



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated September 8, 2020 which reads as follows:

“G.R. No. 225224 – PEOPLE OF THE PHILIPPINES vs. TITO ONGGAS Y LANTAYONA

The Case

This appeal seeks to reverse the Decision¹ dated March 3, 2016 of the Court of Appeals in CA-G.R. CR HC No. 01320-MIN entitled “*People of the Philippines v. Tito Onggas*,” affirming the verdict of conviction against appellant for rape.

The Proceedings before the Trial Court

The Charge

By Information² dated December 26, 2012, appellant Tito Onggas was charged with the rape of twenty (20) year old AAA,³ viz.:⁴

That on or about December 24, 2012, in the [REDACTED], Philippines, and within the jurisdiction of this Honorable Court, the above-named accused knowing that AAA, is a mentally challenged woman, through force

- over – twelve (12) pages ...

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¹ Penned by Associate Justice Perpetua Atal-Paño and concurred in by Associate Justices Edgardo A. Camello and Maria Filomena D. Singh, all members of the Twenty Second Division, *rollo*, pp. 3-11.

² Record, p. 1.

³ The real name of the victim, her personal circumstances and other information which tend to establish or compromise her identity, as well as those of her immediate family, or household members, shall not be disclosed to protect her privacy, and fictitious initial shall, instead, be used, in accordance with *People v. Cabalquinto* [533 Phil. 703 (2006)] and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

⁴ Record, p. 11.

and intimidation, did then and there willfully, unlawfully and feloniously had a carnal knowledge of her, against her will.

CONTRARY TO LAW.

The case was raffled to the Regional Trial Court (RTC) – Branch 2, Tagum City, Davao del Norte.⁵ On arraignment, appellant pleaded “not guilty.”⁶ Trial ensued.

During the trial, AAA,⁷ BBB⁸ (AAA’s mother), Dr. January Yap Ducducan (Dr. Ducducan)⁹ of Davao Regional Hospital, Datu Julie Lantayona (Datu Lantayona)¹⁰ of New Bantayan, Asuncion, Davao del Norte, Barangay Captain Alvin Almeda (Barangay Captain Almeda)¹¹ of New Bantayan, Asuncion, Davao del Norte, and Senior Police Officer 1 Zandra Nor Akmad (SPO1 Akmad)¹² of Asuncion Police Station testified for the prosecution.

On the other hand, appellant,¹³ Jason Pino,¹⁴ and Eddie Pino¹⁵ testified for the defense.

The Prosecution’s Version

The testimonies of the prosecution witnesses may be summarized, in this wise:

In the evening of December 24, 2012, AAA was sleeping in a hammock¹⁶ tied to an *ipil-ipil* tree¹⁷ far from their house in New Bantayan, Asuncion, Davao del Norte.¹⁸ Her sleep got interrupted when she felt someone was in front of her. It was appellant. He at once covered her mouth and tied her hands. He ripped her pajamas specifically the part covering her private parts. He repeatedly punched her in the head, neck, and abdomen.¹⁹ She begged appellant to stop but he just kept punching her. Then he told her he would rape her.²⁰

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⁵ CA rollo, p. 26.

⁶ Record, p. 12.

⁷ TSN, September 18, 2013, p. 3.

⁸ TSN, August 15, 2013, p. 3.

⁹ TSN, July 17, 2013, p. 3.

¹⁰ *Id.* at 12.

¹¹ TSN, March 26, 2014, p. 3.

¹² TSN, July 20, 2013, p. 3.

¹³ TSN, October 17, 2013, p. 3.

¹⁴ TSN, December 5, 2013, p. 4.

¹⁵ *Id.* at 14.

¹⁶ TSN, September 18, 2013, p. 9.

¹⁷ *Id.* at 15.

¹⁸ *Id.* at 3.

¹⁹ *Id.* at 4.

²⁰ *Id.* at 6.

At that point, she lost consciousness.²¹ When she woke up, she felt pain in her entire body including her vagina.²² Appellant was still in front of her. He let her untie her hands and walk home as if nothing happened. She arrived home around 5:30 in the morning of the following day, December 25, 2012.²³

She immediately confided to her mother BBB what appellant did to her.²⁴ BBB, in turn, reported the incident to their tribal chief Datu Lantayona.²⁵ The latter went to their house and saw AAA had bruises and contusions all over her body.²⁶ Datu Lantayona said she would report the incident to Barangay Captain Almeda. She also asked AAA and BBB to immediately go to the barangay hall.²⁷

Meanwhile, after hearing of the incident, Barangay Captain Almeda invited appellant to the barangay hall, to which the latter heeded.²⁸

When AAA saw appellant at the barangay hall, she immediately pointed to appellant, saying aloud "*Kap, that was the person who mauled me and raped me.*"²⁹ Barangay Captain Almeda then endorsed appellant to Asuncion Police Station.³⁰

AAA, BBB, Barangay Captain Almeda, too, proceeded to the Asuncion Police Station. There, they reported the incident to SPO1 Akmad. SPO1 Akmad prepared the police report and took pictures of AAA showing her wounds and her torn pajamas.³¹

On December 26, 2012, AAA got examined by Dr. January Ducducan who confirmed that she sustained multiple abrasions on the neck and hematoma on the left thigh.³² She also sustained complete hymenal transection at 3 o'clock position.³³

Dr. Ducducan testified that although AAA was able to narrate what happened to her, she was mentally challenged. When she

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²¹ *Id.* at TSN, September 18, 2013, p. 6.

²² Record, p. 3.

²³ TSN, September 18, 2013, p. 7.

²⁴ *Id.*

²⁵ TSN, August 5, 2012, p. 6.

²⁶ TSN, July 17, 2013, p. 14.

²⁷ TSN, August 15, 2013, p. 7.

²⁸ TSN, March 26, 2014, p. 5.

²⁹ TSN, September 18, 2013, p. 7.

³⁰ TSN, March 26, 2014, p. 6.

³¹ TSN, July 20, 2013, p. 4.

³² Record, p. 43.

³³ *Id.*

interviewed AAA, the latter failed to answer simple questions about her name, age, and birthday.³⁴ Dr. Ducducun, however, failed to issue any medical certificate confirming AAA's mental disorder. The prosecution, too, did not provide any medical certificate issued by a mental institution, or other evidence to support AAA's purported mental disability.³⁵

The prosecution submitted the following evidence: 1) AAA's Affidavit-Complaint;³⁶ 2) BBB's Affidavit-Complaint;³⁷ 3) Datu Lantayona's "Affidavit of Apprehension;"³⁸ 4) Police Report;³⁹ 5) AAA's Medical Certificate dated December 26, 2012;⁴⁰ 6) Photo of AAA's torn pajama;⁴¹ and 7) Photo of AAA showing her sustained wounds.⁴²

The Defense's Version

Appellant claimed that since December 23, 2012, he had been staying in his uncle's house in New Bantayan, Asuncion, Davao del Norte.⁴³ On December 24, 2012, he went to Dalisay, Sto. Tomas to repair the store of Fely Pino.⁴⁴ He started the repair by 7:30 in the morning and finished around 3 o'clock in the afternoon. Afterwards, he went to his cousin's house in Dalisay, Sto. Tomas to rest and stayed there overnight. He left his cousin's house around 6 o'clock in the morning of the following day, December 25, 2012.⁴⁵ Then he went back to his uncle's house in New Bantayan.⁴⁶

On December 26, 2012, Barangay Captain Almeda and several police officers went to his uncle's house.⁴⁷ Barangay Captain Almeda asked him to go to the barangay hall because a rape complaint had been filed against him.⁴⁸ At the barangay hall, he denied the accusation.⁴⁹ Thereafter, they went to the Asuncion Police Station.⁵⁰

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³⁴ TSN, July 17, 2013, p. 5.

³⁵ TSN, September 18, 2013, p. 5.

³⁶ Record, p. 3.

³⁷ *Id.* at 4.

³⁸ *Id.* at 5.

³⁹ *Id.* at 6.

⁴⁰ *Id.* at 43.

⁴¹ *Id.* at 45.

⁴² *Id.* at 47.

⁴³ TSN, October 17, 2013, p. 4.

⁴⁴ *Id.* at 5.

⁴⁵ *Id.* at 6.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.* at 7.

⁴⁹ *Id.* at 14.

⁵⁰ *Id.* at 8.

Meanwhile, Jason Pino testified that on December 24, 2012, appellant went to his house in Dalisay, Sto. Tomas to assist him in the repair of his mother's store. He, Eddie Pino, his uncle, and appellant started the carpentry work by 7:30 in the morning and finished around 3:30 in the afternoon.⁵¹ Later, appellant cut Eddie's hair and finished around 4 o'clock in the afternoon. Appellant left and went home. Around 8 o'clock in the evening of the same day, appellant went back to his (Jason) house, together with a certain Flora and Botyok, and there, drank some liquor.⁵² Eventually, appellant left and told him he would go to a dike to drink again.⁵³

For his part, Eddie Pino corroborated Jason's testimony that the three (3) of them repaired Fely Pino's store. Afterwards, he let appellant cut his hair. Then, he no longer knew where appellant went.⁵⁴

The Trial Court's Ruling

By Decision⁵⁵ dated August 2, 2014, the trial court found appellant guilty of simple rape, *viz.*:

WHEREFORE, premises considered, there being proof beyond reasonable doubt, accused **TITO ONGGAS Y LANTAYONA** alias "**TOTONG**" is found **GUILTY** as charged and is hereby ordered to suffer the penalty of **reclusion perpetua**. He is likewise ordered to pay AA[A] civil indemnity in the sum of P75,000.00; P75,000.00 for moral damages, exemplary damages in the amount of P25,000.00, and to pay the costs of suit.

SO ORDERED.⁵⁶

The trial court gave credence to AAA's factual narration and positive identification of appellant as the man who sexually ravaged her.⁵⁷ It found that appellant had carnal knowledge of her through force and against her will while she was unconscious.⁵⁸ It rejected appellant's denial and alibi.⁵⁹

Since the prosecution failed to establish AAA's mental disability, appellant was convicted of simple rape only.⁶⁰

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⁵¹ TSN, December 5, 2013, p. 6.

⁵² *Id.*

⁵³ *Id.* at 7.

⁵⁴ *Id.* at 13-19.

⁵⁵ CA *rollo*, pp. 26-30.

⁵⁶ *Id.* at 30.

⁵⁷ *Id.* at 29.

⁵⁸ *Id.* at 30.

⁵⁹ *Id.* at 29.

⁶⁰ *Id.* at 30.

The Proceedings before the Court of Appeals

On appeal, appellant faulted the trial court for rendering a verdict of conviction despite the prosecution's alleged failure to prove that he had carnal knowledge of AAA. Based on her own testimony, she had been unconscious at the time the incident happened.⁶¹

On the other hand, the Office of the Solicitor General (OSG) through Assistant Solicitor Magtanggol Castro and Associate Solicitor Eileen Paloma, countered, in the main: a) AAA categorically identified appellant as the perpetrator of the crime charged;⁶² b) AAA narrated in a candid, categorical, and straightforward manner how appellant took advantage of her unconscious state and thereafter had carnal knowledge of her through force and against her will;⁶³ c) Dr. Ducducán's findings revealed the physical injuries appellant inflicted on AAA;⁶⁴ and d) appellant failed to prove it was physically impossible for him to be at the *situs criminis* at the time the incident happened.⁶⁵

The Court of Appeals' Ruling

In its assailed Decision⁶⁶ dated March 3, 2016, the Court of Appeals affirmed in the main but reduced the award of civil indemnity from ₱75,000.00 to ₱50,000.00 and moral damages from ₱75,000.00 to ₱50,000.00. However, it increased the award of exemplary damages from ₱25,000.00 to ₱30,000.00.⁶⁷ The Court of Appeals further imposed legal interest at six percent (6%) *per annum* on the total monetary award.

It concurred with the trial court's findings that AAA positively identified appellant as the person who raped her.⁶⁸ Appellant's bare denial and alibi cannot prevail over AAA's positive testimony.⁶⁹

More, it noted the defense witnesses' contradictory statements during the trial. On one hand, appellant claimed that on December 24, 2012, he stayed overnight in his cousin's house in Dalisay, Sto. Tomas after repairing Fely Pino's store. He left his cousin's house

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⁶¹ *Id.* at 21.

⁶² *Id.* at 56.

⁶³ *Id.* at 56-59.

⁶⁴ *Id.* at 59.

⁶⁵ *Id.* at 62.

⁶⁶ *Rollo*, pp. 3-11.

⁶⁷ *Id.* at 10.

⁶⁸ *Id.* at 6.

⁶⁹ *Id.* at 8.

around 6 o'clock in the morning of the following day, December 25, 2012.⁷⁰ On the other hand, Jason Pino testified that after repairing his mother's store, appellant cut his uncle's hair and finished around 4 o'clock in the afternoon. Appellant went home but around 8 o'clock in the evening later, he came back to his (Jason) house and drank some wine. Thereafter, appellant left and told him he would go to a dike to drink again. On the part of Eddie Pino, he stated he did not know where appellant went after the latter cut his hair. These three (3) conflicting statements weakened appellant's defense.⁷¹

The Present Appeal

Appellant now seeks affirmative relief from the Court and prays anew for his acquittal. In compliance with Resolution dated August 8, 2016, appellant and the OSG both manifested⁷² that in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.

Issue

Did the Court of Appeals err in affirming appellant's conviction for rape?

Ruling

We affirm.

Appellant essentially argues that the prosecution failed to prove that he had carnal knowledge of AAA. He refers to AAA's own testimony that she had been unconscious at the time the alleged rape happened.

The prosecution counters though that AAA positively identified appellant as the man who sexually violated her. Appellant took advantage of her unconscious state which facilitated the commission of the crime.

Appellant's argument must fail.

In several cases, the Court ruled that although the rape victim had been unconscious, thus, unaware of the actual sexual intercourse that transpired, a verdict of conviction was warranted against the accused based on established circumstantial evidence.

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⁷⁰ *Id.* at 7.

⁷¹ *Id.* at 8.

⁷² *Id.* at 18-24.



In *People v. Gaufo*,⁷³ Gaufo hit the victim in her head but she fought back and asked for help. Gaufo then punched her in the abdomen, causing her to lose consciousness. When she regained her bearings, she noticed that she had no more underwear, she had bleeding in her vagina, and she experienced pain all over her body. The combination of these circumstances, among others, led the Court to render a verdict of conviction against Gaufo.

In *People v. Pabol*,⁷⁴ Pabol boxed the victim in the face, causing her to fall. Thereafter, he hugged her from behind, sat her on his lap, and stroke her breast with a piece of stone. When she shouted for help, he covered her mouth, rendering her unconscious. When she woke up, she discovered that her ears had been sliced, her blouse opened, and her underwear stained with her own blood. She also experienced pain in her vagina. The Court appreciated these circumstances and ruled that Pabol, indeed, raped the victim.

The Court further held in *People v. Belgar*⁷⁵ that the prosecution proved Belgar's carnal knowledge of the victim against her will, thus: (1) Belgar poked a knife on her neck; (2) he dragged her outside the house and brought her to a nearby tree; (3) he injected an unknown substance in her belly rendering her unconscious; (4) when she woke up, she found herself lying naked on the ground; (5) she felt pain in her vagina which had a red and white substance in it; and (6) he had been the last person she saw before she passed out. The totality of these circumstances revealed that Belgar sexually violated the victim.

In *People v. Nuyok*,⁷⁶ Nuyok pulled the victim's hair, slapped her, and punched her in the stomach, knocking her unconscious. After she regained consciousness, she noticed that her *sando* had already been raised up to her neck. Her panty, too, had blood. She also felt pain in her vagina. The Court ruled the prosecution provided sufficient circumstantial evidence showing that Nuyok sexually attacked the victim.

Here, AAA recounted in detail how appellant sexually assaulted her in the evening of December 24, 2012, thus: 1) she was sleeping in a hammock,⁷⁷ when appellant suddenly appeared in front of her; 2) he covered her mouth, and tied her hands; 3) he ripped her pajamas

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⁷³ 469 Phil. 66, 70 (2004).

⁷⁴ 618 Phil. 533, 536-537 (2009).

⁷⁵ 742 Phil. 404, 411 (2014).

⁷⁶ 759 Phil. 437, 444 (2015).

⁷⁷ TSN, September 18, 2013, p. 9.

specifically the part covering her private parts; 3) he repeatedly punched her in the head, neck, and abdomen;⁷⁸ 4) she begged appellant to stop but he did not heed her pleas; 5) while punching her, he told her he would rape her;⁷⁹ 6) due to appellant's heavy punches, she lost consciousness;⁸⁰ and 7) when she woke up, she felt pain all over her body including her vagina.⁸¹

From AAA's categorical and straightforward account, the prosecution was able to establish a **total** and **unbroken** chain of circumstances⁸² indubitably proving, beyond any shadow of doubt, that appellant, by means of force, had carnal knowledge of her against her will. Although AAA had been unaware of the actual sexual consummation because of her unconscious state when it was actually ongoing, she positively identified appellant, and **no other**, as the one who committed such bestial act without her consent. Appellant took advantage of her numbed and unconscious state which had been the direct result of his solid and persistent blows in her head, neck, and abdomen. Her unconsciousness facilitated appellant's consummation of his lewd design against her.⁸³

Further, AAA's testimony withstands the strictest scrutiny sufficient to produce a verdict of conviction. And the fact that it was corroborated by physical evidence, her testimony assumes even more probative weight. Here, Dr. Ducducun's medical examination of AAA revealed that the latter sustained multiple neck abrasions, leg hematoma, and complete hymenal transection at 3 o'clock position, viz.:

Q: And after you conducted a brief history of the patient, what else did you do?

A: **After the history taking, I made physical examination wherein I saw multiple abrasions seen on her neck and also hematoma on her left thigh and for the genitalia I saw complete transection at the 3:00 o'clock (sic) hymen. Seeing all these, my conclusion then was that there was a disclosure of sexual abuse and that the ungenital finding is suggestive of sexual abuse.**

Q: When you said that there was a tear on the hymen, what are the common causes of this kind of injuries?

A: **Usually a blunt force that has penetrated, it could be any object, it could be penis.**

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⁷⁸ *Id.* at 4.

⁷⁹ *Id.* at 6.

⁸⁰ *Id.*

⁸¹ Record, p. 3.

⁸² *People v. Perez*, 366 Phil. 741, 758 (1999).

⁸³ *People v. Nical*, 754 Phil. 357, 369 (2015).

Q: Considering that you conducted a physical examination and an interview with the patient, could you conclude that your findings as well as her testimony are consistent to each other?

A: Yes, maam.⁸⁴ (Emphasis and underscoring supplied)

*People v. Sabal*⁸⁵ decreed that when the forthright testimony of a rape victim is consistent with medical findings, the essential requisites of carnal knowledge are deemed to have been sufficiently established, as in this case.

More, records do not show that AAA was compelled by any improper motive or influenced by her family to falsely accuse appellant of rape.⁸⁶ When there is no evidence to show any improper motive on the part of AAA to testify falsely against appellant, the logical conclusion is that her testimony is worthy of full faith and credence.⁸⁷

To escape liability, appellant interposes denial and alibi. He claims that on December 24, 2012, he went to Dalisay, Sto. Tomas to repair Fely Pino's store. He finished his carpentry work around 3 o'clock in the afternoon. Afterwards, he went to his cousin's house in Dalisay, Sto. Tomas and **stayed there overnight**. He only left his cousin's house around 6 o'clock in the morning of the following day or on December 25, 2012.⁸⁸ Thereafter, he went back to his uncle's house in New Bantayan.⁸⁹

Jason Pino's testimony, however, contradicted appellant's account. According to Jason, on December 24, 2012, appellant went to his house in Dalisay, Sto. Tomas to assist him and his uncle Eddie Pino in the repair of his mother's store. The three (3) of them started the repair by 7:30 in the morning and finished around 3:30 in the afternoon.⁹⁰ Later, appellant cut Eddie's hair and finished it around 4 o'clock in the afternoon. Appellant **left and went home**. By 8 o'clock in the evening of the same day, **appellant went back to his (Jason) house**, together with a certain Flora and Botyok, and there, drank liquor.⁹¹ Eventually, appellant left and told him he would go to a dike

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⁸⁴ TSN, July 17, 2013, p. 6.

⁸⁵ *People v. Sabal*, 734 Phil. 742, 746 (2014), citing *People v. Perez*, 595 Phil. 1232, 1258 (2008).

⁸⁶ *People v. Galuga*, G.R. No. 221428, February 13, 2019.

⁸⁷ *People v. Perez*, 595 Phil. 1232, 1259 (2008), citing *People v. Malabago*, 338 Phil. 177, 190 (1997); *People v. Gagto*, 323 Phil. 539, 556 (1996).

⁸⁸ TSN, October 17, 2013, p. 6.

⁸⁹ *Id.*

⁹⁰ TSN, December 5, 2013, p. 6.

⁹¹ *Id.*

to drink again.⁹² For his part, Eddie Pino stated he did not know where appellant went after the latter cut his hair.

The Court of Appeals keenly noted that these contradictory statements did nothing but weaken appellant's defense.⁹³ Nonetheless, whether appellant spent the whole night of December 24, 2012 in his cousin's house, in a dike, or in his uncle's house, he failed to demonstrate that it was physically impossible for him to be at the particular place, date, and time of the crime scene.⁹⁴

Against AAA's positive testimony, appellant's defenses of denial and alibi necessarily fail. Settled is the rule that both denial and alibi are inherently weak defenses which cannot prevail over the positive and credible testimony of the victim who consistently identified the accused as the one who raped her. Thus, as between AAA's categorical testimony which has a ring of truth on one hand, and appellant's mere denial and alibi, on the other, the former prevails.⁹⁵

Under Section 266-B of the Revised Penal Code as amended by Republic Act No. 8353 (RA 8353),⁹⁶ the maximum penalty shall be imposed when the offender committed the crime, knowing of the intellectual disability of the offended party.⁹⁷ We affirm, however, the lower courts' findings that the prosecution here failed to adduce sufficient evidence in support of AAA's purported mental disability.

All told, the Court of Appeals did not err in affirming appellant's conviction for rape and imposing on him *reclusion perpetua* in accordance with Article 266-A, in relation to 266-B of the Revised Penal Code, as amended.

Consistent with prevailing jurisprudence,⁹⁸ we increase the award of damages, thus: a) ₱75,000.00 as civil damages; b)

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⁹² *Id.* at 7.

⁹³ *People v. Espanol*, 326 Phil. 147-157 (1996).

⁹⁴ *People v. De Leon*, 428 Phil. 556, 575 (2000).

⁹⁵ *People v. Batalla*, G.R. No. 221428, February 13, 2019.

⁹⁶ Article 266-B. Penalty -

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

xxx xxx xxx

10) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

xxx xxx xxx

⁹⁷ *People v. Tayaban*, 821 Phil. 391, 405 (2017).

⁹⁸ *People v. Jugueta*, 783 Phil. 806, 849 (2016).

₱75,000.00 as moral damages; and c) ₱75,000.00 as exemplary damages. These amounts shall earn six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

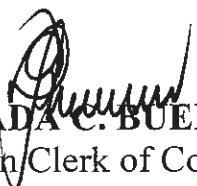
WHEREFORE, the appeal is **DENIED** and the Court of Appeals' Decision in CA-G.R. CR HC No. 01320-MIN dated March 3, 2016, **AFFIRMED with MODIFICATION**. Appellant **Tito Onggas** is found **GUILTY** of **RAPE** and sentenced to *reclusion perpetua*. He is further ordered to **PAY**:

- (1) ₱75,000.00 as civil indemnity;
- (2) ₱75,000.00 as moral damages; and
- (3) ₱75,000.00 as exemplary damages.

These amounts shall earn six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

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9000 Cagayan de Oro City
(CA-G.R. CR HC No. 01320-MIN)

The Superintendent
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The Hon. Presiding Judge
Regional Trial Court, Branch 2
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(Crim. Case No. 18562)

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