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Moreover, the sharing of harvests in this case was a mere afterthought when respondents made a belated turn-over to Tuzon. Even this was not received personally, but allegedly made through her driver who was not legally authorized to receive it.[51]

Having established that no agricultural tenancy exists in the present case, we hold that the MTC had jurisdiction over the ejectment Complaint. Although we commiserate with the plight of respondents for having lost the land that had been owned by their forebears for a long time, we cannot legally bar petitioner from enjoying what she lawfully acquired in good faith and for value. By virtue of her unquestionable ownership of the land and the dismal failure of respondents to satisfactorily demonstrate their claim of tenancy, petitioner is entitled to possess the property.

WHEREFORE, the Petition is *GRANTED*, and the assailed Decision and Resolution *REVERSED* and *SET ASIDE*. The May 27, 1997 Decision of the Regional Trial Court of Malolos, Bulacan is *REINSTATED*. No costs.

SO ORDERED.

Puno (Chairman) and *Sandoval-Gutierrez, JJ.*, concur.

Corona and *Carpio Morales, JJ.*, on leave.

FIRST DIVISION

[G.R. No. 149810. August 28, 2003]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **CRISPIN T. RUALES,** *appellant.*

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[51] CA Decision, p. 8; *rollo*, p. 38.

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SYNOPSIS

The Regional Trial Court of General Santos City found appellant guilty of statutory rape for sexually abusing Emalyn A. Lusin, then eight years old, on August 27, 1992 and sentenced him to suffer the penalty of *reclusion perpetua*. In convicting appellant, the trial court relied heavily on the testimony of the complainant, which it found credible, while it found appellant's version of alibi, unconvincing. Hence, this appeal. Appellant assailed the credibility of the complainant.

The Supreme Court found no cogent reason to detract from the trial court's findings as to the credibility of the complainant. Emalyn was a Grade II pupil when she took the witness stand, but despite her age and educational limitation, the narration of her ordeal in the hands of appellant was straightforward, spontaneous and candid. Under rigid cross-examination, she was uncompromising and remained steadfast on her tragic tale of defilement. The Court held that testimonies of rape victims, especially child victims, are given full weight and credit. Moreover, the records showed that complainant was crying when she testified. This has been held to be evidence of truthfulness of the rape charge with verity born out of human nature and experience. In the light of the positive testimony of the victim proving appellant's criminal accountability, his bare denial and alibi must perforce fail. Affirmative testimony from a credible witness is stronger and more trustworthy than a bare self-serving testimony. However, the Court convicted appellant of simple rape only, and not statutory rape, because of the failure of the prosecution to prove by independent proof the minority of the victim.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; GUIDING PRINCIPLES IN DECIDING RAPE CASES.**— In deciding rape cases, we have been guided by the following well-established principles: (a) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (b) due to the nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and

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(c) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.

2. **ID.; ID.; CREDIBILITY OF WITNESSES; EVALUATION OF THE TESTIMONY OF THE WITNESSES BY THE TRIAL COURT ACCORDED THE HIGHEST RESPECT ON APPEAL.**— We have repeatedly held that the evaluation of the testimony of the witnesses by the trial court is accorded the highest respect on appeal because the court below had the opportunity to observe the witnesses on the stand and detect if they were telling the truth. This assessment is binding upon the appellate court in the absence of a clear showing that it was reached arbitrarily or that the trial court plainly overlooked certain facts of substance or value that, if considered, might affect the result of the case. After a careful review of the records of this case, we find no cogent reason to detract from the general rule.

3. **ID.; ID.; ID.; TESTIMONIES OF RAPE VICTIMS, ESPECIALLY CHILD VICTIMS, GIVEN FULL FAITH AND CREDIT.**— Testimonies of rape victims, especially child victims, are given full weight and credit. In the case at bar, the victim was barely eight years old when she was raped. We have consistently held that when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed. Moreover, the records show that the complainant was crying when she testified. This has been held to be evidence of truthfulness of the rape charge with the verity born out of human nature and experience.

4. **ID.; ID.; DENIALS; AFFIRMATIVE TESTIMONY FROM A CREDIBLE WITNESS IS STRONGER AND MORE TRUSTWORTHY THAN A BARE SELF-SERVING TESTIMONY.**— In the light of the positive testimony of the victim proving appellant's criminal accountability, his bare denial and alibi must perforce fail. It is a time-honored principle that the positive and categorical assertions of a witness generally prevail over bare denials. Affirmative testimony from a credible witness is stronger and more trustworthy than a bare self-serving testimony.

5. **ID.; ID.; ALIBI; TO PROSPER, ACCUSED MUST PROVE PHYSICAL IMPOSSIBILITY TO BE AT THE CRIME**

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SCENE OR ITS IMMEDIATE VICINITY AT THE TIME OF COMMISSION OF THE CRIME.— In the case at bar, greater probative value and evidentiary weight must be accorded to Emalyn's unwavering and categorical identification of the appellant as her ravisher over his self-serving denial and alibi. Moreover, for alibi to prosper, it is not enough for the accused to prove that he was somewhere else when the crime was committed. He must also prove that he could not have been physically present at the scene of the crime or its immediate vicinity at the time of its commission. In appellant's case, it was not physically impossible for him to have been at the crime scene at the time the rape was committed.

6. **CRIMINAL LAW; STATUTORY RAPE; ESSENTIAL ELEMENT, AGE OF THE VICTIM; CONSENT OF VICTIM AND OTHER CIRCUMSTANCES RELATING TO SEXUAL INTERCOURSE, IMMATERIAL.**— In rape cases, the essential element that the prosecution must prove is the absence of the victim's consent to the sexual congress. The People must establish that the sexual assault was committed using force or intimidation, or that it was committed against a woman deprived of reason or otherwise unconscious. On the other hand, in statutory rape, all that needs to be proven is that the accused had sexual intercourse with a woman under twelve years of age – her consent and other circumstances relating to the sexual intercourse being immaterial.

7. **ID.; ID.; ACCUSED CANNOT BE CONVICTED THEREOF WHERE PROSECUTION FAILED TO PROVE AGE OF THE VICTIM BEYOND REASONABLE DOUBT; CASE AT BAR.**— After a careful review of the facts and circumstances duly proved in the case at bar, we find that appellant can only be convicted of simple rape, and not statutory rape, because of the failure of the prosecution to prove by independent proof the minority of the victim. Age of the victim is an essential element in the crime of statutory rape and must be indubitably proved by the prosecution. Failure to prove the age of the victim beyond reasonable doubt, appellant cannot be convicted of statutory rape. In the case at bar, the prosecution only presented the testimonies of the victim and the mother to prove the former's age at the time of rape. It failed to present either the birth or baptismal certificate as independent proof that would corroborate their allegation. However, the failure of the prosecution to

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sufficiently prove Emalyn's minority does not alter the fact that rape was committed as it has been sufficiently established that coition took place against her will. In other words, the element of force and intimidation, which need not be proved in statutory rape, was shown to exist in this case. Thus, appellant is liable for simple rape, and, accordingly, sentenced to suffer the penalty of *reclusion perpetua.*

8. **CIVIL LAW; DAMAGES; ACTUAL DAMAGES; ACTUAL AMOUNT OF LOSS MUST BE PROVED WITH A REASONABLE DEGREE OF CERTAINTY PREMISED UPON COMPETENT PROOF AND ON THE BEST EVIDENCE AVAILABLE TO THE INJURED PARTY.**— The trial court's award of actual damages in the sum of P6,000.00 must be deleted in the absence of proof required by Article 2199 of the Civil Code. To be entitled to actual damages, it is necessary to prove the actual amount of loss with a reasonable degree of certainty, premised upon competent proof and on the best evidence available to the injured party. In the case at bar, the prosecution failed to present any receipt to prove the claim for expenses incurred other than the testimony of the victim's mother.

9. **ID.; ID.; MORAL DAMAGES; AUTOMATICALLY GRANTED IN RAPE CASES WITHOUT NEED OF FURTHER PROOF OTHER THAN COMMISSION OF THE CRIME.**— Likewise, the separate award of ₱200,000.00 representing moral damages must be reduced to ₱50,000.00 in accord with the prevailing jurisprudence. Moral damages in the amount of ₱50,000.00 are automatically granted in rape cases without need of further proof other than the commission of the crime, because it is assumed that a rape victim has actually suffered moral injuries entitling her to such an award.

10. **ID.; ID.; CIVIL INDEMNITY; MANDATORY UPON THE FINDING OF THE FACT OF RAPE.**— We note that the trial court did not award civil indemnity in favor of the victim. Civil indemnity is likewise mandatory upon the finding of the fact of rape; it is automatically imposed upon the accused without need of proof other than the fact of the commission of rape. Hence, the amount of ₱50,000.00 as civil indemnity must be awarded to complainant.

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APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Mosquera Alaba & Albano Law Offices for accused-appellant.

D E C I S I O N

YNARES-SANTIAGO, *J.*:

Before us is an appeal from the decision[1] of the Regional Trial Court of General Santos City, Branch 22, in Criminal Case No. 8776, finding appellant Crispin T. Ruales guilty beyond reasonable doubt of statutory rape, sentencing him to suffer the penalty of *reclusion perpetua*, and ordering him to pay the complainant the amounts of ₱6,000.00 as actual damages, ₱200,000.00 as moral damages and the cost of suit.

Appellant was charged in a Complaint which reads:

That in the evening of August 27, 1992, in General Santos City, Philippines, within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously, with lewd design, forcibly abduct the undersigned Emalyn A. Lusin, an eight year old girl, against her will from the place near a store at Obrero, General Santos City, and did then and there take her to the grassy place across the National Highway and which is popularly known as Dacera Farm where accused, by means of intimidation, force and violence, did then and there willfully, unlawfully and feloniously have carnal knowledge of complainant Emalyn A. Lusin, against her will.

CONTRARY TO LAW.[2]

On December 18, 1992, appellant was arraigned with the assistance of counsel. He pleaded "not guilty" to the charge of Forcible Abduction with Rape. Trial thereafter followed.

The facts:

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[1] Record, pp. 23-33, penned by Judge Jose S. Majaducon.

[2] Record, p. 9.

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Emalyn A. Lusin, a Grade II pupil at the J.P. Laurel Elementary School at Barrio Obrero, General Santos City, was only seven years old when the rape incident happened on the night of August 27, 1992. At about 7:00 p.m. of that fateful night, her mother sent her to buy sugar, coffee, gas, medicine and potatoes at Bayona Store, just two houses away. She was accompanied by her younger brother, Percival. She was able to buy everything in her list, except the potatoes, after which she sent her brother home. She then proceeded to R.R. Store and Dading Store, but she was not able to buy potatoes. While she was standing outside Dading Store, she was approached by appellant, who befriended her and offered to accompany her to the lower portion of the town to look for potatoes. She acceded to appellant's offer since the potatoes were for her sick sister, Mary Grace. Instead of buying potatoes, she was brought by appellant to Dacera Farm, approximately a kilometer away from Barrio Obrero. They crossed over a barbed wire fence and ended up on a grassy cornfield. There, appellant forced Emalyn to lie down and kissed her on the lips and cheeks. Emalyn fought back and pleaded for him not to hurt her, but appellant did not listen. Appellant forcibly removed her shirt and underwear then undressed himself. Appellant pinned Emalyn's face to the ground while he inserted his penis into her vagina. Thereafter Emalyn lost consciousness.[3]

Meanwhile, Emalyn's parents went out searching for her in places where she might have gone. When they failed to find her, they reported the matter to the police authorities and to the radio station.[4]

The following day, Emalyn regained consciousness. She felt pain all over her body, especially on her vagina. She got up from the mud and walked to the side of the highway. She met a group of women who, after seeing blood on her shirt, hailed a tricycle to bring her home. Thereafter, Emalyn and her parents reported the incident to the police authorities. She was brought

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[3] TSN, March 7, 1994, pp. 2-10.

[4] TSN, February 1, 1995, pp. 54-55.

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to the hospital for immediate medical attention.[5] Dr. Emmanuel C. Leyva, a surgeon at Cotabato Regional Hospital, Cotabato City, performed the medical examination and found the following:

Physical Examination:

Operation Diagnosis:		Multiple contusion abrasion neck & mandibular area
	=	Vaginal laceration extending to the pouch of Douglas
	=	Extensive hymenal laceration
	=	Contusion surrounding vulva.
Operation Performed:	=	Vaginal & perineal repair.
Date of Operation:	=	August 28, 1992.[6]

A few days later, Emalyn and her mother returned to the scene of the crime, accompanied by Investigator Anibersario and the photographer of the police station, who took pictures of the scene, including the slipper and underwear of the victim found thereat.[7]

On September 20, 1992, at around 4:00 p.m., Emalyn together with her mother and her aunt passed by the Johnny Ang Paradise Billiard Hall. Emalyn trembled when she saw appellant playing billiards, and she pointed him to her mother. Her mother immediately told her sister to go to the police station to request for help. Moments later, the police arrived and arrested the appellant.[8]

Appellant, for his part, denied the charge against him and proffered the defense of alibi. He testified that on August 27, 1992, after gathering sand and gravel at the quarry, he proceeded

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[5] TSN, March 7, 1994, pp. 11-14.

[6] Records, p. 23

[7] TSN, February 1, 1995, pp. 64-65.

[8] *Id.*, pp. 62-63.

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to Mrs. Salome Monteclar's store at Johnny Ang Paradise, to sell smoked fish from 4:00 p.m. until 9:00 p.m.[9]

On March 15, 2001, the trial court rendered the assailed decision, the dispositive portion of which reads:

> WHEREFORE, judgment is hereby rendered finding the accused, CRISPIN RUALES, GUILTY beyond reasonable doubt of statutory RAPE, he is hereby sentenced to suffer the penalty of *RECLUSION PERPETUA*. He is ordered to pay civil damages of ₱6,000.00 to the parents of Emalyn Lusin; ₱200,000.00 as moral damages to private complainant and the cost of suit.
>
> SO ORDERED.[10]

Hence, this appeal, raising the following errors:

I. THE HONORABLE TRIAL JUDGE ERRED IN RULING THAT THE PRIVATE COMPLAINANT REMEMBERED VERY WELL THE PHYSICAL CHARACTERISTICS OF HER ASSAILANT BECAUSE THE STREETS WHERE THE ACCUSED AND THE VICTIM PASSED BY WERE WELL LIGHTED, WITHOUT CONDUCTING AN OCULAR INSPECTION AND ASCERTAINING THE PATH TAKEN BY THE VICTIM AND THE ACCUSED.

II. THE HONORABLE TRIAL JUDGE ERRED IN GIVING CREDIBILITY TO THE PRIVATE COMPLAINANT DESPITE THE PRESENCE OF GRAVE INCONSISTENCIES IN HER STATEMENT.

III. THE HONORABLE TRIAL JUDGE ERRED IN RULING THAT THE RAPE CASE FILED BY FRANCISCA LAGASTE, THE LIVE-IN PARTNER OF THE ACCUSED, SHOWED HIS CAPABILITY TO RAPE AN 8 YEAR OLD GIRL.

IV. THE HONORABLE TRIAL JUDGE ERRED IN DISREGARDING THE IRREGULARITY AND THE ILLEGALITY OF THE ARREST IN DETERMINING THE GUILT OF THE ACCUSED.

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[9] TSN, November 5, 1998, pp. 198-205.

[10] *Rollo*, p. 33.

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V. THE HONORABLE TRIAL JUDGE ERRED IN FINDING THAT THE GUILT OF THE ACCUSED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

In convicting the appellant, the trial court relied heavily on the testimony of Emalyn which it found credible, while it found appellant's version of alibi, a defense invariably viewed as weak and easy to concoct, unconvincing.

Appellant assails the credibility of Emalyn's testimony as regards his identity considering that the place where the alleged rape was committed was dark. Moreover, her testimony regarding the physical description of the alleged perpetrator was full of inconsistencies and incongruity.

In deciding rape cases, we have been guided by the following well-established principles: (a) an accusation of rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (b) due to the nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution; and (c) the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of the evidence for the defense.[11]

We have repeatedly held that the evaluation of the testimony of the witnesses by the trial court is accorded the highest respect on appeal because the court below had the opportunity to observe the witnesses on the stand and detect if they were telling the truth. This assessment is binding upon the appellate court in the absence of a clear showing that it was reached arbitrarily or that the trial court plainly overlooked certain facts of substance or value that, if considered, might affect the result of the case.[12]

After a careful review of the records of this case, we find no cogent reason to detract from the general rule.

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[11] *People v. Corral*, G.R. Nos. 145172-74, 28 February 2003.

[12] *People v. Moralde*, G.R. No. 131860, 16 January 2003.

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Emalyn was a Grade II pupil when she took the witness stand, but despite her age and educational limitation, the narration of her ordeal in the hands of appellant was straightforward, spontaneous and candid. Under rigid cross-examination, which took several days, she was uncompromising and remained steadfast on her tragic tale of defilement.

Emalyn admitted that the place where she was brought and ravished was dark. Nevertheless, her testimony is no less credible for the identity of the appellant stuck in her memory when she first saw him at Dading Store, a place which was well lighted. Thus, on direct examination:

Q. You pointed to a person who gave his name as Crispin Ruales, are you very sure that this was the person who raped you?
A. Yes, he is the one, sir.

Q. What made you very sure that this person was the one who held your arms, led you to cross the highway and brought you to Dacera Farm and raped you?
A. I saw his face because there was light during that time. It was very bright.[13]

Further, on cross-examination:

Q. Where did you meet the accused for the first time that night?
A. At Dading Store, sir. He approached me.

Q. Was there electric light at the Dading Store?
A. Yes, sir.

Q. Did you look at the accused at the time he approached you closely?
A. Yes sir, I stared at him.

Q. And what did he tell you when he first approached you?
A. After he approached me, he said, "What are you going to buy?" and I answered, "I'd like to buy potatoes but there was none here." Then he told me, "Let's go to the lower portion."

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[13] TSN, March 7, 1994, p. 14.

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Q. What prompted you to accept his invitation to go to the lower portion?
A. Because he told me that we were going to buy potatoes at the lower portion.

Q. In what manner did he invite you? Was he very friendly or what?
A. He befriended me, so I agreed.

Q. Did he hold your hands after you agreed to go with him?
A. Yes, sir.

Q. And so you agreed to go along with him?
A. Yes, Sir.

Q. As you were walking, were you looking at him every now and then?
A. Yes, sir.

Q. What was the color of his shirt?
A. I did not notice the color because it was dark.

Q. Was he in long pants or short pants?
A. He was wearing long pants.

Q. Was he wearing slippers or shoes?
A. He was wearing slippers.

Q. Was he in a hurry while he was going to towards the lower portion with you?
A. Yes, sir.[14]

Then, on redirect examination:

Fiscal Oco:

Q. When you were looking for potatoes as you stated in your direct and cross examination, a person approached you offering to help you look potatoes and that person is the accused, is that what you mean?

Atty. Falgui:

That would be leading, Your Honor, please.

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[14] TSN, March 8, 1994, pp. 22-23.

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Fiscal Oco:

She is 9 years old, Your Honor, please.

Court:

Answer.

Witness:

A. Yes, Sir.

Fiscal Oco:

Q. And that was the same person who brought you to the cornfield and inserted his penis to your vagina?

A. Yes, Sir.[15]

The foregoing testimony belies appellant's contention that the victim's testimony regarding his identification was inconsistent and incongruous. The other inconsistencies cited by appellant referring to the distance from Dading Store to R.R. Store and to the manner by which the perpetrator held the victim's hand are too inconsequential to affect the victim's credibility.

Testimonies of rape victims, especially child victims, are given full weight and credit.[16] In the case at bar, the victim was barely eight years old when she was raped. We have consistently held that when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed.[17] Moreover, the records show that the complainant was crying when she testified.[18] This has been held to be evidence of truthfulness of the rape charge with the verity born out of human nature and experience.[19]

In the light of the positive testimony of the victim proving appellant's criminal accountability, his bare denial and alibi

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[15] TSN, June 30, 1994, p. 9.

[16] *People v. Galvez*, 418 Phil. 159, 171 [2001].

[17] *People v. Dulay*, G.R. Nos. 144082-83, 18 April 2002.

[18] TSN, March 7, 1994, p. 8.

[19] *People v. Esperida*, G.R. Nos. 139637-38, 22 January 2003.

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must perforce fail. It is a time-honored principle that the positive and categorical assertions of a witness generally prevail over bare denials. Affirmative testimony from a credible witness is stronger and more trustworthy than a bare self-serving testimony.[20]

In the case at bar, greater probative value and evidentiary weight must be accorded to Emalyn's unwavering and categorical identification of the appellant as her ravisher over his self-serving denial and alibi. Moreover, for alibi to prosper, it is not enough for the accused to prove that he was somewhere else when the crime was committed. He must also prove that he could not have been physically present at the scene of the crime or its immediate vicinity at the time of its commission.[21] In appellant's case, it was not physically impossible for him to have been at the crime scene at the time the rape was committed. As correctly observed by the trial court:

> Judicial notice can be taken that the areas from Johnny Ang Paradise, where the accused lived, to Barrio Obrero, Dacera Farm is somewhere in between these places. Therefore, it was easy for the accused to have the opportunity to go to Barrio Obrero on August 27, 1992, at seven o'clock in the evening, from Johnny Ang Paradise. After seeing Emalyn at a store and enticing her to go with him to look for potatoes in order to rape her in the cornfield, the whole thing could be finished in less than thirty minutes. There were jeep and tricycle rides from Johnny Ang Paradise is located. Therefore, it is safe to conclude that the accused rode on a passenger vehicle from Johnny Ang Paradise to Barrio Obrero, met the victim, brought her to Dacera Farm a kilometer away, and did the bestial act in the cornfield. Immediately, after finishing the rape, he hurriedly left, went to the highway, rode a jeep or tricycle to his place and pretended to do his usual work at 8:00 or 9:00 o'clock in the evening as if nothing had been done by him except selling his barbecued fish. In other words, the Court is of the opinion that even if the accused had gone away for an hour from Johnny Ang Paradise, it could not easily be noticed by other persons.[22]

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[20] *People v. Besmonte*, G.R. Nos. 137278-79, 17 February 2003.

[21] *People v. Colonia*, G.R. No. 138541, 12 June 2003.

[22] *Rollo*, Decision, p. 32.

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Appellant was charged with Forcible Abduction with Rape, however, he was convicted of statutory rape, considering that the victim was eight years old when the rape was committed and there was no evidence of forcible abduction inasmuch as the victim was merely persuaded to go with the appellant to look for potatoes.

Statutory rape is defined and penalized in Article 335 of the Revised Penal Code, which was in effect at the time of commission of the crime in this case:

> Art. 335. Rape is committed by having carnal knowledge of a woman under any of the following circumstances:
>
> x x x x x x x x x
>
> 3. When the woman is under twelve years of age, even though neither of the circumstances mentioned in the two next preceding paragraphs shall be present.
>
> The crime of rape shall be punished by *reclusion perpetua.*

In rape cases, the essential element that the prosecution must prove is the absence of the victim's consent to the sexual congress. The People must establish that the sexual assault was committed using force or intimidation, or that it was committed against a woman deprived of reason or otherwise unconscious. On the other hand, in statutory rape, all that needs to be proven is that the accused had sexual intercourse with a woman under twelve years of age — her consent and other circumstances relating to the sexual intercourse being immaterial.[23]

After a careful review of the facts and circumstances duly proved in the case at bar, we find that appellant can only be convicted of simple rape, and not statutory rape, because of the failure of the prosecution to prove by independent proof the minority of the victim. Age of the victim is an essential element in the crime of statutory rape and must be indubitably proved by the prosecution. Failure to prove the age of the victim

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[23] *People v. Sta. Ana*, 353 Phil. 388, 414-415 [1998].

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beyond reasonable doubt, appellant cannot be convicted of statutory rape.[24]

In *People v. Vargas*,[25] we ruled that appellant can only be convicted of simple rape, and not statutory rape, because of the failure of the prosecution to prove the minority of the victim, who was allegedly 10 years old at the time of the rape. The prosecution failed to present either the birth or baptismal certificate of the victim. Also there was no showing that the said documents were lost or destroyed to justify their non-presentation.

Also, in *People v. Veloso*,[26] the victim was alleged to have been only 9 years of age at the time of the rape. It held that the trial court was correct when it ruled that the prosecution failed to prove the victim's age other than through the testimony of her father and herself.

In the case at bar, the prosecution only presented the testimonies of the victim and the mother to prove the former's age at the time of rape. It failed to present either the birth or baptismal certificate as independent proof that would corroborate their allegation. However, the failure of the prosecution to sufficiently prove Emalyn's minority does not alter the fact that rape was committed as it has been sufficiently established that coition took place against her will. In other words, the element of force and intimidation, which need not be proved in statutory rape, was shown to exist in this case. Thus, appellant is liable for simple rape, and, accordingly, sentenced to suffer the penalty of *reclusion perpetua.*[27]

The trial court's award of actual damages in the sum of ₱6,000.00 must be deleted in the absence of proof required by

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[24] *People v. Pine*, G.R. No. 133441, 29 November 2000, 346 SCRA 383, 394.

[25] 327 Phil. 387, 396-397 [1996].

[26] 386 Phil. 815, 825 [2000].

[27] Art. 335, Revised Penal Code.

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Article 2199 of the Civil Code.[28] To be entitled to actual damages, it is necessary to prove the actual amount of loss with a reasonable degree of certainty, premised upon competent proof and on the best evidence available to the injured party.[29]

In the case at bar, the prosecution failed to present any receipt to prove the claim for expenses incurred other than the testimony of the victim's mother. Likewise, the separate award of ₱200,000.00 representing moral damages must be reduced to ₱50,000.00 in accord with the prevailing jurisprudence.[30] Moral damages in the amount of ₱50,000.00 are automatically granted in rape cases without need of further proof other than the commission of the crime, because it is assumed that a rape victim has actually suffered moral injuries entitling her to such an award.[31]

We note that the trial court did not award civil indemnity in favor of the victim. Civil indemnity is likewise mandatory upon the finding of the fact of rape; it is automatically imposed upon the accused without need of proof other than the fact of the commission of rape. Hence, the amount of ₱50,000.00 as civil indemnity must be awarded to complainant.[32]

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of General Santos City, Branch 22, in Criminal Case No. 8776, finding appellant guilty beyond reasonable doubt of statutory rape is *MODIFIED*. As modified, appellant Crispin T. Ruales is found guilty beyond reasonable doubt of the crime of Simple Rape. He is sentenced to suffer the penalty of *reclusion perpetua* and to pay the complainant,

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[28] Art. 2199. Except as provided by law or by stipulation one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved. Such compensation is referred to as actual or compensatory damages.

[29] *People v. Silongan*, G.R. No. 137182, 24 April 2003.

[30] *People v. Umayam*, G.R. No. 147033, 30 April 3003.

[31] *People v. Biong*, G.R. Nos. 144445-47, 30 April 2003.

[32] *People v. Torellos*, G.R. No. 143084, 1 April 2003.

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Emalyn A. Lusin, the sums of ₱50,000.00 by way of indemnity and ₱50,000.00 as moral damages.

SO ORDERED.

Davide, Jr., C.J., Vitug, Carpio, and *Azcuna, JJ.*, concur.

SECOND DIVISION

[G.R. No. 154049. August 28, 2003]

RAMON P. JACINTO and JAIME J. COLAYCO, *petitioners, vs.* **FIRST WOMEN'S CREDIT CORPORATION, represented in this derivative suit by SHIG KATAYAMA,** *respondents.*

SYNOPSIS

Respondent Shig Katayama, in his capacity as director and minority stockholder of First Women's Credit Corporation (FWCC), instituted a derivative suit before the Securities and Exchange Commission (SEC) against petitioner Ramon P. Jacinto and Jaime J. Colayco, president and Vice-President, respectively, of FWCC, praying for the appointment of an Interim Management Committee to end the dissipation, wastage and loss of corporate funds. Among other things, respondent alleged that petitioners withdrew the corporate funds and diverted the withdrawn amount to RJ Group of Companies and companies affiliated with FWCC without Board authorization. In the wake of the diversion, FWCC was left flat broke causing it to default on several of its obligations with creditor banks and to close down several of its offices around the country. On their part, petitioners denied the charge and asserted, among others, that the withdrawal of money from FWCC constituted legitimate advances and loans extended in the ordinary course of business. The SEC Hearing Officer eventually granted respondent's prayer and ordered the creation