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**EN BANC**

[G.R. No. 139906. March 5, 2003]

**PEOPLE OF THE PHILIPPINES,** *plaintiff-appellee, vs.* **ANTHONY MANGUERA *y* ALINGASTRE,** *accused-appellant.*

**SYNOPSIS**

On 25 February 1996, Lorna Reanzares, then sixteen years old, was raped and stabbed to death at the nearby plantation in Barangay San Miguel, Sto. Tomas, Batangas. But shortly before she died, she revealed to her brother Romeo Reanzares the identity of her attacker and assailant. She narrated that accused Anthony Manguera had waited for her and raped and stabbed her. Accused was arrested, charged and subsequently found guilty of the crime of rape with homicide and was sentenced to death. In convicting the accused, the trial court relied heavily on the dying declaration of the victim testified to by her brother.

Hence, this automatic review.

The Supreme Court saw no sufficient justification for a reversal of the factual findings and judgment of conviction made by the trial court. Nor can it be faulted for accepting the *ante mortem* declaration of the victim. The Court found the *ante mortem* statement of the victim, testified to by her brother, not only admissible in evidence as being an exception to the hearsay rule, but also a weighty and telling piece of evidence. It held that a dying declaration is admissible when (a) it concerns the cause and the surrounding circumstances of the declarant's death; (b) it is made when death appears to be imminent, and the declarant would have been competent to testify had he or she survived; and (d) the dying declaration is offered in a case in which the subject of inquiry involves the declarant's death. Statements uttered by a victim on the verge of death identifying the assailant, given under the above-mentioned conditions, are entitled to the highest degree of credence and respect. A person aware of an impending death has been known to be genuinely truthful in his words and extremely scrupulous in his

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accusations. Thus, pronouncements of guilt, not infrequently, have been allowed to rest solely on such dying declarations of deceased victims. Nevertheless, the Court commuted the penalty to *reclusion perpetua* finding that accused-appellant was entitled to the privileged mitigating circumstance of minority, he being only fifteen years old at the time of commission of the crime.

**SYLLABUS**

1. **REMEDIAL LAW; EVIDENCE; ADMISSIBILITY; EXCEPTION TO THE HEARSAY RULE; DYING DECLARATION; WHEN ADMISSIBLE.**— The Court, quite unfortunately for appellant, sees no sufficient justification for a reversal of the factual findings and judgment of conviction made by the trial court. Nor can it be faulted for accepting the *ante mortem* declaration of Lorna Reanzares testified to by Romeo Reanzares. The *ante mortem* statement of Lorna Reanzares, testified to by her brother Romeo Reanzares, is not only admissible in evidence as being an exception to the hearsay rule but also a weighty and telling piece of evidence. A dying declaration is admissible when (a) it concerns the cause and the surrounding circumstances of the declarant's death; (b) it is made when death appears to be imminent, and the declarant is under a consciousness of impending death; (c) the declarant would have been competent to testify had he or she survived; and (d) the dying declaration is offered in a case in which the subject of inquiry involves the declarant's death. Statements uttered by a victim on the verge of death identifying the assailant, given under the conditions heretofore mentioned, are entitled to the highest degree of credence and respect. A person aware of an impending death has been known to be genuinely truthful in his words and extremely scrupulous in his accusations. Thus, pronouncements of guilt, not infrequently, have been allowed to rest solely on such dying declarations of deceased victims.

2. **ID.; ID.; ALIBI; TO PROSPER, ACCUSED MUST ESTABLISH BY CLEAR AND CONVINCING EVIDENCE THE IMPOSSIBILITY TO BE AT CRIME SCENE AT TIME IT IS COMMITTED.**— The defense of *alibi* has been correctly rejected by the court below. Countless cases have taught that for the defense of *alibi* to prosper, clear and convincing evidence

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must establish, among other things, that it would have been impossible for the accused to have been at the crime scene at the time the crime is committed. It would indeed be fragile an *alibi* for an accused to demonstrate such impossibility where the two places are located within the same *barangay*.

3. **CRIMINAL LAW; RAPE WITH HOMICIDE; PENALTY; DEATH PENALTY; SHALL NOT BE IMPOSED WHERE ACCUSED IS BELOW EIGHTEEN YEARS OLD AT TIME OF COMMISSION OF CRIME.**— It was error, nevertheless, on the part of the trial court to mete the death penalty even while Section 11 of Republic Act No. 7659 prescribes that penalty when by reason, or on the occasion, of the rape the crime of homicide is committed. Article 47 of the Revised Penal Code, as amended by Section 22, Republic Act No. 7659, reads: "Art. 47. *In what cases the death penalty shall not be imposed; Automatic review of death penalty cases.* – The death penalty shall be imposed in all cases in which it must be imposed under existing laws, *except when the guilty person is below eighteen (18) years of age at the time of the commission of the crime* or is more than seventy years of age or when upon appeal or automatic review of the case by the Supreme Court, the required majority vote is not obtained for the imposition of the death penalty, *in which cases the penalty shall be reclusion perpetua.*" The first part of the provision is consistent with Article 68 of the same Code which treats minority as a privileged mitigating circumstance and reduces the imposable penalty by one degree if the accused is *over* fifteen (15) and under eighteen (18) years of age, and by two degrees, if under fifteen (15) but over nine (9) years of age, and the accused acted with discernment. Anthony Manguera was only fifteen (15) years old at the time of the commission of the crime as so evidenced by his Certificate of Live Birth (Exhibit 5). Thus, pursuant to the provisions of Article 47, as amended, and consonantly with Article 68 of the Revised Penal Code, the penalty that can only be imposed on appellant for the crime of rape with homicide is *reclusion perpetua.*

4. **CIVIL LAW; DAMAGES; CIVIL INDEMNITY; AWARDED TO HEIRS OF VICTIM IN THE AMOUNT OF ₱100,000.00 UNDER PREVAILING JURISPRUDENCE; AWARD OF MORAL AND TEMPERATE DAMAGES.**— The award of moral and actual damages by the lower court should be modified.

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Under prevailing jurisprudence, the victim's heirs are entitled to the civil indemnity of ₱100,000.00 and moral damages of ₱50,000.00. Only ₱15,000.00 funeral expenses was duly receipted and proved; understandably, the actual damages suffered must have been more than the amount proven; in situations of this nature, the Court allows an award of temperate damages of ₱25,000.00.

**APPEARANCES OF COUNSEL**

*The Solicitor General* for plaintiff-appellee.

*Claudio Pacquing Barrales Elevazo & Yap* for accused-appellant.

**D E C I S I O N**

**VITUG, *J.*:**

Anthony Manguera was sentenced to suffer the extreme penalty of death by the Regional Trial Court, Branch 6, of Tanauan, Batangas, for raping and killing Lorna Reanzares. The conviction of Manguera rested largely on the declaration made by the victim shortly before she died.

Anthony Manguera was charged with the crime of rape with homicide before the Regional Trial Court, Branch 6, of Tanauan, Batangas, in an information that read:

"That on or about the 25th day of February 1996, at about 6:30 o'clock in the evening, at Barangay San Miguel, Municipality of Santo Tomas, Province of Batangas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, by means of force and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one Lorna Reanzares *y* Javier against her will and consent and by reason or on the occasion of the said rape, accused, armed with a bladed instrument, with intent to kill, willfully, unlawfully and feloniously stabbed the said Lorna Reanzares *y* Javier with the said instrument, thereby inflicting upon the latter stab wounds on the different parts of her body which directly caused her death."[1]

[1] *Rollo*, p. 10.

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When arraigned, Anthony Manguera entered a plea of not guilty.

The prosecution presented its evidence, hereunder narrated, following Manguera's plea of innocence.

On 25 February 1996, just after sunset, a neighbor of Lorna Reanzares, while walking on her way home in Barangay San Miguel, Sto. Tomas, Batangas, thought that she heard Lorna screaming, "*Inay, Inay*," from a nearby coconut plantation. Worried, the neighbor, Josephine Managa, proceeded to the Reanzares residence to inquire if Lorna was already home. When Romeo Reanzares, Lorna's older brother, informed her that Lorna had not as yet arrived, Josephine told him of what she had heard from the nearby plantation. Romeo, accompanied by Josephine, along with his mother, his sister, and his wife rushed to the place where Lorna's voice was said to have been heard. Upon reaching the site, Romeo asked Josephine to point to the exact location where she had heard the cries. Suddenly, Romeo heard Lorna call, "*Kuya, kuya, tulungan mo ako.*"[2] He ran towards the spot where the voice was emanating from and found Lorna lying naked, her panties and shorts pulled down to her left ankle. Romeo inquired from his sister what had happened. Lorna replied "*Kuya, ginahasa ako.*"[3] When asked who was responsible for it, Lorna replied "*Si Nognog, si Nognog.*"[4] "Nognog who," Romeo pressed on, and Lorna answered, "Anthony Manguera." Moments later, Lorna, visibly weak, told her brother "*Kuya, parang hindi ko na kaya. May saksak ako sa likod.*"[5] Romeo turned her sister's back and saw that it was bloodied with stab wounds. He covered her with her torn clothes and brought her to a vehicle brought by their father who meanwhile followed them to the plantation. When queried whether Anthony Manguera was with her on her way home, she answered, "No, he was

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[2] TSN, 04 November 1996, p. 7.

[3] Exhibit "H", Sworn Statement of Romeo Reanzares, dated 26 February 1996, Record, p. 12.

[4] TSN, 7 November 1996, p. 24.

[5] TSN, 14 October 1996, pp. 11–12.

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waiting for me ("*inaabangan*") and raped me and stabbed me."[6] Lorna died on the way to the Municipal Health Office in Sto. Tomas, Batangas. The *post mortem* report disclosed:

"FINDINGS: HEAD — contusion hematoma, 2 x 1.5 cm., chin
NECK — linear superficial lacerated wound, anterior aspect extending from left to right.
BACK — multiple stab wounds #10, sizes ranging from .5 cm. to 2 cm., 4 to 8 cm. deep

PELVIC EXAM'N: IE — admits 2 fingers with ease

Hymen — with multiple lacerations at 1, 3, 6 and 10 o'clock position.

Note — vaginal swab obtained, specimen sent to PCCL.

"CAUSE OF DEATH — Cardio-pulmonary arrest secondary to multiple stab wounds."[7]

After an investigation at the police headquarters in Sto. Tomas, Batangas, police officers, accompanied by Romeo Reanzares, apprehended Anthony Manguera that same evening at his residence in Barangay San Miguel, Sto. Tomas, Batangas. Manguera was only fifteen (15) years old at the time.

In his defense, Manguera interposed denial and *alibi*. He claimed that at around six o'clock on the late afternoon of 25 February 1996 until about eight o'clock that evening, he was at their house in Barangay San Miguel, attending to his father's guests that included a number of *barangay* officials and policemen. Among them was Brgy. Capt. Fabio Leycano of San Bartolome, Sto. Tomas, Batangas, who testified that at approximately five o'clock that afternoon, he was with Manguera who served the group "*pulutan.*" Diosdado Ilagan, a *barangay* tanod of San Miguel, stated that on the late afternoon and early evening of 25 February 1996, he was at the house of the Mangueras. He learned about the crime only the following morning, and that he knew of another suspect in the crime, a certain Orlando Millar, *a.k.a.* "Nognog," who was arrested but later released

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[6] *Id.*

[7] Exhibit A, Records, p. 4.

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by the police. Ilagan claimed that Millar used to go to his store and at one time Millar happened to mention that he was courting Lorna Reanzares. At a little past five o'clock on the afternoon of 25 February 1996, he saw Millar in Barangay San Miguel. Tomas Manguera, an uncle of Anthony Manguera, testified that he arrived at the house of the accused at about half past six o'clock in the afternoon. At eight o'clock that evening, policemen arrived at the house and invited his nephew Anthony Manguera for questioning at the police station.

Dismissing the defense of denial and of *alibi*, the court *a quo* found Anthony Manguera guilty beyond reasonable doubt of the crime of rape with homicide and imposed upon him the death penalty. Manguera was also ordered to indemnify the heirs of Lorna Reanzares ₱100,000.00 by way of moral damages and ₱39,613.35 for funeral expenses. The trial court, relying heavily on the dying declaration of Lorna, narrated by his brother Romeo, said —

"There can be no dispute that from the testimony of Dr. Gloria Andaya, Lorna Reanzares was bumped on her head causing hematoma and was raped. She died later from the multiple stab wounds she sustained in the early evening of 25 February 1996.

"The author of the rape and the multiple stab wounds sustained by Lorna Reanzares was identified by her to be a person nicknamed Nognog. Nognog, according to her, was Anthony Manguera, the son of Tonio from the East with a tricycle. The accused, Anthony Manguera, admits that he was called Nognog since his childhood.

"Under Article 335 (1) of the Revised Penal Code, having carnal knowledge of a woman by the use of force and intimidation constitutes the crime of rape.

"Lorna's revelation to her brother, Romeo Reanzares, as to the identity of her sexual attacker and assailant is admissible in evidence as a dying declaration. Section 31, Rule 30, of the Revised Rules of Court provides that the declaration of a dying person, made under a consciousness of an impending death, may be received in a criminal case wherein his death is the subject of inquiry, as evidence of the cause and surrounding circumstances of such death. Very early decisions of the Supreme Court on the evidentiary weight and admissibility of dying declarations propound:

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"The reasons for the admissibility of dying declarations as an exception to the hearsay rule are (a) necessity and (b) trustworthiness. Necessity, because the declarant's death renders impossible his taking the witness stand; and it often happens that there is no other equally satisfactory proof of the crime. Hence, it is allowed to prevent a failure of justice. And trustworthiness for in the language of Lord Baron Eyre, the declaration is 'made in extremity, when the party is at the point of death and every hope of this world is gone; when every motive to falsehood is silenced, and the mind is induced by the most powerful considerations to speak the truth. A situation so solemn and awful is considered by the law as creating an obligation equal to that which is imposed by an oath administered in court' (*U.S. vs. Gil*, 13 Phil. 549).

"'A man at the point of death who is convinced that he is going to die is not in a condition to invent a story to prejudice the accused (*People vs. Alfaro*, 83 Phil. 85).

"'The statements made by an individual who is seriously wounded, at a moment when he was dying, being convinced that there was no hope of recovery, constitute *per se* at least a grave conclusive and decisive indication of the culpability of the persons designated by the dying man, inasmuch as it must be assumed that he, being in so precarious a condition, spoke truthfully, and that he was not induced by a desire to tell a lie and to injure an innocent person (*U.S. vs. Castellon, et al.*, 12 Phil. 160).'

"Lorna sustained a head blow as if hit by a hard object and multiple stab wounds at her back. Her statement to her brother, Romeo: '*Kuya parang hindi ko na kaya. May saksak ako sa likod*' cannot be given any other meaning than that she was conscious that her death was imminent. Her meaning was clear to Romeo who told her to hold on '*lakasan mo ang loob mo,*' and she asked for water. She was declared dead upon her arrival at the hospital. She made the revelation identifying her attacker and assailant when, upon her cries of '*Kuya, tulungan mo ako,*' Romeo came upon her lying naked with blood on the grass underneath her. She added that the accused had lain in wait for her (*inabangan*) and raped her and stabbed her. Lorna was a sixteen-year old, fourth year high school student. Clearly, all the conditions for the admissibility of her dying declaration are present:

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"'Conditions on which the admissibility of dying declarations depend:

(a) That death be imminent and that declarant be conscious of that fact;

(b) That the preliminary facts which bring the declaration within its scope be made to appear;

(c) That the declaration relate to the facts or circumstances pertaining to the fatal injury or death;

(d) That the declarant would have been competent to testify had he survived (31 C.J.S., 987–988).[8]

In this appeal, Anthony Manguera assails the dying declaration of the victim identifying him to be the author of the dastardly crime and blames the trial court for ignoring the defense of *alibi*.

The Court, quite unfortunately for appellant, sees no sufficient justification for a reversal of the factual findings and judgment of conviction made by the trial court. Nor can it be faulted for accepting the *ante mortem* declaration of Lorna Reanzares testified to by Romeo Reanzares. On direct-examination, the latter testified:

*"Q: What was her position, except seeing her naked?*

*"A: She was lying down on top of banana leaves, sir.*

*"Q: After seeing her in that position, what step did you and/or your group do?*

*"A: I asked her who did this to her.*

*"Q: What was her answer?*

*"A: She answered, 'Si Nognog, si Nognog,' sir.*

*"Q: What else happened after she answered 'si Nognog'?*

*"A: I asked her who this Nognog because I don't know his real name, sir.*

*"Q: What was the answer, if any?*

*"A: She told me Anthony Manguera alias Nognog, sir.*

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[8] *Rollo*, pp. 47–50.

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*x x x* *x x x* *x x x*

*"Q: She told you that Anthony Manguera alias Nognog, what else did you ask your sister?*

*"A: I asked her if he is the son of Antonio with tricycle from the east, sir.*

*"Q: What was the answer?*

*"A: She answered, yes, he is the one.*

*"Q: And do you know personally this Antonio from the east?*

*"A: I know the father, sir.*

*"COURT:*

*"Q How about the accused here, do you know him personally?*

*"A: I only know him by face but I don't know the full name, your Honor.*

*"Q: How many times have you seen him before this incident, I am referring to the accused?*

*"A: Maybe 3 to 4 times, your Honor.*

*"Q: Is he a neighbor or a resident of your place?*

*"A: He is a resident of the place but far from our house, your Honor.*

*"FISCAL:*

*"Q When you said east, what are you referring to when you said Antonio from the east?*

*"A: When I asked her Antonio from the east with tricycle and she said yes, I already knew who they were, sir.* (pp. 8–10, TSN, 14 October 1996; emphasis supplied)"[9]

On cross-examination, Romeo Reanzares was likewise straightforward; more importantly, he remained consistent in his testimony.

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[9] *Rollo*, pp. 215–216.

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"COURT:

"Q What were the questions you asked your sister before covering her up?

"A I asked her who did that [to] you, your Honor.

"Q And she answered, what did she say?

"A She said, 'Nognog, Nognog,' your Honor.

"Q What else did you ask your sister?

"A I asked her who is this Nognog, your Honor.

"Q Was she able to answer you?

"A She told me Anthony, your Honor.

"Q Anymore questions and answers before you covered your sister?

"A I asked her if he is the son of Antonio from the east with tricycle and she answered 'yes,' your Honor.

"COURT:

You better get the vernacular. *'Anak ni Tonio na taga Silangan na may tricycle.'*

"Q And all the while you were never covering her?

"A I told her to be strong and I dressed her up and I will bring her to the hospital.

"ATTY. TAGATAC:

"Q You said you asked your sister if Nognog is the son of Tonio, owner of a tricycle, did you state that in your sworn statement when you were investigated by the police officers?

"A When my statement was being taken by the police, if you will notice that investigator is poor in Tagalog, probably he is a Visayan or Ilocano. He is not fluent in Tagalog.

"COURT:

"Q Did you state that about what you testified earlier that this Nognog is the son of Tonio the owner of the tricycle from the Silangan, did you give that statement to the investigator?

"A I told that at the headquarters but it was not incorporated in the statement, your Honor.

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"ATTY. TAGATAC:

"Q Did you read your sworn statement that was taken from you at the police station before you signed?

"A Yes, sir.

"Q And did you not inform the investigator why they did not include it in your statement that Nognog is the son of Tonio the owner of a tricycle?

"A I told the investigator, but he told me that it is stated in the last part of that statement that if I have to add or delete something from that it will be done in the court."[10]

The Court shares the view of the Office of the Solicitor General which has observed that —

"Contrary to appellant's pretension, there is no 'riveting inconsistency' between Josephine Managa and Romeo Reanzares' testimonies (p. 29, Brief for the Appellant). True, just as Josephine Managa testified, it was Romeo Reanzares who uttered the words 'the son of Antonio' ('. . . with tricycle from the east'). But it is obvious from Romeo Reanzares' testimony that this utterance came in the form of a clarificatory question after Lorna Reanzares (and not Romeo Reanzares) already identified 'Nognog' as 'Anthony Manguera.' x x x

"Admittedly, Josephine Managa did not hear Lorna Reanzares utter the words 'Anthony Manguera', but this does not mean that Lorna did not say them. Romeo Reanzares said that Lorna did and there is no reason to disbelieve him. It bears stressing that, while Josephine Managa stood about four (4) steps away from where Romeo and Lorna were, Romeo was squatting on the ground, hugging and talking to his dying sister (pp. 21–22, TSN, 7 November 1996 and pp. 18 and 21, TSN, 3 March 1997).

"x x x x x x x x x

"There is likewise no merit to appellant's claim that Romeo Reanzares' failure to declare in his sworn statement that he asked Lorna Reanzares whether 'Nognog' was the '*anak ni Tonio na taga Silangan na may tricycle*' (*supra*) is a material omission which discredits his testimony.

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[10] TSN, 07 November 1996, pp. 24–25.

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"x x x said sworn statement was taken x x x less than twenty-four (24) hours after Romeo Reanzares' shocking discovery of his dying sister's body. He could not be expected to be complete and precise in his statements to the police. Sworn statements/affidavits are generally subordinated in importance to open court declarations because the former are often executed when an affiant's mental faculties are not in such state as to afford him a fair opportunity of narrating in full the incident which has transpired (*People vs. Sanchez*, 302 SCRA 21)."[11]

The *ante mortem* statement of Lorna Reanzares, testified to by her brother Romeo Reanzares, is not only admissible in evidence as being an exception to the hearsay rule but also a weighty and telling piece of evidence. A dying declaration is admissible when (a) it concerns the cause and the surrounding circumstances of the declarant's death; (b) it is made when death appears to be imminent, and the declarant is under a consciousness of impending death; (c) the declarant would have been competent to testify had he or she survived; and (d) the dying declaration is offered in a case in which the subject of inquiry involves the declarant's death.[12] Statements uttered by a victim on the verge of death identifying the assailant, given under the conditions heretofore mentioned, are entitled to the highest degree of credence and respect. A person aware of an impending death has been known to be genuinely truthful in his words and extremely scrupulous in his accusations.[13] Thus, pronouncements of guilt, not infrequently, have been allowed to rest solely on such dying declarations of deceased victims.[14]

The defense of alibi has been correctly rejected by the court below. Countless cases have taught that for the defense of *alibi* to prosper, clear and convincing evidence must establish, among other things, that it would have been impossible for the accused

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[11] *Rollo*, pp. 217–222.

[12] Section 31, Rule 130, Rules of Court; *People vs. Salazar*, 221 SCRA 170.

[13] *People vs. Marollano*, 276 SCRA 84; *People vs. Manlapaz*, 55 SCRA 598.

[14] *People vs. Sagario*, 14 SCRA 468.

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to have been at the crime scene at the time the crime is committed.[15] It would indeed be fragile an *alibi* for an accused to demonstrate such impossibility where the two places are located within the same *barangay*.

It was error, nevertheless, on the part of the trial court to mete the death penalty even while Section 11 of Republic Act No. 7659 prescribes that penalty when by reason, or on the occasion, of the rape the crime of homicide is committed.

Article 47 of the Revised Penal Code, as amended by Section 22, Republic Act No. 7659, reads:

"Art. 47. *In what cases the death penalty shall not be imposed; Automatic review of death penalty cases.* — The death penalty shall be imposed in all cases in which it must be imposed under existing laws, *except when the guilty person is below eighteen (18) years of age at the time of the commission of the crime* or is more than seventy years of age or when upon appeal or automatic review of the case by the Supreme Court, the required majority vote is not obtained for the imposition of the death penalty, in which cases the penalty shall be *reclusion perpetua*."(Italics supplied)

The first part of the provision is consistent with Article 68 of the same Code which treats minority as a privileged mitigating circumstance and reduces the imposable penalty by one degree if the accused is *over* fifteen (15) and *under* eighteen (18) years of age, and by two degrees, if under fifteen (15) but over nine (9) years of age, and the accused acted with discernment.

Anthony Manguera was only fifteen (15) years old at the time of the commission of the crime as so evidenced by his Certificate of Live Birth (Exhibit 5). Thus, pursuant to the provisions of Article 47, as amended, and consonantly with Article 68 of the Revised Penal Code, the penalty that can only be imposed on appellant for the crime of rape with homicide is *reclusion perpetua*.

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[15] *People vs. Arillas*, 333 SCRA 765.

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The award of moral and actual damages by the lower court should be modified. Under prevailing jurisprudence,[16] the victim's heirs are entitled to the civil indemnity of ₱100,000.00 and moral damages of ₱50,000.00. Only ₱15,000.00 funeral expenses was duly receipted and proved; understandably, the actual damages suffered must have been more than the amount proven; in situations of this nature, the Court allows an award of temperate damages of ₱25,000.00.

**WHEREFORE,** the decision of the Regional Trial Court, Branch 6, of Tanauan, Batangas, finding accused-appellant ANTHONY MANGUERA *Y* ALINGASTRE guilty beyond reasonable doubt of the crime of rape with homicide is *AFFIRMED* with *MODIFICATION* in that (a) the death penalty imposed by the trial court is commuted to *reclusion perpetua* and (b) the judgment on the civil liability is modified by ordering appellant to pay the amounts of ₱100,000.00 civil indemnity, ₱50,000.00 moral damages, and ₱25,000.00 temperate damages to the heirs of the deceased. Costs *de oficio.*

**SO ORDERED.**

*Davide, Jr., C .J ., Bellosillo, Puno, Mendoza, Panganiban, Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio Morales, Callejo, Sr.* and *Azcuna, JJ.,* concur.

*Ynares-Santiago* and *Corona, JJ.,* on leave.

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[16] *People vs. Payot*, 308 SCRA 43, G.R. No. 119352; *People vs. Robles, Jr.*, 305 SCRA 273, G.R. No. 1243000; *People vs. Seranilla*, 348 SCRA 227, G.R. No. 113022-24.