weight and credence considering that her denunciation against him for rape would necessarily expose herself and her family to shame and perhaps ridicule. Indeed, it is more consistent with human experience to hold that a rape victim of tender age will truthfully testify as to all matters necessary to show that she was raped.[70]

In the instant case, accused-appellant hinges his present appeal on the issue of credibility of AAA as prosecution witness. It is well-settled that the trial court's assessment of the credibility of a witness is entitled to great weight particularly when affirmed by the CA. In *People v. Descartin, Jr.*,[71] the Court had the occasion to reiterate that:

> The rule is settled that when the decision hinges on the credibility of witnesses and their respective testimonies, the trial court's observations and

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[68] Id. at 557.
[69] G.R. No. 243615, November 11, 2019.
[70] *People v. Gallano*, 755 Phil. 120, 129-130 (2015).
[71] 810 Phil. 881 (2017).

> conclusions deserve great respect and are accorded finality, unless the records show facts or circumstances of material weight and substance that the lower court overlooked, misunderstood or misappreciated, and which, if properly considered, would alter the result of the case. This is so because trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying, their demeanor and behavior in court. Trial judges enjoy the advantage of observing the witness' deportment and manner of testifying, her "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath" – all of which, are useful aids for an accurate determination of a witness' honesty and sincerity. Trial judges, therefore, can better determine if such witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies. The rule finds an even more stringent application where the said findings are sustained by the CA.[72]

Accused-appellant attempts to discredit AAA's testimony for being incredible because she did not even ask for help or at least offer any resistance in defense of herself. The Court has invariably ruled that rape victims react differently.[73] There is no uniform behavior that can be expected from those who had the misfortune of being sexually molested. Some may shout, some may faint, some may choose to keep their ordeal, and some may be shocked into insensibility. None of these, however, impair the credibility of a rape victim, let alone negate the commission of rape.[74]

It is also well-settled that the accused in a rape case may be convicted based solely on the testimony of the victim, provided that such testimony is credible, natural, convincing, and consistent with human nature and the normal course of things.[75]

Here, both the RTC and the CA found that AAA's testimony was straightforward and candid. Thus, the Court sees no cogent reason to depart from the foregoing rule, since accused-appellant failed to demonstrate that the RTC and the CA overlooked, misunderstood or misapplied some facts of weight and substance that would alter the assailed decision.

Art. 266-A of the RPC provides that rape is committed:

> 1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

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[72] Id. at 887-888.
[73] *People v. XXX*, G.R. No. 230904, January 8, 2020.
[74] See *People v. Pareja*, 724 Phil. 759, 778 (2014).
[75] *People v. Linsie*, 722 Phil. 374, 382-383 (2013).

a) Through force, threat, or intimidation;

b) When the offended party is deprived of reason or is otherwise unconscious;

c) By means of fraudulent machination or grave abuse of authority;

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.

Whereas, Art. 266-B of the RPC provides the penalties for the crime of rape:

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

For a charge of rape by sexual intercourse under Art. 266-A(1), as amended by R.A. No. 8353, to prosper, the prosecution must prove that: *(a)* the offender had carnal knowledge of a woman; and *(b)* he accomplished this act under the circumstances mentioned in the provision, *e.g.*, through force, threat or intimidation. The gravamen of rape is sexual intercourse with a woman against her will.[76]

In the instant case, this Court agrees with the findings of the RTC and the CA that the prosecution was able to prove all the elements of rape by sexual intercourse. *First*, accused-appellant had carnal knowledge of the victim. AAA was unwavering in her assertion that accused-appellant inserted his penis into her vagina, making an up and down movement. Her testimony was strongly corroborated by the medico-legal findings. *Second*, accused-appellant employed threat, force, and intimidation to satisfy his lust. In this case, AAA testified that accused-appellant forcibly took her into an uninhabited place, tied her hands with rope, slammed her to the floor, and then removed her short pants and underwear. As a minor, AAA could not reasonably be expected to resist in the same manner that an adult would under the same or similar circumstances. Thus, the crime of rape was established.

In addition, the physical examination conducted on March 1, 2008, or only two days after the incident, showed that AAA sustained multiple abrasions which indicate the application of force and violence on her person, and hymen laceration on her private part which proves sexual assault. The CA correctly held that accused-appellant cannot find exculpation simply because

[76] *People v. Ejercito*, 834 Phil. 837, 844 (2018).

the attending physician did not identify the medico-legal report confirming that AAA suffered sexual assault. A medical certificate is not necessary to prove the commission of rape or acts of lasciviousness. Expert testimony is merely corroborative in character and not essential for the conviction of perpetrators of such crimes.[77]

The defenses of denial and alibi of accused-appellant were weak.

Accused-appellant's defense of denial deserves scant consideration. He mainly invokes the "sweetheart theory," claiming that he was in a romantic relationship with AAA for about five months as of the date of the incident and that they had previously copulated for at least six times. However, bare invocation of the sweetheart theory cannot stand. A sweetheart defense, to be credible, should be substantiated by some documentary or other evidence of relationship such as notes, gifts, pictures, mementos, and the like.[78] Here, aside from accused-appellant's bare testimony, no other evidence was presented to support his claim.

Also, as pointed out by the CA, accused-appellant's claim that he was maliciously charged with rape has no leg to stand on. His defense of denial and alibi cannot take precedence over the rape victim's categorical and positive narration of facts.

Interestingly, the fact that accused-appellant's whereabouts could not be determined for four years since the information was filed shows that he has evaded arrest and is highly indicative of his guilt. He has not even presented a reasonable explanation for his prolonged absence from the authorities.

In *People v. Lopez, Jr.*,[79] the Court held:

> Jurisprudence has repeatedly declared that flight is an indication of guilt. The flight of an accused, in the absence of a credible explanation, would be a circumstance from which an inference of guilt may be established "for a truly innocent person would normally grasp the first available opportunity to defend himself and to assert his innocence."[80]

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[77] *People v. Opanda*, G.R. No. 226157, June 19, 2019.
[78] *People v. Japson*, 743 Phil. 495, 504 (2014).
[79] 830 Phil. 771 (2018).
[80] Id. at 782.

Penalty and Damages

The Court affirms the penalty of *reclusion perpetua* imposed by the RTC under Art. 266-B of the RPC. However, the Court finds it necessary to modify the amount of damages. Pursuant to *People v. Jugueta*,[81] if the penalty imposed for simple rape is *reclusion perpetua*, the amounts of civil indemnity, moral damages, and exemplary damages shall be ₱75,000.00 each, all subject to six percent (6%) interest *per annum* from the date of finality of judgment until fully paid.

Summary

For the guidance of the bench and the bar, the Court pronounces that since the enactment of R.A. No. 9346, in 2006, prohibited the imposition of the death penalty, the procedure on automatic review of death penalty cases under Rule 122 of the Rules of Court has been rendered ineffective and is, thus, suspended. The suspension of the procedure on automatic review of death penalty cases shall not, however, impact the manner of imposing penalties in view of R.A. No. 9346, and shall remain only during such time that R.A. No. 9346 is in effect.

Considering further that criminal cases imposed with the penalty of *reclusion perpetua* or life imprisonment have still been elevated *motu proprio* to the appellate courts for automatic review, the Court adopts the following guidelines:

1. In cases where the prescribed penalty is death, but where *reclusion perpetua* or life imprisonment was imposed by reason of R.A. No. 9346, appeal shall be made by filing a notice of appeal either before the Regional Trial Court or the Court of Appeals, as the case may be, pursuant to Sec. 3(c), Rule 122 of the Rules of Court.

2. In cases where the penalty of *reclusion perpetua* or life imprisonment is imposed not by reason of R.A. No. 9346, appeal shall be made by filing a notice of appeal either before the Regional Trial Court or the Court of Appeals, as the case may be, pursuant to Sec. 3(c), Rule 122 of the Rules of Court.

3. When the case records of a criminal case imposing the penalty of *reclusion perpetua* or life imprisonment, whether due to R.A. No.

[81] Supra note 21.

9346 or not, are elevated *motu proprio* for automatic review, the following rules shall apply:

a. If the order to elevate the records for automatic review was issued beyond fifteen (15) days after the promulgation of the judgment or notice of final order and the accused did not file a notice of appeal within the same period, the automatic review shall not be given due course. The Court of Appeals or the Supreme Court shall issue an order of finality of judgment.

b. If the order to elevate the records for automatic review was issued within fifteen (15) days after the promulgation of the judgment or notice of final order, the Court of Appeals or the Supreme Court shall issue an order requiring the accused within ten (10) days from receipt thereof to manifest whether they are adopting the order to elevate the records as their notice of appeal. If the accused shall refuse to adopt or fail to timely manifest despite due notice, they shall be deemed to have waived their right to appeal, and the Court of Appeals or the Supreme Court shall issue an order of finality of judgment.

4. In cases where the penalty of *reclusion perpetua* or life imprisonment is imposed and the accused files a petition for review on *certiorari* under Rule 45 of the Rules of Court, only questions of law may be raised. However, based on the interests of substantial justice, a petition for review on *certiorari* that raises questions of fact may be treated as an ordinary appeal in order to throw the whole case open for review.

WHEREFORE, the Court **AFFIRMS** with **MODIFICATION** the findings of fact and conclusions of law of the Court of Appeals in its November 22, 2019 Decision in CA-G.R. CR HC No. 08984. Accused-appellant Alexander Olpindo *y* Reyes is found **GUILTY** beyond reasonable doubt of Rape punishable under Article 266-A, paragraph 1(a) of the Revised Penal Code and is hereby **SENTENCED** to suffer the penalty of *reclusion perpetua*.

Further, he is **ORDERED** to **PAY** AAA civil indemnity in the amount of ₱75,000.00, moral damages in the amount of ₱75,000.00 and exemplary damages in the amount of ₱75,000.00, with interest at the rate of six percent (6%) *per annum* from the finality of this Decision until full payment.

SO ORDERED.

ALEXANDER G. GESMUNDO
Chief Justice

WE CONCUR:

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
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RODIL V. ZALAMEDA
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SAMUEL H. GAERLAN
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RICARDO R. ROSARIO
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

JOSE MIDAS P. MARQUEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I hereby 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.

ALEXANDER G. GESMUNDO
Chief Justice