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damages which needs no proof since it is presumed that the rape victim suffered moral injuries.[10]

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Panabo City, Branch 34, in Criminal Case No. 97-196, finding appellant Benjamin Lopez guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua* and to pay ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages, is *AFFIRMED in toto.*

Costs *de oficio*.

SO ORDERED.

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

FIRST DIVISION

[G.R. No. 151858. November 27, 2003]

PEOPLE OF THE PHILIPPINES, *appellee, vs.* **JOSELITO PASCUA *y* TEOPE,** *appellant.*

SYNOPSIS

Appellant was found guilty by the trial court of the crime of rape for sexually abusing a twenty two-year old mental retardate. He was sentenced to suffer the penalty of *reclusion perpetua.* Hence, this appeal.

In affirming the conviction of appellant, the Supreme Court ruled that in reviewing rape cases, it has always been guided by three well-entrenched principles: (a) that an accusation of rape can be made with facility; it is difficult to prove but more

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[10] *People v. Palarca, supra.*

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difficult for the person accused, though innocent, to disprove; (b) that in view of the intrinsic nature of the crime which usually involves two persons, the complainant's testimony must be scrutinized with extreme caution; and (c) that the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of evidence of the defense. Accordingly, the primordial consideration in a determination concerning the crime of rape is the credibility of the complainant's testimony. In rape cases, the accused may be convicted solely on the testimony of the victim, provided it is credible, natural, convincing and consistent with human nature and the normal course of things.

The Court likewise held that the mental condition of the victim cannot be appreciated to aggravate the crime and to warrant the death penalty. Being in the nature of a qualifying circumstance, this should be specifically alleged in the Information. The allegation therein of the mental disability by the victim is insufficient. What should be alleged is the knowledge by the offender of such mental disability. Thus, appellant can only be convicted of simple rape.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; GUIDING PRINCIPLES IN REVIEWING RAPE CASES.**— In reviewing rape cases, the Court has always been guided by three well-entrenched principles: (a) that 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) that in view of the intrinsic nature of the crime which usually involves two persons, the complainant's testimony must be scrutinized with extreme caution; and (c) that the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of evidence of the defense.

2. **ID.; EVIDENCE; CREDIBILITY OF WITNESSES; IN RAPE CASES, ACCUSED MAY BE CONVICTED SOLELY ON THE TESTIMONY OF THE VICTIM, PROVIDED IT IS CREDIBLE.**— [T]he primordial consideration in a determination concerning the crime of rape is the credibility of the complainant's testimony. In rape cases, the accused may be convicted solely on the testimony of the victim, provided it is credible, natural,

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convincing and consistent with human nature and the normal course of things.

3. **CRIMINAL LAW; RAPE; CONSUMMATED BY MERE TOUCHING, NO MATTER HOW SLIGHT OF THE LABIA OF THE FEMALE ORGAN BY THE MALE GENITALIA EVEN WITHOUT LACERATION OF HYMEN.**— [A] freshly lacerated hymen is not an essential element of rape. Mere touching, no matter how slight of the *labia* or lips of the female organ by the male genitalia even without rapture or laceration of the hymen is sufficient to consummate rape.

4. **ID.; ID.; NOT NEGATED BY MEDICAL FINDING THAT THE HYMEN OF THE VICTIM IS STILL INTACT.**— [T]he medical finding that the hymen of the victim is still intact does not negate rape. Full penetration is not required, as proof of entrance showing the slightest penetration of the male organ within the *labia* or *pudendum* of the female organ is sufficient. In proving sexual intercourse, it is enough that there is the slightest penetration of the male organ into the female sex organ.

5. **ID.; ID.; MEDICAL EXAMINATION OF VICTIM IS NOT INDISPENSABLE TO A PROSECUTION FOR RAPE.**— [A] medical examination of the victim is not indispensable to a prosecution for rape. It is merely corroborative in character and not indispensable. The accused may be convicted even solely on the basis of her testimony if credible, natural, convincing and consistent with human nature and the course of things.

6. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; NOT IMPAIRED BY INCONSISTENCIES IN THE TESTIMONIES OF WITNESSES REFERRING TO MINOR DETAILS OF THE CRIME.**— [A] few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details and not in actuality touching upon the central fact of the crime do not impair the credibility of the witnesses. Instead of weakening their testimonies, such inconsistencies tend to strengthen the witnesses' credibility because they discount the possibility of their being rehearsed.

7. **ID.; ID.; ID.; FINDINGS THEREON BY TRIAL COURT, GENERALLY ACCORDED GREAT RESPECT ON APPEAL.**— [T]he findings of the trial court on the credibility of witnesses and their testimonies are accorded great respect.

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It is the trial judge who sees the behavior and demeanor of the witness in court. The evaluation or assessment made by the trial court acquires greater significance in rape cases because from the nature of the offense, the only evidence that can oftentimes be offered to establish the guilt of the accused is the victim's testimony.

8. **ID.; ID.; DENIAL; CANNOT PREVAIL OVER THE POSITIVE AND CATEGORICAL TESTIMONY OF VICTIM; CASE AT BAR.**— [D]enial, if unsubstantiated by clear and convincing evidence, is a self-serving assertion that deserves no weight in law. Between the categorical and positive assertions of the prosecution witnesses and the negative averments of the accused which are uncorroborated by reliable and independent evidence, the former indisputably deserve more credence and are entitled to greater evidentiary weight. Besides, appellant's bare denial of the crime charged is inherently weak. It cannot prevail over the positive, candid and categorical testimony of the private complainant, whose credibility was upheld by the trial court. Between the positive declarations of the prosecution witnesses and the negative statements of the appellant, the former deserves more credence. Denials must be buttressed by strong evidence of non-culpability. Appellant failed in this regard.

9. **CRIMINAL LAW; RAPE; QUALIFYING CIRCUMSTANCES; MENTAL DISABILITY OF VICTIM; TO BE APPRECIATED, KNOWLEDGE BY OFFENDER OF THE MENTAL DISABILITY OF VICTIM MUST BE ALLEGED IN THE INFORMATION.**— Rape is punishable by *reclusion perpetua,* pursuant to Article 266-B of the Revised Penal Code. The mental condition of the victim cannot be appreciated to aggravate the crime and to warrant the death penalty. Under Article 266 (10) of the Revised Penal Code, the rape shall be qualified "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." Being in the nature of a qualifying circumstance, this should be specifically alleged in the Information. The allegation therein of the mental disability of the victim is insufficient. What should be alleged is the knowledge by the offender of such mental disability. Thus, appellant can only be convicted of simple rape.

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10. CIVIL LAW; DAMAGES; MORAL DAMAGES; AWARDED IN RAPE CASES WITHOUT NEED OF PROOF OTHER THAN THE FACT OF RAPE ITSELF; CASE AT BAR.— The trial court ordered appellant to indemnify the victim ₱50,000.00 as moral damages only. The award of moral damages is in line with current case law. Moral damages in the amount of ₱50,000.00 are awarded in rape cases without need of proof other than the fact of the rape itself, because it is assumed that the victim has suffered moral injuries entitling her to such award.

11. ID.; ID; CIVIL INDEMNITY; MANDATORY UPON THE FINDING OF THE FACT OF RAPE.— [T]he trial court should have also ordered appellant to pay the victim ₱50,000.00 as civil indemnity *ex delicto*. In *People v. Padrigone,* citing *People v. Belga,* we held that civil indemnity is mandatory upon the finding of the fact of rape; it is distinct from and should not be denominated as moral damages which are based on different jural foundations and assessed by the court in the exercise of sound discretion.

APPEARANCES OF COUNSEL

The Solicitor General for plaintiff-appellee.
Public Attorney's Office for accused-appellant.

D E C I S I O N

YNARES-SANTIAGO, *J.*:

Appellant Joselito Pascua *y* Teope was charged before the Regional Trial Court of San Pablo City, Branch 32 in Criminal Case No. 12575-SP(00) with the crime of rape in an information[1] which reads:

That sometime in the month of August, 2000, in the City of San Pablo, Republic of the Philippines and within the jurisdiction of this Honorable Court, the accused above-named, with lewd design and by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one ALMA AGAPAY, against her will and consent.

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[1] Records, p. 1.

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The mental disability of the victim shall be appreciated as aggravating circumstance.

Contrary to law.

Appellant pleaded "not guilty." Trial on the merits then ensued.

Sometime in August, 2000, complainant Alma Agapay, a 22-year old mental retardate, was on the railroad tracks near their house at Daang Bakal, Public Market, San Pablo City when appellant approached her and said, "I don't know you but I know your mother." He then pulled Alma and brought her inside an old abandoned train car. He tied her hands above her head and made her lie down on the floor covered with a flattened carton box. He removed her dress and panties, after which he also undressed. While holding a knife with his right hand, he kissed her then inserted his penis into her vagina, causing it to bleed. Alma felt pain. She shouted and tried to fight back but her efforts were in vain since she could not move her right arm due to a stroke she suffered before. After raping her three or four times, appellant threatened to kill her and her mother if she would tell anybody what happened.

A month later, Alma's mother, Trinidad Agapay, noticed that her daughter was behaving strangely. When she asked her what was wrong, the latter confessed that she had been raped by appellant. Trinidad brought Alma to the police authorities where they filed a complaint for rape against appellant.

Alma was thereafter brought to Dr. Ma. Arlene Bicomong Cuervas, a physician at the San Pablo City District Hospital. However, Dr. Cuervas only conducted a partial medical examination on Alma because she refused to undergo internal examination since it was painful. Dr. Cuervas found that Alma sustained hematoma on the hypogastric area measuring about 6 x 3 cm.

In his defense, appellant denied the charge against him. He testified that he does not know Alma or her mother, Trinidad. However, he admitted seeing her sometimes in the public market

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but did not pay much attention to her as he was always busy working at the Philippine National Railways (PNR) train station.

On August 29, 2001, the trial court rendered a decision,[2] the dispositive portion of which reads:

> WHEREFORE, the guilt of the accused having been established beyond reasonable doubt for the crime of Rape, the Court hereby sentences the accused to suffer the penalty of *Reclusion Perpetua* and to pay the costs.
>
> The accused is further ordered to indemnify the victim the sum of ₱50,000.00 as moral damages.
>
> SO ORDERED.

Hence, this appeal. In his Brief, appellant raises the following assignment of errors:

> I
>
> THE TRIAL COURT GRAVELY ERRED IN CONSIDERING THE INCREDULOUS TESTIMONY OF THE PRIVATE COMPLAINANT.
>
> II
>
> THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR THE CRIME OF RAPE DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[3]

In reviewing rape cases, the Court has always been guided by three well-entrenched principles: (a) that 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) that in view of the intrinsic nature of the crime which usually involves two persons, the complainant's testimony must be scrutinized with extreme caution; and (c) that the evidence for the prosecution must stand or fall on its own merits and cannot be allowed to draw strength from the weakness of evidence of

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[2] Penned by Judge Zorayda Herradura-Salcedo.

[3] Appellant's Brief, *Rollo*, p. 46.

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the defense. Accordingly, the primordial consideration in a determination concerning the crime of rape is the credibility of the complainant's testimony.[4] In rape cases, the accused may be convicted solely on the testimony of the victim, provided it is credible, natural, convincing and consistent with human nature and the normal course of things.[5]

Significantly, the trial court found Alma to be credible when it observed, thus:

> It is undisputed that the victim is a retardate or suffering from a sort of mental deficiency. Her manner of testifying as well as deportment in Court bespeak of her mental defect. However, the Court has observed that she could perceive and make known or express her perceptions to others. In the instant case, she clearly explained her perceptions of what happened when she was ravished sexually by the accused. Her behaviour at the witness stand pointing to the accused as the one who raped her and requested that accused be brought to the police and be sentenced to death were clearly expressed in a straightforward manner, thus the Court was impressed of her positive identification of the accused. x x x In the instant case, the Court similarly considers the conduct of the victim where after the incident she was described to have remained silent in one place of their house, unable to eat and has become thinner which invited the attention of her mother and prompted to ask the victim why she was behaving that way and why she was getting thinner and thinner. She was constrained to reveal to her mother what the accused had done to her and without much ado, the mother sought the help of a neighbor to report the matter to a nearby PSAF Office. This complaint to the PSAF Office led to the investigation of the case.[6]

Appellant cites the alleged discrepancy or inconsistency between Alma's testimony that she was raped three (3) times causing her to bleed "*dalawang buong dugo*," on the one hand, and the medico-legal findings and the testimony of the examining physician that there was no abrasion or spermatozoa, that the

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[4] *People v. Medina*, G.R. Nos. 127756-58, 18 June 2003.

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

[6] Decision, Records, p. 69.

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hymen remains intact with no laceration and that there is a possibility that a penis has not touched the *labia* of Alma's vagina, on the other hand.

A cursory examination of the transcripts, however, shows Dr. Cuervas in fact testified that appellant's penis could have touched Alma's vagina but was not inserted because there was no laceration.[7] Case law has it that a freshly lacerated hymen is not an essential element of rape. Mere touching, no matter how slight of the *labia* or lips of the female organ by the male genitalia even without rapture or laceration of the hymen is sufficient to consummate rape.[8]

For the same reason, the medical finding that the hymen of the victim is still intact does not negate rape. Full penetration is not required, as proof of entrance showing the slightest penetration of the male organ within the *labia* or *pudendum* of the female organ is sufficient. In proving sexual intercourse, it is enough that there is the slightest penetration of the male organ into the female sex organ.[9]

In any case, Alma's testimony that she bled cannot be completely disproved by the finding that her hymen was intact with no laceration considering that there was no internal examination conducted "to determine the vaginal canal (*sic*), the presence of fluid in the vaginal canal, for the uterus and ovaries to be assessed."[10] What was conducted was only a partial and external examination.

We have consistently held that a medical examination of the victim is not indispensable to a prosecution for rape. It is merely corroborative in character and not indispensable. The accused may be convicted even solely on the basis of her

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[7] TSN, August 7, 2001, p, 4.

[8] *People v. Medina, supra.*

[9] *People v. Evina*, G.R. Nos. 124830-31, 27 June 2003.

[10] TSN, August 7, 2001, p. 6.

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testimony if credible, natural, convincing and consistent with human nature and the course of things.[11]

Besides, we have held time and again that a few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details and not in actuality touching upon the central fact of the crime do not impair the credibility of the witnesses. Instead of weakening their testimonies, such inconsistencies tend to strengthen the witnesses' credibility because they discount the possibility of their being rehearsed.[12]

It has been held in a long line of cases that the findings of the trial court on the credibility of witnesses and their testimonies are accorded great respect. It is the trial judge who sees the behavior and demeanor of the witness in court. The evaluation or assessment made by the trial court acquires greater significance in rape cases because from the nature of the offense, the only evidence that can oftentimes be offered to establish the guilt of the accused is the victim's testimony.[13]

In contrast, appellant could only offer denial in his defense. It is well-settled that denial, if unsubstantiated by clear and convincing evidence, is a self-serving assertion that deserves no weight in law. Between the categorical and positive assertions of the prosecution witnesses and the negative averments of the accused which are uncorroborated by reliable and independent evidence, the former indisputably deserve more credence and are entitled to greater evidentiary weight.[14]

Besides, appellant's bare denial of the crime charged is inherently weak. It cannot prevail over the positive, candid and categorical testimony of the private complainant, whose credibility was upheld by the trial court. Between the positive declarations of the prosecution witnesses and the negative

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[11] *People v. Umayam*, G.R. No. 147033, 30 April 2003.

[12] *People v. Hilet*, G.R. No. 146685, 30 April 2003.

[13] *People v. Fabian*, G.R. Nos. 148386-70, 8 July 2003.

[14] *People v. Hilet, supra.*

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statements of the appellant, the former deserves more credence. Denials must be buttressed by strong evidence of non-culpability.[15] Appellant failed in this regard.

Moreover, appellant cannot point to any motive as to why Alma would file a complaint for rape against him. In the absence of any evidence to show that the witness was actuated by any improper motive, his identification of the appellant as the author of the crime shall be given full faith and credit.[16]

Rape is punishable by *reclusion perpetua*, pursuant to Article 266-B of the Revised Penal Code. The mental condition of the victim cannot be appreciated to aggravate the crime and to warrant the death penalty. Under Article 266 (10) of the Revised Penal Code, the rape shall be qualified "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." Being in the nature of a qualifying circumstance, this should be specifically alleged in the Information. The allegation therein of the mental disability of the victim is insufficient. What should be alleged is the knowledge by the offender of such mental disability.[17] Thus, appellant can only be convicted of simple rape.

The trial court ordered appellant to indemnify the victim ₱50,000.00 as moral damages only. The award of moral damages is in line with current case law. Moral damages in the amount of ₱50,000.00 are awarded in rape cases without need of proof other than the fact of the rape itself, because it is assumed that the victim has suffered moral injuries entitling her to such award.[18]

In addition, the trial court should have also ordered appellant to pay the victim ₱50,000.00 as civil indemnity *ex delicto*. In

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[15] *People v. Medina, supra.*

[16] *People v. Clidoro*, G.R. No. 143004, 9 April 2003.

[17] *People v. Nicolas*, G.R. No. 135877, 22 August 2002.

[18] *People v. Sorongon*, G.R. No. 142416, 11 February 2003.

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People v. Padrigone,[19] citing *People v. Belga*,[20] we held that civil indemnity is mandatory upon the finding of the fact of rape; it is distinct from and should not be denominated as moral damages which are based on different jural foundations and assessed by the court in the exercise of sound discretion.

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of San Pablo City, Branch 32, finding appellant Joselito Pascua *y* Teope guilty beyond reasonable doubt of the crime of rape and sentencing him to suffer the penalty of *reclusion perpetua* and ordering him to pay the victim, Alma Agapay, the amount of ₱50,000.00 as moral damages, is *AFFIRMED* with the *MODIFICATION* that appellant is further ordered to pay the victim the amount of ₱50,000.00 as civil indemnity *ex delicto*.

Costs *de oficio*.

SO ORDERED.

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

FIRST DIVISION

[G.R. No. 151942. November 27, 2003]

Spouses GREGORIO GO and JUANA TAN GO, *petitioners, vs.* **JOHNSON Y. TONG; COURT OF APPEALS; and Honorable Judge JUAN NABONG of the Regional Trial Court, Branch 32, Manila**, *respondents.*

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[19] G.R. No. 137664, 9 May 2002.

[20] G.R. No. 129769, 19 January 2001, 349 SCRA 678, 685.