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Third Division

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Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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THIRD DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 230626
Appellee,

Present:

-versus-

LEONEN, J., Chairperson,
GESMUNDO,
CARANDANG,
ZALAMEDA, and
DELOS SANTOS,* JJ.

EDWARD SUMAYOD Y OSANO
AND ELISEO SUMAYOD Y
LAGUNZAD,
Accused-Appellant.

Promulgated:
March 9, 2020
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DECISION

LEONEN, J.:

One cannot expect victims of rape to have a uniform reaction when such degrading acts and defilements are committed on their person. This is even truer for victims of a tender age who still do not understand the implications of rape on their development and are overcome by fear and intimidation from their assailants.

This resolves the Ordinary Appeal from the Court of Appeals Decision.¹ The Court of Appeals affirmed the Decision² of the Regional Trial Court, Branch 31, San Pedro, Laguna finding Edward Sumayod y

* Additional Member per S.O. No. 2753.

¹ *Rollo*, p. 2-27. The Decision dated September 20, 2016 in CA-G.R. CR-HC No. 07294 was penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Leoncia R. Dimagiba and Jhosep Y. Lopez of the Fifteenth Division of the Court of Appeals, Manila.

² *CA rollo*, pp. 64-80. The Consolidated Judgment dated January 31, 2015 was penned by Judge Sonia T. Yu-Casano of the Regional Trial Court of Laguna, Branch 31.

Osano guilty beyond reasonable doubt of one (1) count of rape and one (1) count of rape by sexual assault in Criminal Cases No. 09-7188-SPL and 09-7189-SPL and Eliseo Sumayod y Lagunzad guilty beyond reasonable doubt of one (1) count of rape and one (1) count of rape by sexual assault in Criminal Cases No. 10-7202-SPL and 10-7203-SPL.

Three (3) Amended Informations³ were filed before the Regional Trial Court, Branch 31 of San Pedro, Laguna against Edward Sumayod y Osano (Edward), charging him with one (1) count of rape and two (2) counts of rape by sexual assault, committed as follows:

CRIM. CASE NO. 09-7188-SPL

That from the period of May 26, 2008 to April 2008, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, the said "Child-in-conflict with the law" (CICL), seventeen years of age and who acted with discernment, being the uncle of minor of complainant [AAA], seven (7) years old, did then and there willfully, unlawfully and feloniously by means of force and intimidation, have carnal knowledge with the said minor, against her will and consent, which act is gravely detrimental to her normal growth and development and to her damage and prejudice.

That in the commission of the crime the aggravating/qualifying circumstance of relationship and minority are present.

CONTRARY TO LAW.

CRIM. CASE NO. 09-7189-SPL

That on or about March 26, 2008, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, the said "Child-in-conflict with the law" (CICL), seventeen years of age and who acted with discernment, did then and there willfully, unlawfully and feloniously by means of force and intimidation, with lewd design commit sexual assault against [AAA], a minor, seven (7) years old, by inserting his penis into the mouth of [AAA], which act is gravely detrimental to her normal growth and development and to her damage and prejudice.

CONTRARY TO LAW.

CRIM. CASE NO. 09-7190-SPL

That on or about July 1, 2009, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, the said "Child-in-conflict with the law" (CICL), seventeen years of age and who acted with discernment, did then and there willfully, unlawfully and feloniously by means of force and intimidation, with lewd design commit sexual assault against [AAA], a minor, seven (7) years old, by inserting his penis into the anal orifice of [AAA], which act is

³ Rollo, pp. 4-6.

gravely detrimental to her normal growth and development and to her damage and prejudice.

CONTRARY TO LAW.⁴

On the other hand, two (2) Informations were filed before the Regional Trial Court, Branch 31 of San Pedro, Laguna against Eliseo Sumayod y Lagunzad (Eliseo) charging him with one (1) count of rape and one (1) count of rape by sexual assault.⁵ The Informations read as follows:

CRIM. CASE NO. 10-7202-SPL

That on or about August 13, 2008, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, the said accused being the grandfather of minor complainant [AAA], seven (7) years old, did then and there willfully, unlawfully and feloniously by means of force and intimidation, have carnal knowledge with the said minor, against her will and consent, which act is gravely detrimental to her normal growth and development and to her damage and prejudice.

That in the commission of the crime the aggravating/qualifying circumstances of a relationship and minority are present.

CONTRARY TO LAW.

CRIM. CASE NO. 10-7203-SPL

That on or about August 13, 2008, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously by means of force and intimidation, with lewd design commit sexual assault against [AAA], a minor, seven (7) years old by inserting his penis into the anal orifice of [AAA], which act is gravely detrimental to her normal growth and development and to her damage and prejudice.

CONTRARY TO LAW.⁶

On arraignment, both Edward and Eliseo pleaded not guilty to the crimes charged.⁷ Trial on the merits then ensued.

During trial, the prosecution presented complainant AAA, BBB, her grandmother, attending physician Dr. Cecial Senado (Dr. Senado), and child psychiatrist Dr. Maria Elena Del Mundo-Nepomuceno (Dr. Del Mundo-Nepomuceno).⁸

⁴ Id.

⁵ Id. at 5-6.

⁶ Id.

⁷ Id. at 6.

⁸ Id.

The facts as found by the lower courts are restated below:

AAA was born on March 25, 2002,⁹ and was six (6) years old during the incidents subject of this case. Her mother, CCC, has a history of substance abuse; while her father, DDD, is nowhere to be found. Thus, AAA was left in the care of her maternal grandmother, BBB.¹⁰

On December 2007, BBB temporarily left AAA with her other daughter.¹¹ Unbeknownst to BBB, her other daughter left AAA with accused appellant Eliseo, and his common-law wife, Teresita Catanjal (Teresita), at Pacita, San Pedro Laguna. BBB's sixteen-year-old nephew, Edward, resided with them.¹²

On March 26, 2008, a day after her sixth birthday, AAA was dragged by Edward, into his bedroom where he raped her. Edward removed her shorts and underwear and inserted his penis into her vagina. AAA screamed in pain and bit Edward, but he covered her mouth then proceeded to shove his penis into her mouth. Upon removing his penis from her mouth, a white substance spilled onto her chest.¹³ Not contented, he also inserted his penis into her anal orifice.¹⁴

On the evening of August 13, 2008, Teresita was confined in the hospital. On the same night, Eliseo entered the room where AAA was sleeping, laid beside her, removed her red blouse and shorts, and went on top of her. He then inserted his penis into her vagina and then her mouth. Afterwards, Eliseo told her to lie on her belly and inserted his penis into her anal orifice.¹⁵

AAA never told anyone of how Edward and Eliseo raped her while she was in their care. As a threat, Edward told her that he will place her inside a sack and throw her into the garbage truck or to the river, while Eliseo threatened her by saying that she will not be given any food.¹⁶

Sometime in April 2009, BBB picked up AAA to bring her to Leyte where her half-siblings lived. At that time, Edward was also residing there to study college. One afternoon, Edward brought AAA to the river where he raped her and left her to drown with her head submerged in the water. Fortunately, her older cousin saw her drowning in the river and saved her.¹⁷

⁹ Id. at 9.

¹⁰ Id. at 6.

¹¹ Id. at 6-7.

¹² Id. at 7.

¹³ Id.

¹⁴ *CA rollo*, p. 66.

¹⁵ Id.

¹⁶ Id. at 66-67.

¹⁷ Id. at 67.

Sometime in June 2009, AAA started having difficulties sitting on the chair and suffered from a very high fever. She was then taken to the Eastern Visayas Medical Center in Tacloban City, where it was discovered that: (1) her sexual genitalia was infected; (2) her hymen had several lacerations; and (3) spermatozoa was found in the area.”¹⁸

On July 1, 2009, Edward raped AAA once again, this time in BBB’s house.¹⁹ At this point, AAA revealed to BBB that she was raped by Edward and Eliseo multiple times. Enraged by what she had heard, BBB went to the Department of Social Welfare and Development, which referred her to the Philippine General Hospital Child Protection Unit where AAA underwent several sessions with child psychiatrist Dr. Del Mundo-Nepumoceno.²⁰

In the multiple sessions AAA had with Dr. Del Mundo-Nepumoceno, she consistently described the separate occasions when she was raped by both Edward and Eliseo. Consequently, Dr. Del Mundo-Nepumoceno confirmed in her psychiatric report that AAA was sexually abused but did not show signs of any post-psychological trauma.²¹

BBB also brought the matter to the National Bureau of Investigation. Subsequently, Edward and Eliseo were charged with rape and rape by sexual assault.²²

For the defense, the witnesses presented were Edward and Eliseo, Ma. Annalee Sumayod Suarez (Annalee), Myrna Napaoit (Myrna) and Zenaida Suarez (Zenaida).²³

Eliseo testified that while his common-law wife, Teresita, was confined at the hospital, he still brought AAA to his daughter, Annalee’s residence. He further testified that he did not know why AAA would accuse him of raping her when he treated her like his own niece, and “more than a jewel[.]”²⁴ Annalee corroborated his testimony, stating that her father brought AAA to her house when Teresita was in the hospital, and that AAA did not exhibit any unusual behavior the entire two (2) weeks she was with Annalee.²⁵

Myrna, Eliseo’s neighbor, testified that she had no knowledge of AAA’s alleged rape, but stated that she believed Eliseo to be incapable of doing such a thing. Zenaida, Annalee’s mother-in-law, likewise testified

¹⁸ *Rollo*, p. 8.

¹⁹ *CA rollo*, p. 67.

²⁰ *Id.* at 68–69.

²¹ *Id.*

²² *Id.* at 68.

²³ *Id.* at 69.

²⁴ *Id.* at 69.

²⁵ *Id.* at 69–70.

that she had no knowledge of what happened, but testified that Eliseo was not capable of committing rape as he was a retired ship captain and given his reputation as a good person.²⁶

Edward, on the other hand, denied raping AAA sometime from April 2008 to May 2008, since he was enrolled in the Eastern Visayas State University in Leyte. He also stated that he could not have raped her on March 2008 since he was living with his parents at Chrysanthemum Village, San Pedro, Laguna at that time, while AAA was living with Eliseo at Olympia Village, San Pedro, Laguna. He, however, admitted that the two (2) houses were only 500 meters apart and would only take 15 minutes to get from one house to another on foot.²⁷

After trial, the Regional Trial Court rendered a Decision²⁸ convicting both Edward and Eliseo of the crimes charged. The decretal portion of which reads:

WHEREFORE, a consolidated judgment is hereby rendered as follows:

1. In Criminal Case No. 09-7188-SPL, accused Edward Sumayod y Osano is hereby found GUILTY beyond reasonable doubt of rape under Article 266-A, par. 1 (d) of the Revised Penal Code, as amended, and is hereby sentenced to suffer penalty of reclusion perpetua without eligibility of parole. He is also ordered to pay the amounts of P75,000.00 as actual damages, P75,000.00 as moral damages, and P30,000 as exemplary damages to the minor victim [AAA].
2. In Criminal Case No. 09-7189-SPL, accused Edward Sumayod y Osano is hereby found GUILTY beyond reasonable [doubt] of the crime of rape under Article 266-A, par. 2 of the Revised Penal Code and is hereby sentenced to suffer the penalty of six years and one day of prision correccional as minimum to ten years, eight months and one day of prision mayor as maximum. He is also ordered to pay the amounts of P30,000.00 as actual damages, P30,000.00 as moral damages and P25,000.00 as exemplary damages to the minor victim [AAA].
3. In Criminal Case No. 09-7190-SPL, the case against Edward Sumayod y Osano is hereby DISMISSED for lack of jurisdiction.
4. In Criminal Case No. 10-7202-SPL, accused Eliseo Sumayod y Lagunzad is hereby found GUILTY beyond reasonable doubt of rape under Article 266-A, par. 1 (d) of the Revised Penal Code, as amended, and is hereby sentenced to suffer the penalty of reclusion perpetua without eligibility for parole. He is also ordered to pay the amounts of P75,000.00 as actual damages, P75,000.00 as moral damages, and P30,000.00 as exemplary damages to the minor victim [AAA].

²⁶ Id. at 70.

²⁷ Id. at 69.

²⁸ Id. at 64-80.

5. In Criminal Case No. 09-7203-SPL, accused Eliseo Sumayod y Lagunzad is hereby found GUILTY beyond reasonable doubt of rape under Article 266-A, par. 2 of the Revised Penal Code and is hereby sentenced to suffer penalty of six years and one day of prision correccional as minimum to ten years, eight months and one day of prision mayor as maximum. He is also ordered to pay the amounts P30,000.00 as actual damages, P30,000.00 as moral damages and P25,000.00 as exemplary damages to the minor victim [AAA].

All damages awarded shall be subject to interest at 6% per annum from the date of finality of this judgment until they are fully paid.

SO ORDERED.²⁹

In its ruling, the Regional Trial Court stated that the straightforward, candid and consistent testimony of AAA, who was only six (6) years old at the time of the incidents, and eight (8) years old when she testified in open court, deserved all credence.³⁰

Moreover, the physical report submitted by Dr. Senado which showed lacerations and spermatozoa in her genitalia confirmed her allegations in her testimony.³¹ Conversely, Edward and Eliseo's denial and alibi were not enough to overcome the pieces of evidence presented by the prosecution.³² However, the Regional Trial Court rejected the prosecution's assertion that the aggravating circumstance of relationship was present since Edward was within the fifth degree of consanguinity while Eliseo was within the fourth degree of consanguinity.³³

On appeal, the Court of Appeals³⁴ affirmed the Regional Trial Court's finding of guilt beyond reasonable doubt, but modified the penalties applying the Indeterminate Sentence Law. Moreover, it considered the privileged mitigating circumstance of minority for Edward thereby lowering the penalty sentenced him and increased the monetary awards pursuant to jurisprudence.³⁵ Lastly, it remanded the case against Edward to the Regional Trial Court in order to apply the pronouncements in *People of the Philippines v. Ancajas*³⁶ and *Hubilla v. People of the Philippines*,³⁷ wherein it was held that the Child-in-Conflict with the law is to serve out his or her sentence in an agricultural camp or any other training facility supervised and

²⁹ Id. at 79-80.

³⁰ Id. at 71.

³¹ Id. at 70.

³² Id. at 76.

³³ Id. at 78.

³⁴ *Rollo*, pp. 2-27.

³⁵ Id. at 24.

³⁶ 772 Phil. 166 (2015) [Per J. Peralta, Third Division].

³⁷ 748 Phil. 441 (2014) [Per J. Bersamin, First Division].

controlled by the Bureau of Corrections, in coordination with the Department of Social Welfare and Development.³⁸

The dispositive portion of the Court of Appeals decision read:

WHEREFORE, premises considered, the instant appeal is hereby **DENIED**. The Consolidated Judgment dated January 31, 2015 of the Regional Trial Court, Branch 31, San Pedro, Laguna is **AFFIRMED with MODIFICATION** in that the dispositive portion thereof to read as follows:

1. In Crim. Case No. 097188-SPL, accused-appellant Edward Sumayod y Osano is hereby held **GUILTY** beyond reasonable doubt for statutory rape and is hereby sentenced to suffer the penalty of imprisonment of ten (10) years and one day of *prision mayor* maximum, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum, and ordered to pay private complainant AAA the amount of One Hundred Thousand Pesos (P100,000.00) as civil indemnity; One Hundred Thousand Pesos (P100,000.00) as moral damages; and One Hundred Thousand Pesos (P100,000.00) as exemplary damages;
2. In Crim. Case No. 09-7189-SPL, accused-appellant Edward Sumayod y Osano is hereby held **GUILTY** beyond reasonable doubt of rape by sexual assault and is hereby sentenced to suffer the penalty of imprisonment of six (6) years of *prision correccional*, as minimum, to ten (10) years of *prision mayor*, as maximum, and ordered to pay private complainant AAA the amount of Thirty Thousand Pesos (P30,000.00) as civil indemnity; Thirty Thousand Pesos (P30,000.00) as moral damages; and Twenty Five Thousand Pesos (P25,000.00) as exemplary damages;
3. In Crim. Case No. 10-7202-SPL, accused-appellant Eliseo Sumayod y Lagunzad is hereby held **GUILTY** beyond reasonable doubt for statutory rape and is hereby sentenced to suffer the penalty of *reclusion perpetua*, and ordered to pay private complainant AAA One Hundred Thousand Pesos (P100,000.00) as civil indemnity, One Hundred Thousand Pesos (P100,000.00) as moral damages; and One Hundred Thousand Pesos (P100,000.00) as exemplary damages;
4. In Crim. Case No. [10-7203-SPL], accused-appellant Eliseo Sumayod y Lagunzad is hereby held **GUILTY** beyond reasonable doubt for rape by sexual assault and is hereby sentenced to suffer the penalty of imprisonment for six (6) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum, and ordered to pay private complainant AAA Thirty Thousand Pesos (P30,000.00) as civil indemnity; Thirty Thousand Pesos (P30,000.00) as moral damages; and Twenty Five Thousand Pesos (P25,000.00) as exemplary damages; and
5. Accused-appellants are further ordered to pay private complainant AAA interest on all damages awarded at the legal rate of six percent (6%) per annum from date of finality of this judgment.

³⁸ Rollo, pp. 25-26.

The case against appellant Edward Sumayod y Osano is **REMANDED** to the court *a quo* for appropriate disposition with regard to where he would be committed for the service of his sentence in an agricultural camp or other training facilities under the control of the Bureau of Corrections, in coordination with the Department of Social Welfare and Development.

SO ORDERED.³⁹ (Citation omitted, emphasis in the original)

The Court of Appeals agreed with the trial court in relying on AAA's testimony and held that other than the sincerity and candor by which she testified, her statements were corroborated by the testimonies of Dr. Senado and Dr. Del Mundo-Nepomuceno. Furthermore, the Court of Appeals ruled that between the positive and categorical statements of AAA and the bare denial of Edward and Eliseo, the former prevailed.⁴⁰

Aggrieved, Edward and Eliseo filed a Notice of Appeal⁴¹ with the Court of Appeals.

On October 19, 2016,⁴² the Court of Appeals gave due course to Edward and Eliseo's appeal and forwarded the records of the case to this Court.

On June 7, 2017, this Court required the parties to simultaneously file their respective supplemental briefs and directed the Superintendent of the New Bilibid Prison, Bureau of Corrections, Muntinlupa City to confirm the confinement of both accused-appellants.⁴³

In a Letter dated July 20, 2017, the Superintendent of the New Bilibid Prison, Roberto R. Rabo, confirmed that accused-appellants were received in the institution for confinement on August 29, 2015.⁴⁴ Later, both parties manifested⁴⁵ that they would no longer file a supplemental brief and instead adopt the briefs they filed before the Court of Appeals.

On September 18, 2017, accused-appellant Edward withdrew his appeal. Consequently, in this Court's January 17, 2018 Resolution,⁴⁶ the case was considered closed and terminated as to him. An Entry of Judgment⁴⁷ was then issued certifying that the Resolution had become final and executory on April 2, 2018.

³⁹ CA *rollo*, pp. 187-189.

⁴⁰ Id. at 184.

⁴¹ Id. at 191-192.

⁴² Id. at 194.

⁴³ *Rollo*, p. 33.

⁴⁴ Id. at 44.

⁴⁵ Id. at 35-38; and 47-50.

⁴⁶ Id. at 61.

⁴⁷ Id. at 85.

In his Appellant's Brief,⁴⁸ accused-appellant Eliseo put private complainant AAA's credibility in question, contending that the Regional Trial Court erred in basing their conviction on her testimony given that her allegations were contrary to common experience. He asserted that private complainant's lack of struggle, resistance, or the fact that she did not cry during the rapes was unnatural. He also claimed that the finding that she did not develop psychiatric problems afterwards posed further doubt on her testimony.⁴⁹

On the other hand, plaintiff-appellee, through the Office of the Solicitor General, argued in its Appellee's Brief⁵⁰ that the prosecution's evidence proved accused-appellants' guilt beyond reasonable doubt. It stressed that the candid and consistent testimony of private complainant, coupled with the physical examination report of Dr. Senado and psychiatric report of Dr. Del Mundo-Nepomuceno, prevails over the alibi and denial of accused-appellants.⁵¹ Plaintiff-appellee emphasized that this Court has held that a victim's revelation of being raped, along with a voluntary submission for a medical examination, with the willingness to endure public trial where one's dignity would be attacked, is more likely to be true than a mere concoction⁵² as accused-appellants would have it.

Considering accused-appellant Edward's withdrawal of his appeal and the subsequent finality of his case as to him, the only question for this Court's resolution is whether or not the Court of Appeals erred in affirming accused-appellant Eliseo's conviction for one (1) count of rape and one (1) count of sexual assault.

We affirm accused-appellant Eliseo's conviction with modification considering recent jurisprudence.

I

Article 266-A, paragraphs 1 and 2, of the Revised Penal Code, as amended by Republic Act No. 8353 or the Anti-Rape Law of 1997, provide the following elements for the crimes of statutory rape and rape by sexual assault:

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;

⁴⁸ CA *rollo*, pp. 101-116.

⁴⁹ Id. at 111.

⁵⁰ Id. at 139-159.

⁵¹ Id. at 154-155.

⁵² Id. at 151-152.

- 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.*

2. By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person. (Emphasis supplied).

In *People v. Gutierrez*,⁵³ this Court explained the elements of statutory rape:

Statutory rape is committed when (1) the offended party is under 12 years of age and (2) the accused has carnal knowledge of her, regardless of whether there was force, threat or intimidation; whether the victim was deprived of reason or consciousness; or whether it was done through fraud or grave abuse of authority. It is enough that the age of the victim is proven and that there was sexual intercourse.⁵⁴

In this case, private complainant's minority is not in debate. Her birth certificate was presented before the trial court to prove that she was six (6) years old at the time of the rape incidents, which was admitted by the trial court without any dispute from accused-appellants. Accordingly, the only issue at hand is whether accused-appellant Eliseo had carnal knowledge of the child.

This Court has held time and again that the trial court's factual findings and the conclusions of law based on these are given the highest respect due to its unique opportunity to observe the demeanor, attitude, and conduct of the witnesses while on the stand. In turn, the appellate courts will not disturb the trial court's factual findings unless it is shown that certain facts or circumstances that would substantially affect the result of the case have been overlooked or misinterpreted.⁵⁵ In this case, both the trial court and appellate court found that the prosecution proved beyond reasonable doubt that accused-appellants had committed the crimes of statutory rape and rape by sexual assault.

The defense would have this Court strike down private complainant's testimony for being doubtful and against common human experience, since there was no narration of any form of struggle or resistance on her part

⁵³ 731 Phil. 352 (2014) [Per J. Leonen, Third Division].

⁵⁴ Id. at 357.

⁵⁵ *People v. Gahi*, 727 Phil. 642 (2014) [Per J. Leonardo De Castro, First Division].

during the commission of the rapes. They question her credibility due to her inaction during and after the commission of the crimes as well as the long interval between the alleged criminal acts and the reporting to the authorities.

The defense's contention has no merit whatsoever.

It has long been established that a victim's failure to struggle or resist an attack on his or her person does not, in any way, deteriorate his or her credibility. This Court has ruled that physical resistance need not be established to prove the commission of a rape or sexual assault, as the very nature of the crime entails the use of intimidation and fear that may paralyze a victim and force him or her to submit to the assailant.⁵⁶ Furthermore, different people have varying reactions during moments of trauma; more so, a six (6) year old child being attacked by people whom she believed to be her protectors. In *Perez v. People*,⁵⁷ this Court emphasized the reaction of a minor when faced with an event so traumatizing:

Behavioral psychology teaches us that, even among adults, people react to similar situations differently, and there is no standard form of human behavioral response when one is confronted with a startling or frightful experience. Let it be underscored that these cases involve victims of tender years, and with their simple, unsophisticated minds, they must not have fully understood and realized at first the repercussions of the contemptible nature of the acts committed against them. This Court has repeatedly stated that no standard form of behavior could be anticipated of a rape victim following her defilement, particularly a child who could not be expected to fully comprehend the ways of an adult.⁵⁸

It must be emphasized that a six-year-old child cannot be expected to react similarly as an adult, given her limited understanding of the evils of this world and the desires of men who have no bounds. It is for the same reason that this Court cannot subscribe to the defense's assertion that private complainant's testimony should not be given weight. It is unfathomable that a six-year-old child would be able to describe in such detail how she was ravaged by men she considered protectors unless her statements were true. Her candid, straightforward, and consistent testimony must prevail over the self-serving allegations of the defense. Even when she was intimidated by the defense attorney, private complainant, who was then eight (8) years old, did not falter, proving the attorney's attempt to disparage her futile. Pertinent portions of private complainant's cross-examination by the defense attorney read as follows:

Atty. Navarroza: [AAA], you said the last time you were raped by [Eli]?

⁵⁶ *People v. Lomaque*, 710 Phil. 338 (2013) [Per J. Del Castillo, Second Division].

⁵⁷ G.R. No. 201414, April 18, 2018, 861 SCRA 626 [Per J. Leonen, Third Division].

⁵⁸ *Id.* at 642 citing *People v. Barcelá*, 734 Phil. 332, 344 (2014) [Per J. Mendoza, Third Division].

A: Opo

Q: Particularly, tell us specifically what do you really mean that you were raped by [Eli]?

....

A: Hiniga n[i]ya po ako sa kama.

Atty. Navarroza: Is that all that [Eli] did to you?

A: Hindi po.

Q: What do you mean by "hiniga n[i]ya po ako sa kama". Specifically what did he do[?]

A: Ginalaw niya po ako.

Q: When you said "ginalaw niya po ako", you mean [Eli] moved you?

A: Hindi po.

Q: What do you mean?

A: Nirape po.

Q: For the first time in your life [AAA], when did you hear the word rape?

A: Kay [Eli] po.

....

Q: Is that the same complaint that you are now complaining before this Honorable Court against [Eli] the telling of you [Eli] about the word rape? [sic]

A: Hindi po.

Q: What is [it] that you are complaining about?

A: Kasi po nirape niya po ako.

Q: But do you not know what rape is all about.

A: Hindi po.

Q: So you merely do not understand the word rape?

A: Naiintindihan ko po.

Q: How do you understand, what do you mean by the word rape?

A: Ginalaw po.

Q: When you say "ginalaw" what do you mean by the word ginalaw?

A: Ni-rape po.

Court: Anong ginalaw ni [Eli] sa katawan mo?

A: Yong ano po.

Q: Sabi mo ginalaw ka ni [Eli], sinabi mo ba iyon?

A: Opo.

Q: Anong ginalaw ni [Eli]?

Court[:]

Ituro mo na lang, [AAA].

(Witness pointing to her private part)

Atty. Navarroza: For the record, I did not see the witness pointing her private part.

Court: Tumayo ka [AAA] at ituro mo [uli].

(Witness is pointing to the front portion of her private part)

Atty. Navarroza: By what part of the body of [Eli] you said was used to "ginalaw" your private part?

A: Yung ano po niya.

Q: What is that "ano" that you are referring to, Madam witness?

A: Yong titi niya po.

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Q: When you said titi, what do you understand about it?

A: Yong ano po.

[Prosecutor] De Leon[:]

Maybe we can use the sketch from the record of this case, representing the boy and the girl.

....

Court:

Q: Okay, [AAA] tingnan mo ang picture na ito asan diyan ang titi?

A: (witness is pointing to the genitalia in the photograph)

....

Atty. Navarozza: The actual thing that you said "titi", Madam Witness, how does it [look] like?

A: Mahaba po.

Q: When you said mahaba, how long?

A: (Witness depicting a length of four (4) inches).

....

Atty. Navarroza: What did [Eli] do with that four inches [diameter] long object?

A: Pinasok po sa ano ko.

Q: When you said "pinasok po sa ano ko", what exactly did [Eli] do with that?

A: Pinasok po sa pepe ko po.

Q: How many times?

A: Madami po.

....

Atty. Navarroza: When was that?

A: Noong pagka ospital ni [Teresita]

Q: How many days?

A: Isa lang po.

Q: When you said thing, that titi that you said was inserted in your vagina that was inserted in its entirety? [sic]

A: Hindi po.

Q: What part of that thing was inserted to your vagina?

A: Unahan po.

....

Q: Aside from inserting the same into your vagina, no other else was done to you?

A: Meron pa po.

Q: What is that?

A: Pinasok niya po sa bibig ko po.

Q: Aside from that, no more else?

A: Meron pa po.

Q: What is that?

A: Pinasok sa puwet ko.

Q: When you said it was inserted or placed inside your mouth, what portion of that thing that was actually accommodated by your mouth? [sic]

A: Kaunti l[a]ng po.

.....

Atty. Navarroza: How were you able to say that it was inserted to your anus when as objected to and ruled upon by the court, you were not able to see the thing inserted?

A: Naramdaman ko [p]o.

Q: What did you feel when you said naramdaman?

A: Masakit po.

Q: So you presumed that it was the penis of the accused that was inserted to your anus?

A: Opo.

Q: How about when you said it was inserted to your vagina, did you see it?

A: Opo.

Q: What did you say to [Eli] about that?

A: Wala po.

Q: How about when you said it was inserted or placed into your mouth, did you also see it?

A: Opo.⁵⁹

The excerpt of private complainant's testimony upon cross-examination shows her understanding of how she was touched and raped by accused-appellant Eliseo despite the defense's attempts to mislead and discredit her. Notwithstanding the many ways the questions were twisted, she remained consistent and categorical with her answers.

The fact that it took private complainant more than three (3) months to report the incidents of assault on her does not affect her credibility⁶⁰ in the slightest. She was left under accused-appellant Eliseo's care, lived in his house for months, and depended on him for the basic necessities of life. The moral ascendancy accused-appellant Eliseo had over her is enough to explain why she neither resisted the abuse as it was happening nor reported it afterwards for fear of being deprived of food, water, or a roof over her head.

Aside from private complainant's testimony, the prosecution also presented Dr. Senado, the medico-legal who conducted the physical examinations on private complainant and found that she sustained multiple injuries and lacerations in her hymen. In addition to this, Dr. Del Mundo-Nepomuceno, the child psychiatrist who interviewed private complainant, confirmed that her demeanor while recounting the events that transpired showed she was being truthful. Even BBB testified and initiated the filing of the complaints against him. Surely, she would not allow accused-appellant Eliseo to be subjected to the rigors and humiliation of a rape trial if she believed that the child's stories were mere concoctions.

⁵⁹ CA rollo, pp. 73-75.

⁶⁰ *People v. Perez y Alavado*, 783 Phil. 187 (2016) [Per J. Peralta, Third Division].

Here, accused-appellant Eliseo's assertions were insufficient to show that the trial court erred and misapprehended any fact or evidence. He testified that on the night in issue, he was sleeping at the hospital to accompany his common-law wife. Yet, he did not present any witnesses to confirm that he was indeed at the hospital during the commission of the rape. His entire case relied on the twin defenses of denial and alibi. However, it has long been established that denial and alibi are not enough to overcome the victim's positive and categorical statements. For his defense of alibi to be credible, he must show that it was physically impossible for him to be at the crime scene when the crime was committed.⁶¹ This, he failed to do.

Given the concurrence of multiple circumstances which were attested to by a credible witness and corroborated by other evidence, this Court finds no reason to reverse the finding that accused-appellant Eliseo raped and sexually assaulted the victim.

Accordingly, this Court affirms the conviction of accused-appellant Eliseo for one (1) count of statutory rape under Article 266-A, paragraph 1 of the Revised Penal Code and the imposition of *reclusion perpetua*. As to his civil liabilities for the crime of statutory rape, this Court reduces the award of damages to ₱75,000.00 as civil indemnity; ₱75,000.00 as moral damages; and ₱75,000.00 as exemplary damages in accordance with *People v. Jugueta*.⁶²

As to the charge of one (1) count of rape by sexual assault under Article 266-A, paragraph 2 of the Revised Penal Code, this Court affirms accused-appellant Eliseo's conviction subject to modification of its nomenclature to Sexual Assault under Article 266-A, paragraph 2 of the Revised Penal Code, in relation to Section 5 (b) of Republic Act No. 7610 pursuant to the recent case of *People v. Tulagan*,⁶³ where this Court took the opportunity to reconcile the provisions of Acts of Lasciviousness, Rape, and Sexual Assault under the Revised Penal Code, as amended by Republic Act No. 8353 *vis-à-vis* Sexual Intercourse and Lascivious Conduct under Section 5 (b) of Republic Act No. 7610 also known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act." It was held:

Concededly, R.A. No. 8353 defined specific acts constituting acts of lasciviousness as a distinct crime of "sexual assault," and increased the penalty thereof from *prision correccional* to *prision mayor*. But it was never the intention of the legislature to redefine the traditional concept of rape. The Congress merely upgraded the same from a "crime against

⁶¹ *People v. ZZZ*, G.R. No. 228828, July 24, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65446>> [Per J. Leonen, Third Division].

⁶² 783 Phil. 806 (2016) [Per J. Peralta, En Banc].

⁶³ G.R. No. 227363, March 12, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65020>> [Per C.J. Peralta, En Banc].

chastity” (a private crime) to a “crime against persons” (a public crime) as a matter of policy and public interest in order to allow prosecution of such cases even without the complaint of the offended party, and to prevent extinguishment of criminal liability in such cases through express pardon by the offended party. Thus, other forms of acts of lasciviousness or lascivious conduct committed against a child, such as touching of other delicate parts other than the private organ or kissing a young girl with malice, are still punished as acts of lasciviousness under Article 336 of the RPC in relation to R.A. No. 7610 or lascivious conduct under Section 5 of R.A. No. 7610.

.....

Considering the development of the crime of sexual assault from a mere “crime against chastity” in the form of acts of lasciviousness to a “crime against persons” akin to rape, as well as the rulings in *Dimakuta* and *Caoili*, We hold that if the acts constituting sexual assault are committed against a victim under 12 years of age or is demented, the nomenclature of the offense should now be “Sexual Assault under paragraph 2, Article 266-A of the RPC in relation to Section 5 (b) of R.A. No. 7610” and no longer “Acts of Lasciviousness under Article 336 of the RPC in relation to Section 5 (b) of R.A. No. 7610,” because sexual assault as a form of acts of lasciviousness is no longer covered by Article 336 but by Article 266-A (2) of the RPC, as amended by R.A. No. 8353. Nevertheless, the imposable penalty is still *reclusion temporal* in its medium period, and not *prision mayor*.⁶⁴ (Citations omitted)

The penalty imposed is likewise modified to *reclusion temporal* in its medium period instead of *prision mayor* as prescribed in Article 266-A, paragraph 2 of the Revised Penal Code pursuant to the aforequoted *People v. Tulagan* and *People v. Ching y Parcia*⁶⁵ which applied the penalty under Article III, Section 5 (b) of Republic Act No. 7610. Accordingly, after applying the Indeterminate Sentence Law, accused-appellant Eliseo is thereby sentenced to suffer an indeterminate penalty of 12 years, 10 months and 21 days of *reclusion temporal*, as minimum, to fifteen (15) years, six (6) months and twenty (20) days of *reclusion temporal*, as maximum. This Court also modifies the awards of civil indemnity, moral damages and exemplary damages to ₱50,000.00 pursuant to *People v. Tulagan*.

Finally, this Court affirms that all damages shall earn interest at the rate of 6% per annum from the date of the finality of judgment until fully paid.⁶⁶

WHEREFORE, the guilt of accused-appellant ELISEO SUMAYOD Y LAGUNZAD having been proved beyond reasonable doubt, his conviction for statutory rape and rape by sexual assault by the court *a quo* is **AFFIRMED with MODIFICATION** as follows:

⁶⁴ Id.

⁶⁵ 661 Phil. 208 (2011) [Per J. Peralta, Second Division].

⁶⁶ *Nacar v. Gallery Frames*, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

- a. In Crim. Case No. 10-7202-SPL, accused-appellant Eliseo Sumayod y Lagunzad is hereby held **GUILTY** beyond reasonable doubt under Article 266-A(1)(d) and penalized in Article 266-B of the Revised Penal Code and is sentenced to suffer the penalty of *reclusion perpetua*, and ordered to pay private complainant AAA ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages; and ₱75,000.00 as exemplary damages;
- b. In Crim. Case No. 09-7203-SPL, accused-appellant Eliseo Sumayod y Lagunzad is hereby held **GUILTY** beyond reasonable doubt of Sexual Assault under paragraph 2, Article 266-A of the Revised Penal Code, in relation to Section 5(b) of Republic Act No. 7610 and is sentenced to suffer the penalty of imprisonment for of 12 years, 10 months and 21 days of *reclusion temporal*, as minimum, to 15 years, 6 months and 20 days of *reclusion temporal*, as maximum, and ordered to pay private complainant AAA ₱50,000.00 as civil indemnity; ₱50,000.00 as moral damages; and ₱50,000.00 as exemplary damages; and
- c. Accused-appellant is further ordered to pay private complainant AAA interest on all damages awarded at the legal rate of six percent (6%) per annum from date of finality of this judgment.

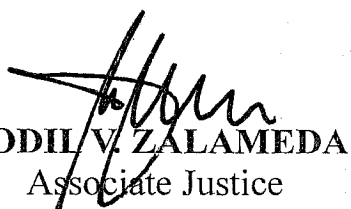
SO ORDERED.



MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Associate Justice


ROSMAR D. CARANDANG
Associate Justice



RODIL V. ZALAMEDA
Associate Justice



EDGARDO L. DELOS SANTOS
Associate Justice

ATTESTATION

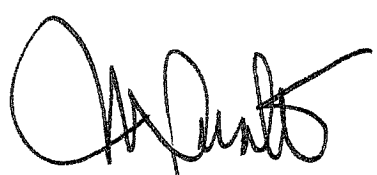
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
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.



DIOSDADO M. PERALTA
Chief Justice

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Mis-PDCBatt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
Third Division

SEP 24 2020

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